

Fatwa no. 273

Q: I divorced my wife once towards the beginning of Muharram 1392 A.H. while we were in Khamis Mishit. I wrote a document registering the Talaq (divorce pronounced by a husband) and brought two witnesses to this. I, then, sent the document with my brother to my father-in-law. However, when the document was presented to the judge, he said that it was not legally recognized. I, thus, wrote another document, as I thought that the first one was not legally recognized. I sent this second document to my father to send it to my father-in-law. Please bear in mind that I consummated the marriage. On 12/2/1392 A.H., I took my wife back in marriage in the presence of two witnesses; one of them held passport no. 9600 issued on 8/11/1971 and the other held passport no. 3318 issued on 8/11/1970 from the Ministry of Interior Affairs . This was my first and only time to divorce my wife. Would it be considered one time of Talaq based on my belief that the first document was not legally recognized? Was my revocation of Talaq valid, bearing in mind that it took place during her `Iddah (woman's prescribed waiting period after divorce)?

A: You said that you divorced your wife once towards the beginning of Muharram 1392 A.H. and after being informed by a judge that the document was legally invalid, you divorced her again believing the first time was not effective. You also added that you took your wife back in marriage on 12/2/1392 A.H. During her `Iddah in the presence of two witnesses, and that this was the first and only time to divorce her.

If the reality is as you mentioned, only the first time of Talaq would be effective. The second time would not be effective, since it took place under the assumption that the first time was invalid, while it was in fact valid.

When the judge said that the document was not legally valid, he was not describing the Talaq itself that was pronounced by the husband, but the method of notifying the father-in-law of it, which was invalid.

Consequently, the second time of Talaq was based on a belief that proved to be false. Moreover, since the husband took his wife back in marriage during the `Iddah in the presence of two witnesses, his revocation was valid and there was no need to obtain her consent or conclude a new marriage contract.

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

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