

Analysis: Freed from prison, will Cardinal Pell now face Vatican trial?

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Washington D.C., Apr 6, 2020 / 10:20 pm (CNA).- The High Court of Australia ordered the acquittal of Cardinal George Pell on Tuesday.

While Pell's criminal trials in Australia are now at an end, the same accusations which saw him first convicted, then denied appeal, then acquitted, must now be addressed by the Church's own legal process. That canonical process, on hold while the Australian justice system ran its course, can now begin.

While many of Pell's supporters might consider any further legal ordeal for the cardinal to be unnecessary, even cruel, Vatican efforts to restore faith in its ability to handle accusations of sexual abuse fully and fairly – no exceptions – mean that there will have to be some kind of canonical process.

The necessity for *some* canonical process to formally address the accusations against Pell does not, however, mean it need be lengthy. While the pope alone is competent to determine how a case against a cardinal proceeds, in practice Francis is almost sure to depute the process to the Congregation for the Doctrine of the Faith – something provided for in the motu proprio *Sacromentorum sanctitatis tutela*. Unless there is pressing evidence on both sides of the case, the CDF rarely convenes a full trial- especially when the matter has received a full litigation in a secular court.

The decision the CDF will face is how, and if, to proceed with the preliminary investigation.

As a first step, the CDF will have to determine if the accusations against Pell rise to the level of “a semblance of truth,” that is they are not “manifestly false or frivolous.”

Following the High Court’s decision, which repeatedly pointed out the lack of any supporting evidence for the accusations of Pell’s lone accuser, it is entirely possible that the CDF could chose to rule that the accusations against Pell do not meet even this most basic criterion and dismiss the charges out of hand, as the Victoria police did with several of the more obviously false allegations collected by its open-ended investigation into Pell.

This would have the benefit of sending the most emphatic message possible that Rome views the accusations against Pell as absurd, and by implication his original conviction a farce. But, it could also represent something of a setback for the Vatican’s aim to be seen to give every accusation a formal examination.

A more likely way ahead may be for the Congregation to open a preliminary investigation, the bulk of which would likely consist of the court documents from Pell’s trial and appeals. This investigation could then conclude, as the High Court did, that there is simply no evidence to support the charges against Pell, and a considerable diversity of evidence arguing for his innocence.

Under the legal terms of Pell’s appeal, the High Court could only consider the “reasonableness” of the jury’s decision to convict in the light of the standard of guilt beyond reasonable doubt. But nothing prevents the CDF from examining the same evidence and pronouncing that it positively establishes Pell’s innocence and dismissing the case at the pre-trial phase.

Another option, one which would be seen to follow the canonical process to the full, would allow Pell’s sole accuser to present his accusations and testimony directly to officials from the CDF, assuming he is willing. The CDF would also take depositions from Pell and from as many of the witnesses at the trial as possible – all of whom appeared in Pell’s favor – before proceeding to issue a decision.

Whatever process is followed, almost no one expects a canonical court in Rome to find Pell guilty, given the overwhelming evidence he has now presented in his own defense.

Victoria Court of Appeal judge Mark Weinberg noted, in his opinion dissenting from the decision to uphold Pell’s conviction, that the cardinal had been made to prove his innocence beyond reasonable doubt; an inverted burden of proof many observers feel he cleared.

Throughout Pell’s three-year legal battle, Rome has remained studiously non-committal about the cardinal’s case.

At each stage of proceedings, the Vatican press office released no more than flat acknowledgments of the case’s progress, noting that Pell had a right to exhaust every appeal, and expressing faith that the Australian justice system would run its course.

That course has now been run.

Whatever statements are released in Rome welcoming the end of Pell's legal battle while underscoring the Church's commitment to child protection, the real measure of the Vatican's opinion on the case will come from the speed, nature, and verdict of the canonical process which must now follow.

For Cardinal Pell, it likely cannot come soon enough.