258064 - He fired a bullet and accidentally hit his daughter, and she died. What must he do?

the question

My seventeen-month-old daughter died a few weeks ago. My gun, which I own legally, was in my hand and accidentally fired a stray bullet, which killed my daughter. Allah knows that it was an accident, because my daughter was everything to me. What must I do to repent?

Detailed answer

Praise be to Allah.

Firstly:

If you accidentally shot a bullet and it hit your daughter by mistake, or you did not intend to shoot it, but you picked up the gun to clean it, for example, and the bullet was discharged from it and hit her, then this comes under the heading of accidental killing, and there is no sin on you for that, because the Prophet (blessings and peace of Allah be upon him) said: “Indeed Allah has pardoned my ummah for mistakes and what they forget, and what they are forced to do.” Narrated by Ibn Maajah (2033); classed as saheeh by al-Albaani in *Saheeh Sunan Ibn Maajah*.

But there are two things that you must do as a result of that:

The first is paying the diyah (blood money), which must be paid by your male relatives on your father’s side (‘aaqilah). It is to be given to the heirs of the one who was killed, but you must not take anything of it. If the heirs choose to relinquish it, then it is waived, because Allah, may He be exalted, says (interpretation of the meaning): *{and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity } [an-Nisa’ 4:92]*.

The second is offering expiation, which is to free a believing slave. If that is not possible, then you

must fast for two consecutive months, because Allah, may He be exalted, says (interpretation of the meaning):

{And never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity. But if the deceased was from a people at war with you and he was a believer - then [only] the freeing of a believing slave; and if he was from a people with whom you have a treaty - then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever Knowing and Wise} [an-Nisa' 4:92].

Secondly:

With regard to your male relatives on your father's side ('aaqilah) having to pay the diyah, that is because of the report narrated by al-Mugheerah ibn Shu'bah (may Allah be pleased with him), who said: A woman struck her co-wife, who was pregnant, with a tent pole and killed her... The Messenger of Allah (blessings and peace of Allah be upon him) ruled that the diyah (blood money) for the one who had been killed was to be paid by the killer's male relatives on the father's side. Narrated by Muslim (1682).

Ibn Qudaamah said in *al-Mughni* (8/296): We know of no difference of opinion among the scholars regarding the fact that the diyah in the case of accidental killing must be paid by the male relatives on the father's side. Ibn al-Mundhir said: All the scholars from whom we acquired knowledge unanimously agreed on that. And there are sound reports from the Messenger of Allah (blessings and peace of Allah be upon him) which say that he ruled that the diyah for accidental killing was to be paid by the killer's male relatives on the father's side. The scholars are unanimously agreed on that. End quote.

For more information on what is meant by the male relatives on the father's side, please see the answer to question no. 52809 .

If the male relatives on the father's side cannot afford to pay the diyah, then these costs must be borne by the bayt al-maal (treasury of the Muslim state).

If it is not possible to take it from the bayt al-maal, then there is a difference of scholarly opinion concerning the matter. Some scholars say that the killer is not obliged to do anything (in that case); this is the view of the Hanbalis. But most of the scholars say that the cost must be borne by the killer himself. This is the view that was favoured by Ibn Qudaamah and Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him).

It says in *al-Insaaf* (10/123): In the case of one who has no male relatives on his father's side, or does not have male relatives on his father's side who can bear the entire cost, then the diyah or what remains outstanding of it must be paid for from the bayt al-maal. If it is not possible to take it from the bayt al-maal, then nothing is required of the killer, and this is our view and that of most of our companions. … It is one of the views in which the [Hanbali] madhhab differs from others. And it may be that it must be paid for from the killer's wealth. Here the author [Ibn Qudaamah] said: This is more appropriate, and he favoured this view. End quote.

In *al-Mawsoo'ah al-Fiqhiyyah* (21/92) it says: If the offender has no relatives on his father's side, and is not able to obtain funds to pay the diyah from the bayt al-maal, because there is no bayt al-maal, is the blood money waived, or must the entire amount to be paid by the offender himself? The fuqaha' differed concerning that. The view of the Hanafis and Maalikis, which is also the more correct view according to the Shaafa'is and was the view favoured by Ibn Qudaamah among the Hanbalis, is that it must be paid from the wealth of the offender.

The Hanbalis are of the view that it is waived when it is not possible to take it from the bayt al-maal in cases where the bayt al-maal should cover the cost, and nothing is required of the killer, according to the correct view of the madhhab. And it is not required of the male relatives on the father's side when they are unable to pay the diyah that is required of them. If the male relatives on the father's side become able to afford it after that, the entire amount of the diyah should be taken from them, lest the blood of a Muslim be wasted in vain. Ar-Ruhaybaani said: It is valid to say that if it is not possible to take the diyah from the bayt al-maal, then it must be taken from the

wealth of the killer.

According to one view of the Shaafa‘is, it should not be taken from the offender; rather it should be taken from the Muslim community, like the maintenance of the poor, as was stated by an-Nawawi in *ar-Rawdah*. End quote.

If your daughter’s heirs relinquish the diyah, it is waived, as noted above.

And Allah knows best.