

Mr. NAME

U.S.A.

xx July 2021

Archbishop Arthur Roche  
Prefect of the Congregation for Divine Worship and the Discipline of the Sacraments  
Palazzo delle Congregazioni  
Piazza Pio XII, 10  
00193 Roma  
Vatican City State

Re: Administrative Decree of (Arch)Bishop of (ARCH)DIOCESE given xx May 2021

Your Excellency:

### **Recourse Against Administrative Decree of Bishop Separation Case**

1. Pursuant to canons 1737, § 2, I am making hierarchical recourse against the xx May 2021 administrative decree of The Most Rev. NAME, (Arch)Bishop of DIOCESE. Plus, I am asking for the immediate suspension of same decree. On xx June 2021, I asked His Excellency to revoke his decree. On xx July 2021, I received a letter from Rev. PRIEST, informing me that the decree shall remain in effect. On xx July, one month will have passed since my plea for revocation was delivered to the Bishop's address.

### **Facts**

2. My wife and I were married in the (ARCH)DIOCESE in 20xx. Our marital home is in [...]. We have xx children. Five months ago, my wife unilaterally withdrew from the marital home and took our children with her to [...]. On xx March 2021 she petitioned the civil forum in a case of separation of spouses. In our area, anyone using the civil forum can force a no-fault separation/divorce on one's spouse even though one's spouse has committed no offense justifying temporary or permanent separation. The civil forum requires not accusation or finding of fault.

3. I sent a petition to our bishop on xx April 2021: *Petition to Bishop to Pursue Reconciliation, or Separation (Exhibit 1)*. If my wife refuses to cooperate with attempts to reconcile, my petition asked for a finding that my wife has maliciously abandoned our marriage. If another ground for separation was alleged other than my complaint of abandonment, I asked to giving notice of said accusations. After receiving some email messages from (ARCH)DIOCESE, Fr. PRIEST, I wrote to him on xx May 2021 seeking information about the status of our case. I stated, “depending on how my wife follows up with you, I might ask later to switch to the judicial venue (either ordinary or oral)” (*Exhibit 2*). On xx May 2021, the Bishop issued a decree instructing my wife and I that “the spouses are advised to approach the civil court in establishing the facts and determining the necessary conclusions in this matter” (*Exhibit 3*, item 6). Prior to my receiving the Bishop’s decree, Fr. PRIEST emailed me on xx May saying that “in those places where a canonical decision has no civil effect, [cases] should be handled by the civil authority” (*Exhibit 4*). The next day, I wrote the Bishop, pointing out the following (*Exhibit 5*):

“I never sought permission for the civil forum to decide parties’ obligations in marital separation. ... STATE is a no-fault divorce state that disregards the divine law that both spouses have the right to the common conjugal life and the mutual help of the other. Civil Family Court professionals charge tens of thousands of dollars to enact separation plans that are contrary to divine law. Sending a woman to the civil forum deprives husband (and children) of their right to an intact home and permanently relieves a wife of her obligation to work through marriage and family to build up the kingdom of God. A husband’s right of defense in the canonical forum is violated if he is not informed of the accusations made against him by his wife.”

When I finally received the Bishop’s decree, Fr. PRIEST wrote me a cover letter dated xx May 2021 (*Exhibit 6*). I received both on xx June 2021. [...]

4. Within deadlines, I submitted my plea for revocation of the Bishop’s xx May 2021 decree (*Exhibit 8*). I pointed out that my right of defense was violated. Plus, if another ground for separation was proposed for investigation, I uphold my right to be informed of accusations and defend against them. I explained how the civil forum has no respect for obligations of Catholic marriage (*Exhibit 8*, paragraph 5):

The civil forum is not competent to determine whether facts are proven that establish a canonically licit basis for separation, nor determine whether a separation is the kind that should be permanent according to canon law, or temporary. Every civil forum Plaintiff can force a permanent separation on the

other spouse and children, force liquidation of assets, and transfer tens of thousands of dollars of marital assets to civil forum lawyers and court-ordered personnel.” ... “[T]he civil forum never instructs parties of their obligation to work toward reconciling their marriage. Even though your decree encourages parties to seek assistance to reconcile their differences, the civil forum coerces the minimalization of only certain kinds of differences: differences regarding how to split children, property, and support.

5. While I was waiting for the revocation of the Bishop’s decree by which I was aggrieved, I wrote the Tribunal of (ARCH)DIOCESE on xx June 2021 [...]. I asked the Tribunal to accept my petition for case of septation of spouses in the judicial oral contentious process (*Exhibit 9*). Plus, I asked for an unambiguous decree to be sent to my wife revoking the xx May 2021 decree from the bishop instructing her to approach the civil forum. On xx June 2021, I sent to the (ARCH)DIOCESE Tribunal my mandate for a local canonist priest to be my advocate in the contentious judicial venue (*Exhibit 10*). On the same date, I asked the bishop to assist me by arranging for an unambiguous decree to be sent to my wife revoking his decree wherein he instructed her to approach the civil forum (*Exhibit 11*).

6. On xx June, Fr. PRIEST sent me a one-page letter and a document titled “*Statement Regarding the Decree of Rejection xx May 2021*” (*Exhibit 12*). He asserts that the Bishop’s decree “neither investigated nor established” whether my wife’s discontinuation of the common conjugal life was justified, or unlawful, according to the proper canon law of the Roman Catholic Church. Fr. PRIEST made it clear that the Bishop is not going to revoke his decree.

7. I cannot afford to hire a Curia Advocate. Pursuant to canon 1738, a person seeking recourse always has the right to the services of an advocate. In recent years, my wife and I were cooperatively contributing mutual help in the financial obligations to maintain a home suitable our family of nine children, ranging in age from xx to 1 year old. Presently, my wife is not allowing me to have access to any shared marital assets nor anything from which she contributed to the financial maintenance of the marital home. Many years ago, I had a lucrative income, but I downgraded to spend more time with the family and my wife wanted to start working part-time as [...]. After my wife took our xx children and left our home, she withdrew \$xx,000 dollars from the joint checking account leaving me with just over \$x,000.00. Since then, she has not contributed to any of the household expenses. [...]. Most of the remaining funds in our checking account and all my income has gone to pay the home mortgage, taxes, vehicle taxes, and bills. My financial situation has become dire and I’m unable to afford an advocate to represent me. I

am trying to keep the marital home by finding friends who might financially help me. As of xx July 2021, there is [ ...] \$xxx.xx in our joint accounts from which we maintained household expenses (*Exhibit 13*).

### **Law and Facts**

8. As I showed in my xx April 2021 petition's section titled *Basis in Law and Rights*, canon 1151 specifies "Spouses have the duty and right to preserve conjugal living unless a legitimate cause excuses them." When the Bishop instructs the parties to approach the civil forum to arrange for their separation, the Bishop apparently assumes that my wife has a legitimate cause excusing her separation. I am asserting that she has no legitimate excuse and seeking help in reconciling, or a judgement based on the fact of my wife's malicious abandonment. In my xx April 2021 petition, I cited Rota Jurisprudence explaining malicious abandonment.

9. I am maintaining fidelity to our marriage, but my wife has withdrawn. Canon 1153 describes the legitimate reasons for her to be separated:

1153 §1 A spouse who occasions grave danger of soul or body to the other or to the children, or otherwise makes the common life unduly difficult, provides the other spouse with a reason to leave, either by a decree of the local Ordinary or, if there is danger in delay, even on his or her own authority. §2 In all cases, when the reason for separation ceases, the common conjugal life is to be restored, unless otherwise provided by ecclesiastical authority.

10. When the Bishop instructs my wife to approach the civil courts to establish facts and determine the necessary conclusions in this matter, he is inadequately deciding a case which requires upholding canon 1151 and 1153. Moreover, I presently await the decree of acceptance from the Tribunal of (ARCH)DIOCESE to instruct my separation case in the oral contentious judicial venue. The contentious judicial processes uphold more obviously the rights of parties to defend themselves against documented accusations than is possible in the administrative venue. Even when a case is in the oral contentious process, canon 1656 §1 reserves my right to request an ordinary contentious process.

11. Should the Congregation not suspend the decree issued on xx May 2021 by the Bishop, there is danger in delay. The civil forum routinely orders the payment of civil attorneys by forcing the sale of the marital home (if there is any equity in the home). The civil forum is ordering children to undergo counseling and investigation by divorce-court professionals who

feel distaste for the obligations of Catholic marriage. Canon 1737 §3 shows how I can ask you (the Superior) to order that the execution of the challenged decree be suspended.

### **Relief Requested**

12. From the Congregation of Divine Worship and Discipline of the Sacraments, I seek the declaration that the decree issued by the Bishop of (ARCH)DIOCESE on xx May 2021 in invalid. I seek that my Petition in case of separation of spouses be referred to the Tribunal of the (ARCH)DIOCESE for processing in the judicial venue in accordance with canon 1693-1696.

13. Because I cannot afford to hire my own Roman Curia Advocate, I ask for one to be appointed for me who has experience in cases of separation of spouses and can correspond with me in English. I preserve my right to speak on my own behalf and do not agree to anyone serving as my *alter-ego* procurator.

14. I also ask the Congregation to **immediately suspend the execution** of the decree of the Bishop that is the subject of this recourse.

Respectfully Yours in Christ,

Mr. NAME

Enclosures:

Table of Exhibits

Exhibits - 13 cover sheets and exhibits (34 pages)

cc:

Archbishop Christophe Louis Yves Georges Pierre, U.S. Papal Nuncio