

*I have been for many years a lay employee of a Catholic diocese and I enjoy an excellent working relationship with my peers. I am also divorced (but not remarried) and have just learned that my ex-spouse will be seeking an annulment from the tribunal of my diocese. I greatly fear that information, or misinformation, about me will become known and taint my relationship with co-workers. Is there any way that I can make sure that this case is heard by another tribunal in another diocese?*

## OPINION

One cannot prevent a specific marriage nullity case from being heard by any tribunal that has “competence” over the marriage and/or the parties thereto.<sup>1</sup> In most cases, moreover, when more than one tribunal is competent to hear the case (as frequently happens), the choice of which tribunal to file the case in lies with the petitioner.<sup>2</sup> So, in brief, the answer is no, you cannot require this case to be heard in another diocese.<sup>3</sup>

To respond, though, to your deeper concerns about your reputation among diocesan co-workers, I think that your apprehension about others learning the

<sup>1</sup> See canon 1673, which reads: “In cases concerning the nullity of marriage which are not reserved to the Apostolic See, the following are competent: 1° the tribunal of the place where the marriage was celebrated; 2° the tribunal of the place where the respondent has a domicile or quasi-domicile; 3° the tribunal of the place where the petitioner has a domicile, provided that both parties live in the territory of the same conference of bishops and the judicial vicar of the domicile of the respondent gives consent after he has heard the respondent; 4° the tribunal of the place in which in fact most of the proofs must be collected, provided that consent is given by the judicial vicar of the domicile of the respondent, who is first to ask if the respondent has any exception to make.” The brief mention in this canon of certain marriage cases being “reserved to the Apostolic See” refers to petitions involving, for example, the heads of state (can. 1405 §1, 1°), a consideration not relevant to your question.

<sup>2</sup> See generally can. 1407 § 3 and Klaus Lüdicke and Ronny Jenkins, commenting on Art. 10 of the instruction *Dignitas Connubii*, in Klaus Lüdicke and Ronny Jenkins, *Dignitas Connubii: Norms and Commentary* (Canon Law Society of America, 2006) at 35.

<sup>3</sup> Even if, by chance, you had reason to suspect that a given judge in your diocesan tribunal might be biased in regard to your case, you still could not require the petition to be transferred to another tribunal, but you could request that the case not be assigned to that individual as a sole or collegial judge. See cann. 1448-1451. For that matter, you can simply request a voluntary transfer of your case to an equally competent tribunal, or even petition to the Apostolic Signatura for prorogation because of your concerns about privacy, but there is no canonical obligation to grant these kinds of requests.

details of your marriage (or at least, learning someone’s *representations* of the details of your marriage) might be eased by recalling, first, that all tribunal personnel are bound to observe confidentiality in regard to matters learned, or even asserted, in the course of their duties. This obligation arises in virtue of canon 471, 2°, whereby all members of the diocesan curia are obligated to “secrecy” (perhaps better understood as “confidentiality”) in regard to their duties. More specifically, the obligation of confidentiality applies to tribunal personnel in virtue of canon 1455 §1, whereby “judges and tribunal personnel are always bound to observe [confidentiality] ... if the revelation of some procedural act could bring disadvantage to the parties.” In my experience, this confidentiality obligation is widely interpreted, and treated with great care, by tribunal personnel.<sup>4</sup>

Moreover, tribunal personnel know from training and experience that a spouse’s representations about a marriage were not always accurately perceived in the first place, and are not always completely and correctly conveyed in the second. If I may put it this way, when it comes to accepting the assertions of parties and witnesses in marriage nullity cases, all tribunal personnel (especially judges, in virtue of can. 1608 §3) are from Missouri. Having been a tribunal staffer for many years (and being a Missourian!) I think I recognize the prudent suspension of credulity common among tribunal personnel.

Finally, you should realize that, as the respondent in a marriage nullity case, you will be asked to participate in the proceedings and will have the opportunity to propose witnesses to the tribunal (cann. 1507, 1551, et. al.). This is more than just an opportunity for you to contradict what might be said about you and your marriage; it is an opportunity for you to place important information in the hands of the tribunal to enable it to reach a just result under the law and in light of the facts of the case.

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<sup>4</sup> I might add that tribunal personnel know little or nothing about the many, many marriage cases that are not actually assigned to them. I worked on hundreds of marriage nullity cases during my years in arch/diocesan practice, but there were doubtless *thousands* of such cases being treated in those same tribunals about which I simply had no knowledge.