176422 - He did ‘umrah on behalf of his grandfather but did not complete sa‘i, then he went back to his city and got married. What should he do?

the question

I am a young man who has been married for five years. Two years before my marriage I went for ‘umrah with my father and mother. After we had done ‘umrah, we intended to enter ihram and do ‘umrah on behalf of our deceased family members. I decided to do ‘umrah on behalf of my grandfather (may Allah have mercy on him), but during sa‘i I felt very tired, because it was the month of Ramadan, and because of severe thirst I was not able to complete ‘umrah. I went back to my city, and I did not think there was any problem. Two years later, I got married, and five years after I got married, I heard a ruling saying that if a person has not completed his ‘umrah, his wife is not permissible for him. Please advise me, may Allah reward you with good, because I have decided to go back and make up my ‘umrah in one month’s time, as I am busy with work at present.

Detailed answer

Praise be to Allah.

Firstly:

If a person does ‘umrah but does not do sa‘i, or does not complete it, then he is still in a state of ihram, and he must go back and do sa‘i, then cut his hair or shave his head, because sa‘i is one of the essential parts of Hajj without which Hajj is not complete.

It says in al-Mawsoo‘ah al-Fiqhiyyah (25/14): The majority of scholars are of the view that sa‘i is an essential part of Hajj or ‘Umrah. They said: The minimum without which sa‘i is not valid is seven laps between as-Safa and al-Marwah, because of the actions of the Prophet (blessings and peace of Allah be upon him) and because of the consensus of the ummah, both earlier and later

generations, that this is how sa‘i is. End quote.

An-Nawawi (may Allah have mercy on him) said: If a person does sa‘i then becomes certain that he omitted anything from tawaaf, his sa‘i is not valid.

End quote from Sharh al-Muhadhdhab (8/98)

Secondly:

If the matter is as you mentioned, then your ‘umrah was not complete, and you have to change out of your regular clothes into ihram garments, then do sa‘i from the beginning, as your previous sa‘i does not count, because of the interruption which cancels out continuity.

It says in Kashshaaf al-Qinaa‘ (2/487): The intention (niyyah) is essential in sa‘i, because of the hadith, “Actions are but by intentions.” And continuity is also required, by analogy with tawaaf, as was stated by al-Qaadi. End quote.

See also: ash-Sharh al-Mumti‘ (7/275)

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) was asked about a man who did ‘umrah, but his sa‘i lacked one lap; what must he do?

He replied:

This man is still in a state of ihram, so he must change out of his regular clothes and avoid the things that are prohibited whilst in ihram; he should put on his ihram garments immediately in the city where he is, and go do Makkah and do sa‘i all over again, because until now he is still in a state of ihram for ‘umrah.

End quote from Majmoo‘ al-Fataawa (22/436)

Thirdly:

With regard to what the questioner has done things that are prohibited whilst in a state of ihram

during this period, he does not have to do anything because he was unaware of the ruling. There is no differentiation between intercourse and other prohibited actions, but as soon as he learns of the shar'i ruling, it becomes haram for him to do any of the things that are prohibited whilst in ihram, because he is still in a state of ihram.

For more information on the things that are prohibited whilst in ihram, please see the answer to question no. 11356 and 104178.

Fourthly:

You have to renew your marriage contract after completing 'umrah because it was done when you were in a state of ihram, and a marriage contract cannot be done when in the state of ihram. It says in al-Mawsoo'ah al-Fiqhiyyah (21/217):

The majority – namely the Maalikis, Shaafa'is and Hanbalis– are of the view that a marriage contract of someone who is in a state of ihram is not valid, whether as a husband, wife, guardian (wali) who did the marriage contract on behalf of his ward, or proxy (wakeel). This was the view of 'Umar ibn al-Khattaab, his son 'Abdullah, and Zayd ibn Thaabit (may Allah be pleased with them), and of Sa'eed ibn al-Musayyab, Sulaymaan ibn Yasaar, az-Zuhri and al-Awzaa'i, because the Prophet (blessings and peace of Allah be upon him) said: "The muhrim (pilgrim in ihram) should not get married, have a marriage arranged for him or propose marriage." And it was narrated that 'Ali (may Allah be pleased with him) said: "Whoever gets married when he is in ihram, we will take his wife away from him." It was narrated from 'Umar (may Allah be pleased with him) that he separated two pilgrims in ihram who got married. It was narrated from Shawdhab the freed slave of Zayd ibn Thaabit (may Allah be pleased with him) that he got married when he was in ihram and Zayd ibn Thaabit separated them. End quote.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked about those who do not complete tawaaf around the Ka'bah or sa'i.

He replied:

Firstly: they are sinning, unless they are ignorant, in which case there is no sin on them.

Secondly: they are still in a state of ihram, even if they have taken off the ihram garments and put on their ordinary clothes. They are still in a state of ihram, so the men must take off their ordinary clothes and put on the ihram garments.

Thirdly: they must now return to Makkah to complete their ‘umrah. If they had done tawaaf but did not do sa‘i, we say: they still have to do sa‘i. If they had done some of the circuits then they left, we say: they have to repeat tawaaf from the beginning. If they had done some laps of sa‘i, we say: go back and start sa‘i from the beginning.

… If a person in this situation has got married, then the marriage contract is not valid, because he is still in a state of ihram, and the marriage contract is not valid in the case of one who is in a state of ihram. So if it is the case that he did do the marriage contract, we say: Refrain and do not go to your wife until you have gone and completed ‘umrah, then do a new marriage contract.

End quote from Majmoo‘ al-Fataawa (23/45 9)

And Allah knows best.