

4343 - When a Muslim signs papers divorcing his wife in front of a non-Muslim judge

the question

i married a muslim man feb 15, 1997. i was married under islamic law and the laws of the state of virginia. i am christain.

i told him i wanted a divorce and he said he did not want it but he would give it to me if i wanted it.

i went to a lawyer and filed for divorce. he signed the waiver and sent it back to me (he lives in new york) federal express , he said he wanted it done fast. the paper was witnessed by a notary public.

i held the papers for one week. i called him and asked him if he wanted me to hold the paper, he said it did not matter.

i sent the paper back to my lawyer and it was sent to court.

the divorce was finalized nov. 2, 1999.

now he says that we are not divorced.

am i divorced from this man by islamic law?

he belongs to the shafghy school. he is suni.

Detailed answer

We put the following question to Shaykh Muhammad ibn Saalih al-‘Uthaymeen, may Allaah preserve him:

Has a man agreed to divorce his wife or has he already divorced her, if what he said was: “I agree to divorce my wife and she is now to be considered divorced”?

He answered:

This is a divorce, and if she has completed her ‘iddah (waiting period of three menstrual cycles following divorce) then she is free to marry someone else. But if they have children together, I advise him to go back to her. He has the right to take her back so long as he issued just one divorce. And Allaah knows best.