

Fatwa no. 634

Q: When his son fell ill, his wife asked him to take him to the doctor for treatment. After examining him, the doctor gave him a medical prescription. However, his wife stopped using it because she preferred a traditional Arab treatment. He swore to divorce her if she asked him again to take him to the doctor. Once again the boy got sick and the wife asked her husband to take him to the doctor, forgetting the oath of divorce. The husband went to the doctor forgetting the oath of divorce he had sworn. He and his wife did not recall the oath except after returning from the doctor and he asks: What will be the consequences if the case is as mentioned?

A: There are different views reported from Imam Ahmad concerning the person who does something having forgotten that he has taken an oath of divorce not to do. The more established view in this regard is that he did not break the oath by doing the action forgetfully and his oath is still effective. This is the view of `Ata', `Amr ibn Dinar, Ibn Abu Nujayh, Is-haq and Ibn Al-Mundhir. This is also the preponderant view of Al-Shafi`y Madh-hab (school of Jurisprudence) as mentioned in "Al-Khulasah". It is said in "Al-Furu`": This is the preponderant opinion. It is said also in "Al-Insaf": It is the soundest opinion. Shaykh Al-Islam, Ibn Taymiyyah, chose this opinion based on the statement of Allah (Exalted be He):

And there is no sin on you concerning that in which you made a mistake, except in regard to what your hearts deliberately intend.

The Prophet (peace be upon him) also said,

"Allah overlooks what my people do by mistake, forgetfully and under coercion."

It should be noted that the man did so unintentionally and he did not break his oath intentionally similar to the one sleeping or the insane whose errors are pardoned. Accordingly, in such a case, the man and his wife did not break the oath due to their forgetfulness and the oath is still effective.

May Allah grant us success. May peace and blessings be upon our Prophet Muhammad, his family, and Companions.

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