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**Process for**

**Dismissal by Decree**

**Due to**

**Prolonged Illegitimate Absence**

**(Directory for Superiors, Chapter VIII: 1903)**

**Congregation of the Most Holy Redeemer**

**Rome**

DISMISSAL BY DECREE DUE TO PROLONGED ILLEGITIMATE ABSENCE

EXPLANATION AND PROCEDURE

(Directory for Superiors, Chapter VIII, 1903)

A. DESCRIPTION:

Canon 665 §1 requires religious to live in their religious house and not be absent from it without permission from their superior. Being illegitimately absent from the religious house for a period of more than six (6) months and not showing a willingness to return to the community is sufficient cause for dismissal from the Congregation (c. 696 §1). Canon law REQUIRES that superiors make solicitous efforts to help and encourage the member to return to religious life. (c. 665 §2)

For an explanation of the EFFECTS and COMPETENCY in this matter please refer to DS # 1903.3 – 4.

B. PROCEDURE: (DS # 1903.5)

1. If it has not yet been done, declare the member illegitimately absent **according to the instructions in the Directory of Superiors No. 1903.2.7 and 1903.5.D** using form 19.3 and sending a copy to the General Secretary.

2. Six (6) months after the declaration of illegitimate absence, the Major Superior collects the proofs of absence from the community, proofs of when the absence began and VERY IMPORTANTLY a record of all the attempts that have been made since the absence began to help and urge the member to return to his community and once again take up active religious life including copies of any letters or emails to this effect. The record of these attempts is required by the Vatican. The Major Superior is **obligated** by canon law to make such efforts.

3. The Major Superior seeks the advice of his council and decides whether to begin the process of dismissal. Minutes of this meeting should be kept as they will be needed in the final documentation. (FORM A)

4. In some cases, it may be obvious that the member does not wish to return but there is still a good relationship with him. The Provincial may write a letter (although this is NOT required) to the member asking whether he will cooperate in the process (FORMS B and C)

5. If the Major Superior sends the letter mentioned in #4, at least **20 days later**, he issue the FIRST CANONICAL WARNING. (FORM D)

* ***ONLY*** *if the person has agreed beforehand to cooperate in the dismissal process*: Send the warning by regular mail and include the acknowledgement of receipt to be returned to the Major Superior by the member (FORM E).
* If the letter mentioned in #4 was not sent, the Major Superior issues the canonical warning at any time of his choosing. This may be done in 1 of 3 ways:

1. If the person has NOT agreed beforehand to cooperate in the Dismissal: Send the warning by certified mail / restricted delivery with return receipt in order to receive back a **Proof of Delivery**.
2. Have the warning delivered personally by two persons who then sign a statement testifying that they delivered it personally to the member stating the date and place of delivery. (FORM M)

* **If none of these ways are possible, OR the member’s address is unknown or he cannot be found:**

1. The warning is published *per edictum* (by edict). This means that it is prominently and publicly posted. The canonical warning is posted at a minimum at the (Vice) Provincial residence and the last religious house to which the member was stationed. It is also very good, but not required, if the warning can be posted in ALL the houses of the Unit. (FORM K)

6. NO LESS THAN 15 DAYS after the person has received the first canonical warning or **30 DAYS after its publishing *per edictum***, the Major Superior issues the SECOND CANONICAL WARNING using the same instructions as in #5 above. (FORM F) and IF THE MEMBER IS COOPERATING (FORM G).

If the second warning is *per edictum* use FORM L.

7. IF THE CANONICAL WARNINGS WERE GIVEN *PER EDICTUM*:

The Major Superior writes, signs, seals and dates a document stating that he testifies that the canonical warnings were posted stating where they were published and the date on which they were posted. (FORM H)

8. NO LESS THAN 15 DAYS after the receipt or posting of the second canonical warning or **30 DAYS after its publishing *per edictum***, the Major Superior meets with his council to consider whether the evidence justifies a dismissal. The Major Superior with the consultation of his council decides whether to submit the case to the Superior General. Minutes of this meeting are kept (FORM I).

9. If it is decided to proceed with the dismissal and submit the case to the Superior General, the Major Superior writes a letter of petition to the Superior General, briefly stating the facts of the case and asking that the member (by name) be dismissed from the Congregation **because of an illegitimate absence lasting longer than six (6) months**. **He must be clear in the letter that after meeting with his Council and receiving their approval, he fully supports the decision and that he asks that the member be dismissed**. BE VERY SPECIFIC THAT THE DISMISSAL IS BEING SOUGHT BECAUSE OF AN ILLEGITIMATE ABSENCE LASTING LONGER THAN SIX (6) MONTHS. (FORM J)

10. Submit the documentation listed in the “Documents Required Checklist” found at the end of this booklet to the Superior General or the Procurator General:

**Please send the documentation directly to the Superior General pages not numbered, unbound, without any staples and arranged in the order presented in required document checklist.**

FORM A

DISMISSAL BY DECREE FOR ILLEGITIMATE ABSENCE

SUGGESTED TEXT FOR THE MINUTES OF THE COUNCIL MEETING TO BEGIN THE PROCESS

Excerpt from Council Minutes of [Date]:

The council considered the beginning of the process of canonical dismissal of [Name]. After discussion, noting that all attempts to convince him to return had failed and noting that he does not intend to return, and also noting that he has been absent more than six (6) months, the council voted to proceed with the dismissal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [SEAL]

Secretary

(FORM B)

Optional Major Superior’s Letter to the member after the decision is made to begin the dismissal process

(Suggested Text: Please modify according to your needs

Please make sure the letter is dated)

Dear [NAME]

This is a difficult letter for me to write. Since you have not been dispensed you are still considered canonically a member of the Congregation of the Most Holy Redeemer. After consulting with my council, I believe that it is necessary to clarify the Congregation’s canonical and legal relationship with you for a number of reasons, among them to clarify who is and who is not eligible to vote in elections and on matters within the Congregation, to protect the Congregation from any civil liability and to officially recognize your desire not to be a member of the Congregation.

Although the canonical process appears disciplinary in nature, I assure you that I do not intend it as such. I only intend to establish canonically the reality of the situation, that is, your desire not to be a member of the Congregation and therefore your non-membership. I hope that you understand that I take this action for your sake and that of the Congregation.

I trust that you understand my position and reasons in this matter. I also hope that you will cooperate in this process by signing an acknowledgement of receipt form that you have received the canonical warning. This canonical warning is sent to you twice and therefore twice you would acknowledge receipt. You need not participate in any other way in the process; however, if you desire you may participate by offering reasons why the dismissal should not happen. Please return the enclosed form indicating whether or not you will sign the acknowledgement of receipt forms.

The effect of the dismissal will be to dispense you from your religious vows. (*Add if the person is a priest or deacon:* You will not be allowed to exercise your sacred orders until and unless you find a bishop who receives you into the diocese after an appropriate probation or at least permits you to exercise orders. You will also be bound by your obligation of Sacred Celibacy.)

If you would like to return to active religious life in the Congregation, I would be most happy to receive you back. If you wish to proceed with a dispensation, please contact me. In any event, I do offer you my prayers and support.

In Christ the Redeemer,

[Name]

(Vice) Provincial

FORM C

DISMISSAL PROCEDURE ACKNOWLEDGMENT

(Suggested Text to be included with Form A)

\_\_\_\_\_\_ I am willing to cooperate in the process of dismissal by signing an Acknowledgement of Receipt form each time I receive a canonical warning.

\_\_\_\_\_\_ I am not willing to cooperate in the process of dismissal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

FORM D

FIRST CANONICAL WARNING

TO: [NAME]

In accordance with the provisions of canon law and the proper law of the Congregation, you are hereby given the first canonical warning required by canon 697.2 prior to being dismissed from The Congregation of the Most Holy Redeemer.

You have been absent from the Institute for more than six (6) months. You have failed to respond to the various attempts made to urge you to return to the Congregation to take up religious life again.

Your unlawful absence from the Institute for more than six (6) months is an imputable offense which subjects you to dismissal from the Congregation (canon 696.1).

Having heard the advice of my council, I now hereby declare that you will be dismissed from the Congregation unless you

Return to [name of place, e.g. The Provincial Residence, or the name of another community] within 15 days of receipt of this first canonical warning to take up immediately religious life as a member of the Congregation.

If you fail to comply within 15 days of receipt of this first canonical warning, I will issue a second canonical warning. If you fail to respond to the second canonical warning, I will proceed with dismissal by submitting the evidence of your absence to the Superior General of the Redemptorists and his council which will decide the case and submit it to the Apostolic See.

You have a right under law to self-defense, including a canonical counsel, in this matter at all stages. You have the right to present to me, in person or in writing, your defense against this first canonical warning and proposed dismissal within 15 days of receipt of this warning. You also have the right to communicate with and offer a defense directly to the Superior General.

Please be advised of the seriousness of this matter.

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Vice) Provincial

FORM E

ACKNOWLEDGEMENT OF RECEIPT

FIRST CANONICAL WARNING

I hereby acknowledge receipt of and acceptance of the First Canonical Warning.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

FORM F

SECOND CANONICAL WARNING

TO: [NAME]

In accordance with the provisions of canon law and the proper law of the Congregation, you are hereby given the second canonical warning required by canon 697.2 prior to being dismissed from The Congregation of the Most Holy Redeemer.

You have been absent from the Institute for more than six (6) months. You have failed to respond to the various attempts made to urge you to return to the Congregation to take up religious life again. You have failed to act affirmatively in response to the first canonical warning issued to you on [Date].

Your unlawful absence from the Institute for more than six (6) months is an imputable offense which subjects you to dismissal from the Congregation (canon 696.1).

I now hereby declare that you will be dismissed from the Congregation unless you

Return to [name of place, e.g. The Provincial Residence, or the name of another community] within 15 days of receipt of this second canonical warning to take up immediately religious life as a member of the Congregation.

If you fail to comply within 15 days of receipt of this second canonical warning, I will proceed with the process of dismissal by submitting the evidence of your absence to the Superior General of the Congregation of the Most Holy Redeemer and which council which will decide the case and submit it to the Apostolic See.

You have a right under law to self-defense, including a canonical counsel, in this matter at all stages. You have the right to present to me, in person or in writing, your defense against this second canonical warning and proposed dismissal within 15 days of receipt of this warning. You also have the right to communicate with and offer a defense directly to the Superior General.

Please be advised of the seriousness of this matter.

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Vice) Provincial

FORM G

ACKNOWLEDGEMENT OF RECEIPT

SECOND CANONICAL WARNING

I hereby acknowledge receipt of and acceptance of the Second Canonical Warning.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

FORM H

MAJOR SUPERIOR’S ATTESTATION OF THE PUBLISHING OF THE CANONICAL WARNINGS.

(Sample Text)

With this document I attest and affirm that because [NAME’S] address is unknown to us and we are unable to contact him, the canonical warnings required by canon 697 were published *Per Edictum*.

The First Canonical Warning was posted on [DATE] in [PLACES WHERE THE EDICT WAS POSTED].

The Second Canonical Warning was posted on [DATE] in [PLACES WHERE THE EDICT WAS POSTED].

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature (SEAL)

(Vice) Provincial

FORM I

DISMISSAL BY DECREE FOR ILLEGITIMATE ABSENCE

TEXT FOR THE MINUTES OF THE COUNCIL MEETING TO SUBMIT THE PROCESS

(IF THE PERSON’S ADDRESS IS KNOWN)

Excerpt from Council Minutes of [DATE]:

The council considered the canonical dismissal of [NAME]. The council noted that the canonical warnings had been sent according to law and had been acknowledged. From the Acts there did not appear any evidence that [NAME] would return to the Institute. The council voted unanimously [or state the vote totals] in favor of the dismissal and that the (Vice-) Provincial should forward the acts to the Superior General.

Given on: [DATE]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [SEAL]

Secretary

(IF THE PERSON’S ADDRESS IS NOT KNOWN)

Excerpt from Council Minutes of [DATE]:

The council considered the canonical dismissal of [NAME]. The council noted that since [Name’s] address is unknown, the canonical warnings *per edictum* had been published according to law. After the publication of both warnings there was no evidence that [NAME] would return to the Institute. The council voted unanimously [or state the vote totals] in favor of the dismissal and that the (Vice-) Provincial should forward the acts to the Superior General.

Given on: [DATE]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [SEAL]

Secretary

FORM J

DISMISSAL BY DECREE FOR ILLEGITIMATE ABSENCE

SUGGESTED TEXT FOR THE MAJOR SUPERIOR’S LETTER OF PETITION TO THE SUPERIOR GENERAL

Dear Father [NAME],

Enclosed please find the Acts for a Petition of Dismissal against [NAME OF PERSON BEING DISMISSED], a member of the (Vice-) Province of [NAME OF UNIT], on the grounds of illegitimate absence for longer than six (6) months.

After consulting with my council on [DATE], I issued the requisite canonical warnings. Thereafter on [DATE], I again met with my council who concurred that I send the Acts to you and request that you proceed with the process of dismissal.

Therefore with my full approval and support I join my council and ask that you dismiss [NAME OF PERSON BEING DISMISSED] and, according to the norms of c. 700, request the necessary confirmation from the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

In Christ the Redeemer,

{Signature}

[Name]

(Vice) Provincial

**FORM K**

FIRST CANONICAL WARNING – *PER EDICTUM*

Since his address in unknown to the competent authority and all efforts to communicate with him have failed

LET THE FOLLOWING BE MADE KNOWN BY MEANS OF THIS PUBLIC POSTING TO:

[NAME]

In accordance with the provisions of canon law and the proper law of the Congregation, you are hereby given the first canonical warning required by canon 697.2 prior to being dismissed from The Congregation of the Most Holy Redeemer.

You have been absent from the Institute for more than six (6) months. You have failed to respond to the various attempts made to urge you to return to the Congregation to take up religious life again.

Your unlawful absence from the Institute for more than six (6) months is an imputable offense which subjects you to dismissal from the Congregation (canon 696.1).

Having heard the advice of my council, I now hereby declare that you will be dismissed from the Congregation unless you

Return to [name of place, e.g. The Provincial Residence, or the name of another community] within 30 days of the public posting of this first canonical warning to take up immediately religious life as a member of the Congregation.

If you fail to comply within 30 days of public posting of this first canonical warning, I will issue a second canonical warning. If you fail to respond to the second canonical warning, I will proceed with dismissal by submitting the evidence of your absence to the Superior General of the Redemptorists and his council which will decide the case and submit it to the Apostolic See.

You have a right under law to self-defense, including a canonical counsel, in this matter at all stages. You have the right to present to me, in person or in writing, your defense against this first canonical warning and proposed dismissal within 15 days of the public posting of this warning. You also have the right to communicate with and offer a defense directly to the Superior General.

Please be advised of the seriousness of this matter.

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Vice) Provincial

**FORM L**

SECOND CANONICAL WARNING

Since his address in unknown to the competent authority and all efforts to communicate with him have failed

LET THE FOLLOWING BE MADE KNOWN BY MEANS OF THIS PUBLIC POSTING TO:

[NAME]

In accordance with the provisions of canon law and the proper law of the Congregation, you are hereby given the second canonical warning required by canon 697.2 prior to being dismissed from The Congregation of the Most Holy Redeemer.

You have been absent from the Institute for more than six (6) months. You have failed to respond to the various attempts made to urge you to return to the Congregation to take up religious life again. You have failed to act affirmatively in response to the first canonical warning issued to you on [Date].

Your unlawful absence from the Institute for more than six (6) months is an imputable offense which subjects you to dismissal from the Congregation (canon 696.1).

I now hereby declare that you will be dismissed from the Congregation unless you

Return to [name of place, e.g. The Provincial Residence, or the name of another community] within 30 days of the public posting of this second canonical warning to take up immediately religious life as a member of the Congregation.

If you fail to comply within 30 days of the public posting of this second canonical warning, I will proceed with the process of dismissal by submitting the evidence of your absence to the Superior General of the Congregation of the Most Holy Redeemer and which council which will decide the case and submit it to the Apostolic See.

You have a right under law to self-defense, including a canonical counsel, in this matter at all stages. You have the right to present to me, in person or in writing, your defense against this second canonical warning and proposed dismissal within 15 days of the public posting of this warning. You also have the right to communicate with and offer a defense directly to the Superior General.

Please be advised of the seriousness of this matter.

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Vice) Provincial

**FORM M**

Witness Statement Confirming Delivery of the **First Canonical Warning**

(One form to be filled out by each witness. 2 witnesses are required)

I [NAME OF WITNESS] do hereby attest and affirm that I personally delivered the FIRST CANONICAL WARNING to [NAME OF MEMBER] on [DATE] at [PLACE OF DELIVERY]. In witness whereof I affix my signature:

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Witness Statement Confirming Delivery of the **Second Canonical Warning**

(One form to be filled out by each witness. 2 witnesses are required)

I [NAME OF WITNESS] do hereby attest and affirm that I personally delivered the SECOND CANONICAL WARNING to [NAME OF MEMBER] on [DATE] at [PLACE OF DELIVERY]. In witness whereof I affix my signature:

Given at [Place] on [Date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

DISMISSAL BY DECREE DUE TO PROLONGED ILLEGITIMATE ABSENCE

DOCUMENTS REQUIRED CHECKLIST

**(IF HIS WHEREABOUTS ARE KNOWN)**

NAME:

Unit:

|  |  |  |
| --- | --- | --- |
|  | 1 | Letter from the Major Superior to the Superior General requesting the Dismissal with an affirmative votum and accompanying the documentation. |
|  | 2 | Brief Biography of the member |
|  | 3 | Explanation of his departure from community |
|  | 4 | Declaration of Illegitimate absence |
|  | 5 | A Summary of the efforts to seek his return to community |
|  | 6 | Other Canonical Processes: Absence, Exclaustrations, etc. |
|  | 7 | A copy of the excerpt of the council meeting when it was decided to initiate the process. |
|  | 8 | First canonical warning |
|  | 9 | Proof of Reception of the First canonical warning |
|  | 10 | Second canonical warning |
|  | 11 | Proof of Reception of the Second canonical warning |
|  | 12 | A copy of the excerpt of the council meeting when it was decided to proceed with the dismissal and submit the request to the Superior General. |
|  | 13 | Nomination of the notary if different from the (V) Provincial Secretary |
|  | 14 | A Letter with the affirmative votum of the Major Superior. (This may be included in the letter of the Major Superior to the Superior General #1 above) |
|  | 15 | If the confrere belongs to a vice-province, a letter with the affirmative votum of the Provincial Superior. |

DISMISSAL BY DECREE DUE TO PROLONGED ILLEGITIMATE ABSENCE

DOCUMENTS REQUIRED CHECKLIST

**(WHEN HIS WHEREABOUTS ARE UNKNOWN)**

NAME:

|  |  |  |
| --- | --- | --- |
|  | 1 | Letter from the Major Superior to the Superior General requesting the Dismissal and accompanying the documentation. |
|  | 2 | A Brief Biography of the member. |
|  | 3 | Explanation of his departure from community |
|  | 4 | Declaration of Illegitimate absence |
|  | 5 | A Summary of the efforts to seek his return to community |
|  | 6 | Other Canonical Processes: Absence, Exclaustrations, etc. |
|  | 7 | A copy of the excerpt of the council meeting when it was decided to initiate the process. |
|  | 8 | First canonical warning Edict |
|  | 9 | Statement relating the places and dates of the posting of the First Canonical Warning by Edict and stating if there were any results. |
|  | 10 | Second canonical warning Edict |
|  | 11 | Statement relating the places and dates of the posting of the Second Canonical Warning by Edict and stating if there were any results. |
|  | 12 | A copy of the excerpt of the council meeting when it was decided to proceed with the dismissal and submit the request to the Superior General |
|  | 13 | Nomination of the notary if different from the (V) Provincial Secretary |
|  | 14 | If the member belonged to a Vice-Province, a letter with the affirmative votum of the Provincial Superior of the Province |
|  | 15 | Letter with the affirmative votum of the Major Superior. (This may be included in the letter as part of the letter to the Superior General #1 above). |
|  | 16 | Petitioner’s last known address and date of his residence there |