646164 - He did `umrah but did not complete sa`i, then he went back to his country and died. What must his heirs do?

the question

My grandfather did not complete his `umrah; in sa`i between as-Safa and al-Marwah, he only did two laps, then he returned to Egypt. Now he has passed away, and no doubt his `umrah is not accepted. Is there anything I can do so that his `umrah will be accepted?

Summary of answer

His heirs must set aside money from his estate to hire someone to do `umrah on his behalf, if he left any wealth behind. If he did not leave any wealth behind, then no one is obliged to do `umrah on his behalf.

Detailed answer

Praise be to Allah.

I.

If the matter is as you described, then his `umrah was not complete and he was still in a state of ihram.

It is not valid to do `umrah without sa`i, because sa`i is an essential part of Hajj and `umrah, without which Hajj or `umrah is not complete.

`A'ishah (may Allah be pleased with her) said: A person's Hajj or `umrah is not complete if he does not go between as-Safa and al-Marwah [sa`i]. Narrated by al-Bukhari, 1790; and Muslim, 1277.

It says in *Al-Mawsu`at 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 number of laps without which sa`i cannot be valid

if it is not completed is seven laps between as-Safa and al-Marwah, because this is what the Prophet (blessings and peace of Allah be upon him) did, and because there is consensus among the ummah, both the earlier and later generations, that sa`i is like that. End quote.

The sa`i that he did in the past does not count because a long time has elapsed since then, which goes against the condition that the laps should be done consecutively.

It says in *Kashshaf al-Qina`*, 2/487: It is stipulated that one should form the intention (niyyah) to do sa`i, because of the hadith: "Actions are but by intentions." The laps must be done consecutively, by analogy with tawaf. This was stated by al-Qadi. End quote. See also: *Ash-Sharh al-Mumti`*, 7/275.

See also the answer to question no. 176422.

II.

If someone dies whilst doing Hajj or `umrah, before completing all the essential parts of the pilgrimage, it is valid for someone to do Hajj or `umrah on his behalf, according to some of the scholars.

However, the majority of scholars are of the view that completing the actions of Hajj on behalf of someone else is not valid; doing the actions on behalf of someone else can only involve doing all of the rituals, not some of them, because it is an act of worship of which the first part becomes invalid if the latter part is spoiled. And it cannot be done by two people, by analogy with prayer and fasting.

This is the view of the Hanafis and Malikis, and is the later view of ash-Shafa`i.

This is applicable to `umrah by analogy with Hajj, because `umrah is a minor Hajj.

Shaykh `Abd ar-Rahman as-Sa`di (may Allah have mercy on him) said:

The Prophet (blessings and peace of Allah be upon him) never said, concerning this action or any similar action, that another person could complete it on someone's behalf. Rather what is soundly

narrated from him (blessings and peace of Allah be upon him) is that he allowed doing the complete pilgrimage on behalf of someone else, not part of it.

This is supported by the fact that no act of worship, if a person dies before completing it, can be completed on his behalf; either it is waived and does not have to be made up, or it is to be made up on his behalf in its entirety from the beginning. What reason is there to exclude Hajj from the general guideline?

End quote from *Al-Fatawa as-Sa`diyyah*, p. 235-236.

With regard to the issue at hand, it is important for someone to do `umrah on his behalf. This scenario is not like that of the man whose mount threw him and he died, because that man died during Hajj, so his heirs were not instructed to complete Hajj on his behalf. As for the man in this case, he spoiled his `umrah when he was able to complete it.

So if he did not complete it before he died, his heirs must pay from his estate the costs of hiring someone to do `umrah on his behalf.

It says in *Ar-Rawd al-Murbi`*, p. 249:

If he died without doing the two things that he is obliged to do, namely Hajj and `umrah, then they should take money from his total estate [before it is divided among the heirs], whether he left instructions to that effect or not. End quote.

Ibn Qudamah (may Allah be pleased with him) said in Al-Mughni (3/233):

If someone for whom Hajj was obligatory dies without having done Hajj, then money must be taken from his total estate [before it is divided among the heirs] for Hajj and `umrah to be done on his behalf, whether he failed to do that out of negligence or otherwise. End quote.

It says in *Ash-Sharh al-Mumti`* by Shaykh Ibn `Uthaymin (7/42-43): If someone met the conditions of Hajj and `umrah being obligatory in his case, then he died, the costs of doing Hajj and `umrah should be taken from his estate, before dividing it or complying with any bequests, because this is

a debt, and the Prophet (blessings and peace of Allah be upon him) said: A debt owed to Allah is the most deserving of being paid." Narrated by al-Bukhari, 1852. So sufficient funds should be taken from his estate to do Hajj and `umrah, and whatever remains is for bequests and the heirs. It should be taken from his estate whether he left instructions to that effect or not, just as if he owed a debt, we would take it from his estate, whether he left instructions to that effect or not … From the author's words we may conclude that if he died and left no estate, then no one is required to do Hajj on his behalf.

See also the answer to question no. 226061.

If someone wants to do `umrah on his behalf voluntarily, then he will be rewarded for that, by Allah's leave.

III.

If your grandfather did any of the things that are prohibited whilst in ihram out of ignorance, he does not owe anything.

But if he was aware that deciding that one no longer wants to do `umrah does not mean that he has exited ihram, and that if the muhrim (pilgrim in ihram) intends to invalidate his `umrah whilst doing it, that does not render it invalid [rather he must complete it and exit ihram in the proper manner], then if he was aware of that, he must pay a penalty for each infraction. Having intercourse before doing sa`i invalidates `umrah, but the jurists different as to what expiation must be offered.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) said: The `umrah in which intercourse occurred [before exiting ihram] is an invalid `umrah, and you must offer a sheep to be slaughtered in Makkah and its meat distributed to the poor; or you must feed six poor persons, giving each one half a sa` [of staple food]; or you must fast for three days. You must also make up the `umrah that was spoiled. End quote from *Al-Liqa' ash-Shahri*, 54/9. For more information about the penalty (fidyah), see the answer to question no. 49027.

See also questions no. 104178, 11356 and 119134.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) was asked about someone who did not complete tawaf or sa`i.

He replied:

Firstly, they are sinning, unless they were unaware of the ruling, in which case there is no sin on them.

Secondly, they are still in the state of ihram, even if they took off the ihram garments and put on ordinary clothes. They are still in ihram, so the man must take off his ordinary clothes and put on the ihram garments.

Thirdly, they must now go back to Makkah to complete their `umrah. If they had done tawaf but did not do sa`i, we say that sa`i is still required of them; if they had done some of the circuits of tawaf then left, we say that they must repeat tawaf from the beginning; and if they had done some of the laps of sa`i, we say that they must go back and repeat sa`i from the beginning.

... If the man got married, then the marriage contract is not valid, because he was still in the state of ihram, and it is not permissible for anyone to do a marriage contract for the one who is in the state of ihram. But if it so happens that a marriage contract was done for him, we say: Restrain yourself and do not be intimate with your wife until you go and complete `umrah, then do a new marriage contract.

End quote from *Majmu` al-Fatawa*, 23/459.

See also the answer to question no. 176422.

Conclusion:

His heirs must set aside money from his estate to hire someone to do `umrah on his behalf, if he left any wealth behind. If he did not leave any wealth behind, then no one is obliged to do `umrah on his behalf, but if someone wants to do `umrah on his behalf voluntarily, he will be rewarded for

that, by Allah’s leave, and there is the hope that that will benefit the deceased and be a means of waiving sin from him, by Allah’s leave, if he was negligent in doing the obligatory `umrah. This is one of the ways of showing kindness to the deceased.

And Allah knows best.