

NAME NAME
ADDRESS
U.S.A.

XX MONTH 2024

Msgr. Pawel NAME, Promoter of Justice
Supreme Tribunal of the Apostolic Signatura
Palazzo Della Cenceleria
00120 Vatican City State
EUROPE

Dear Msgr NAME,

About DIOCSE Fr. JOHN DOE. To Signatura Promoter of Justice

1. Because the Promoter of Justice exercises the role of petitioner in a penal trial, I bring to your attention practices which I believe justify disciplinary measures by the Signatura (*cf* art. 67 §1 *Legis propriae* H.S.T.).¹ I plead with you submit a *libellus* to the Signatura seeking a censure, a precept, or an investigation of Judicial Vicar, Fr. JOHN DOE. A precept, censure, or investigation, are arguably needed in order to safeguard the correct jurisprudence and future observance of the matter of proceeding by law (*cf*. art. 111 §1 *L.p.* H.S.T.).² The Signatura is tasked to ensure that justice in the Church is correctly administered (*cf*. artt. 194 & 198 const. apost. *Praedicate Evangelium* also artt. 32 et 35, *Legis propriae* of the Signatura).
2. The issue is that Judicial Vicar, Fr. JOHN DOE conducts nullity of marriage causes which are arguably irremediably null because, as stated in canon 1620, 4°, “the trial took place without the judicial plea mentioned in can. 1501.” No judge can substitute for the will of the petitioner who alone has the right to show facts and proofs, in a general way, to support his allegation. No

¹ *L.p.* Art. 67. §1. The Promoter of Justice exercises the role of petitioner in a penal trial. [English Tran. *The Jurist* 75(2015) 619-657]

² *L.p.* Art. 111. – §1. If truly serious irregularities have been detected, a decision is made in Congresso concerning precepts to be given to tribunals in order to safeguard a correct jurisprudence or the future observance of the manner of proceeding prescribed by law, the transfer of a cause to another tribunal, the suspension of the execution of a decision issued, and the inspection of a tribunal. – §2. In an urgent case, in order that irreparable damages not arise, the suspension of the execution of a judicial decision is ordered by the Prefect or the Secretary, after the votum of the Promoter of Justice or of the Defender of the Bond has been submitted, until a judgment about the matter is made in Congresso.

judge can substitute for the will of the petitioner who alone has the right to allege specific grounds that the petitioner's marriage is invalid, even if only in non-technical terms.

3. Furthermore, there is no certainty about whether the Judicial Vicar Fr. JOHN DOE decides to accept any so-called *libellus* because the signature on the decrees are not actual signed signatures. The image of the signature appears to be either an ink stamper or inserted with computer software. The images are visibly inauthentic signatures because every one is identical.

4. I request that Prof. William Daniel, J.C.D. be a consulter in this matter, because Signatura referendaries can offer an opinion (*votum*) about a proposed question in accord with their knowledge (*cf. L.p.* art. 9).³ Prof. Daniel has published a paper about the "Nature and Challenge of the Decree of Admission of a *Libellus*" and he was appointed as a referendary on 6 June 2021.^{4,5}

Respectfully Yours in Christ,

NAME NAME

2019's enclosures

Undated So-called *Libellus*, unsigned (1 page)
XX May 2019 Decree of Constituion of Tribunal – Sole Judge
XX August 2019 Decree Joining the Issues(s)
 Supporting Reasons Challenging Admission of *Libellus*

2023's enclosures

XX September 2023 So-called *Libellus*, unsigned (1 page)
XX September 2023 Decree of Constituion of Tribunal – Sole Judge
XX September 2023 Decree of Citation of Parties
 Supporting Reasons Challenging Admission of *Libellus*

cc: Reverend Matthias NAME, substitute Signatura Promotor of Justice

³ *L.p.* Art. 10. § 1 – Without prejudice to art. 9, Referendaries assume the function of consultors, who offer an opinion (*votum*) about a proposed question in accord with their knowledge and experience.

⁴ Daniel, William. "Brief Note on the Nature and Challenge of the Decree of Admission of a *Libellus*." *The Jurist*, 73 (2013). 242-251.

⁵ Resignations and Appointments, 21 June 2021, Holy See Press Office, <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2021/06/21/210621b.html>

Supporting Reasons Challenging Admission of *Libellus*

1. In any marriage nullity case, a Petitioner begins the procedural relationship between the Petitioner and Tribunal judge(s) with the submission of a proper *libellus*. If the *libellus* is missing required elements, the Judicial Vicar is not allowed to contrive the elements himself. When the judge does so, his resultant sentence will be irremediably null, per canon 1620, 4° due to the trial taking place “without the judicial plea mentioned in canon 1501.”
2. The Judicial Vicar is not allowed to instruct a cause when the *libellus* is not signed by the Petitioner (or Petitioner’s lawfully mandated procurator). Petitioner’s signature is required per canon 1504, 3°. ¹ With no signature, there is no certitude about who wrote the *libellus*, whether the Petitioner agrees with it, or knows what it contains or means.
3. Moreover, the Judicial Vicar is not allowed to accept a *libellus* that shows absolutely no facts and proofs, in a general way, upon which the petitioner is relying to support the grounds alleged in the petitioner’s signed *libellus*. If the *libellus* does not “indicate at least, in a general way, the facts and proofs on which the petitioner is relying in order to demonstrate what is being asserted,” then there was no basis to accept the *libellus* (cf. *D.C.* art. 116 §1, 2°-3°). ² This general description is needed for the judge to determine if there is minimum *fumus boni iuris*. No judge can substitute for the will of the party who alone has the right to bring to the judge facts and proofs, in a general way, to support his allegation.
4. If the Judicial Vicar did not issue and sign the decree of acceptance of the *libellus*, then the acceptance is a null juridic act. Neither the Tribunal Notary nor Coordinator of Tribunal Services are legally capable of deciding to accept a *libellus* or determine the grounds for the joinder of the issue. The necessity of constitutive elements of juridic acts is shown in canon 24 §1; “For the validity of a juridical act, it is required that it be performed by a person who is legally capable, and it must contain those elements which constitute the essence of the act, as well as the formalities and requirements which the law prescribes for the validity of the act.” When the

¹ Can. 1504. The petition by which a suit is introduced must: – 3° be signed by the plaintiff or the plaintiff’s procurator, and bear the day, the month and the year, as well as the address at which the plaintiff or the procurator resides, or at which they say they reside for the purpose of receiving the acts.

² *D.C.* Art. 116 – § 1. A *libellus* by which a cause is introduced must: ... 2° describe the object of the cause, that is, specify the marriage in question, present a petition for a declaration of nullity, and propose—although not necessarily in technical terms—the reason for petitioning, that is, the ground or grounds of nullity on which the marriage is being challenged; 3° indicate at least in a general way the facts and proofs on which the petitioner is relying in order to demonstrate what is being asserted;

Notary or Tribunal Coordinator create decrees that have fake signatures of the Judicial Vicar affixed to the decrees, there is no certitude about whether the Judicial Vicar even inspected the Petitioner's *libellus* or the Respondent's response. The Judicial Vicar's signature is fake when each signature is completely identical to the others. The signature is either made with an ink stamper or is inserted with computer software.

5. *Motu Proprio Mitis Iudex* canon 1676 §1 shows that a Respondent's citation should have included a copy of the Petitioner's *libellus* and the Judicial Vicar's decree of acceptance.³ *Dignitas Connubii* art. 128 shows that if the Respondent's citation does not contain those things which are necessary, the acts of the process are null.⁴ When no proper *libellus* is sent to Respondent, the Respondent's citation is a null juridic act, and the process is null.

6. Clearly, a Respondent has no right to be given a copy of the elements of Petitioner's pre-judicial pastoral inquiry that could culminate in a petitioner's *libellus*. However, any pre-judicial inquiry that is solely the Petitioner's answers to a questionnaire, where he simply explains the difficulties that occurred in the marriage and its breakup, does not qualify as a *libellus* (*cf. coram Burke*).⁵ An English/German commentary specifies that, "it is not permitted to require the petitioner to include with the petition answers to a lengthy series of questions regarding the pre-matrimonial and matrimonial period."⁶

7. Respondents need to be sent a copy of a proper/lawful *libellus* because, to constructively participate in the instruction of the cause, a Respondent is to know (at the time of citation) the facts and proofs, in a general way, supporting petitioner's accusation against parties' marriage.

³ *Mitis Iudex* Can. 1676 § 1. After receiving the *libellus*, the judicial vicar, if he considers that it has some basis, admits it and, by a decree appended to the bottom of the *libellus* itself, is to order that a copy be communicated to the defender of the bond and, unless the *libellus* was signed by both parties, to the respondent, giving them a period of fifteen days to express their views on the petition

⁴ *D.C.* Art. 128 – If the citation does not contain those things which are necessary in accordance with art. 127, § 3 or if it was not legitimately communicated to the respondent party, the acts of the process are null, without prejudice to the prescriptions of Art. 60; 126, §3; 131 and with the prescriptions of art. 270, nn. 4, 7 remaining in force (*cf. can. 1511*).

⁵ *coram Burke*. Decree of 15 November 1990. [English version: *Studia canonica*, 25 (1991), pp. 509-517] "What X subsequently sent does not qualify to be termed a *libellus*, since it is just the petitioner's answers to a questionnaire, where he simply explains the difficulties that occurred in the marriage and its breakup." [...] "It seems therefore that the case was accepted without any true *libellus* being presented." Section 22(a). https://marysadvocates.org/research/catholic-annulment/#Collection_of_Decrees_and_Sentences_Rota_Judge_Msggr_Cormac_Burke_13

⁶ Ludicke, Klaus, and Ronny Jenkins. *Dignitas Connubii: Norms and Commentary*. Washington D.C.: Canon Law Society of America, 2009. page 209.

Only with this knowledge can the Respondent exhibit “the specific points of the matters about which the interrogation of the parties, witnesses or experts is being sought” (cf. can. 1552, DC art. 164).⁷

8. The nature of a challenge of the decree admitting a *libellus* is discussed by Catholic University of America Canon law professor, William Daniel J.C.D., in the canon law journal “The Jurist.”⁸ Daniel is a referendary of the Supreme Tribunal of the Apostolic Signatura.⁹ He describes how the decree accepting the *libellus* is a null juridic act when the *libellus* is missing required elements. Daniel describes irregularities in a decree of admission of the *libellus*:

A juridical act of the judge is null “when those things which essentially constitute the act are lacking in it. . . .” (CIC/17 c. 1680, §1). The constitutive elements of the judge’s act of admitting the *libellus* correspond to the essential elements of the *libellus* itself; in other words, the admission of the *libellus* requires that the judge not be incompetent, that the one presenting the *libellus* is a *persona standi in iudicio*, that the *libellus* takes an externally manifested form (written or legitimately oral), and that there is at least a minimum juridical and factual basis for the trial. Lacking any one of these elements, the *libellus* is null and so is the decree admitting it. For example:” [...]

[...] “5) The lack of any foundation in law or in fact in a *libellus* affects the decree admitting the *libellus* since it involves the judge essentially supplying a judicial petition, or allegation, which the party has not presented (page 249).

Furthermore, Daniel says the decision of the judge to accept a decree is decisional decree motivated by reasons:

The requirement of motivation applies also to the decree of admission of the *libellus*, but this motivation is, in one respect, furnished by the legislator himself, who presents strict criteria for the rejection of the *libellus*. Absent these criteria,

⁷ Can. 1552 – §1 When proof by means of witnesses is sought ... – §2 The propositions on which the interrogation of the witnesses is requested, are to be submitted within the time-limit determined by the judge...

DC art. 164 – The parties, either personally or through their advocates, and the defender of the bond are to exhibit, within a time limit set by the judge, the specific points of the matters about which the interrogation of the parties, witnesses or experts is being sought, without prejudice to art. 71 (cf. can. 1552, § 2).

⁸ Daniel, William. “Brief Note on the Nature and Challenge of the Decree of Admission of a Libellus.” *The Jurist*, 73 (2013). 242-251. page 247.

⁹ Resignations and Appointments, 21 June 2021, Holy See Press Office, <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2021/06/21/210621b.html>

the judge is motivated to admit the *libellus*. The decree does well to indicate these explicitly for the benefit of the parties; but in accord with canon 1617 it would be sufficient to refer to the *libellus* itself, since the requirement of motivation is satisfied by ‘refer[ring] to motives expressed in another act’ (page 249).

9. Noteworthy jurisprudence from the Roman Rota shows that the judge should reject a *libellus* alleging grounds covered by canon 1095 if the petitioner’s petition does not describe the grave psychic anomaly of the party alleged to be the cause of invalidity:¹⁰

It follows that for a *libellus* to be accepted under c. 1095, there must be some allegation of a gravely anomalous condition - present at the moment of the marriage - in the person accused of consensual incapacity, accompanied by assertions or claims relating to signs, symptoms or events which, if substantiated, could make the presence of such an anomaly more likely. If nothing gravely anomalous is alleged, if nothing is asserted that could point to at least the possibility of a grave psychic anomaly, if there is no pre-wedding (or even post-wedding) medical history of some definite psychic disorder, if all that is spoken of is simple ‘immaturity’ or commonplace character defects, etc., then there is good reason to consider that the *libellus* should not be accepted as clearly lacking in sufficient foundation (cfr. c. 1505, §2, 4°). Church Tribunals are not fulfilling their essential ecclesial role when they devote time to cases without substance, lacking in that minimum "*fumus boni iuris*" which suggests that there is a true issue of justice to be resolved.

Furthermore, the supreme legislator, Saint Pope John Paul II specifies that only the “most severe forms of psychopathology” impair the consent:¹¹

Bearing in mind that only the most **severe forms of psychopathology** impair substantially the freedom of the individual and that psychological concepts do not always correspond with canonical;” [...] “All possible explanations for the failure of a marriage for which a declaration of nullity is sought will have to be considered and not just the hypothesis of it being due to psychopathology.” [...] “There is another and not infrequent source of misunderstanding in the evaluation of psychopathological symptoms. It arises not from an exaggeration of the extent

¹⁰ Sentence of Jan 20, 94. “A collection of Decrees and Sentences coram Monsignor Cormac Burke, Prelate Auditor of the Apostolic Tribunal of the Roman Rota, 1987-1999” page 296. <https://marysadvocates.org/research/catholic-annulment/>

¹¹ “Address of John Paul II to the Tribunal of The Roman Rota.” 25 January 1988. Accessed 29 March 2023. https://www.vatican.va/content/john-paul-ii/en/speeches/1988/january/documents/hf_jp-ii_spe_19880125_roman-rot.html

of the illness but, on the contrary, from an unjustified exaggeration of the concept of capacity to contract marriage. As I noted last year (supra p. 192, no. 6), the misunderstanding can arise from the fact that the expert declares that a party is incapable of contracting marriage, while referring not to the minimum capacity sufficient for valid consent, but rather to the ideal of full maturity in relation to happy married life.

10. In contrast to the Pope's teaching, Diocesan webpages (under the responsibility Judicial Vicar, Fr. JOHN DOE) give the faithful an overreaching idea of canon 1095, 2°:

LACK OF DUE DISCRETION – One who suffers from a grave lack of discretion of judgement concerning essential matrimonial rights and responsibilities is incapable of entering marriage. Persons who attempt marriage hurriedly or at an early age are often discovered to have suffered this grave lack of due discretion. In addition, persons who show an inability to evaluate their own strengths and weaknesses, or to plan ahead for the future, may not have the ability to exercise proper judgement about a lifetime relationship with another person. Chemical addiction (drugs or alcohol) is sometimes a factor which may make due discretion impossible. A great number of annulments are granted on lack of due discretion.¹²

11. SUMMARY: The admission of the *libellus* by a Judicial Vicar is irregular for each of the following reasons: the *libellus* is not signed; the *libellus* is not dated; the *libellus* contains no description of facts and proofs, in a general way, upon which Petitioner is relying to prove grounds chosen; the decree of acceptance is generated solely by Notary or Coordinator and there is no actual signature of Judicial Vicar affixed to decree, and, instead, the image is an ink stamp or computer generated. Nullity of marriage causes begun in this way are irremediably null because there was no true *libellus* mentioned in canon 1501.

¹² Diocese Of CITY Marriage Tribunal Procedures. Accessed 17 January 2024. <https://www.CITY.org/wp-content/uploads/REDACTED>