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Daf 22

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Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

RELATIVES TESTIFYING

➤ The Mishna rules that a father and a son that saw the new moon may go to Beis Din; however they cannot combine to testify together as one set of witnesses. They should both travel to Beis Din because just in case one of them becomes disqualified from testifying, the other can join a different witness to form a pair and testify. Rabbi Shimon disagrees and maintains that relatives are eligible to testify in regards to the new moon. Rabbi Yosi relates an incident where Tovya the doctor saw the moon together with his son and a freed slave. The kohanim accepted Tovya and his son as witnesses but disqualified the slave. When they arrived in Beis Din, Tovya and the slave were accepted as witnesses but not the son.

Rabbi Shimon offers Scriptural proof for his opinion that relatives are permitted to testify regarding the new moon. It is written (Judaica Press) “The Lord spoke to Moshe and to Aaron in the land of Egypt, saying; This month shall be to you the head of the months,” – the testimony regarding the new moon is valid through Moshe

and Aaron together even though they were brothers.

The Gemora concludes that the halacha is in accordance with Rabbi Shimon. (22a)

INELIGIBLE TO TESTIFY

➤ The Mishna enumerates different types of people that are Rabbinically disqualified from testifying. One who plays with dice, lends with interest, gambles on dove races, engages in business with Shemitah produce or slaves are all ineligible to testify. The Mishna offers a rule regarding this that any testimony where a woman is ineligible to testify, these people are disqualified as well.

The Gemora infers from the Mishna regarding testimony that a woman is eligible to testify, these people are eligible as well. It would emerge that all those listed in the Mishna will be eligible to testify in regards to allowing a woman to remarry. There was a leniency that a woman is permitted to testify that her husband died enabling her to remarry. (22a)

ASSISTANCE WITH TRAVELLING

➤ The Mishna states regarding one who saw the moon but is unable to travel to Beis Din; they may bring him by a donkey or carry him on a bed. This was permitted even on the Shabbos. If they were wary about an ambush, they were allowed to carry sticks with them to be utilized as weapons. If the distance to Yerushalayim was extremely far, they would be permitted to take food with them. They were permitted to begin traveling on Shabbos providing that they will reach Beis din before the end of the Shabbos. (22a)

RECOGNIZING THE WITNESS

➤ The Mishna states that if the Beis Din will not recognize the witnesses, the local Beis din will send along another fellow (one who is recognized) to testify regarding the witness that he is indeed trustworthy. Originally, Beis Din accepted testimony from any Jew but when the Baysussim (those that adhered to the Written Torah only and despised the Chachamim) began obstructing the procedure of sanctifying Rosh Chodesh (by testifying falsely), the Chachamim established that Beis din will accept testimony only from witnesses that they recognized.

The Gemora states that two witnesses are required to vouch that the testifying witness is trustworthy. It is learned in the Gemora that one

witness is permitted to travel to the Beis Din on Shabbos to confirm that the testifying witness is honorable even though there might not be a second corroborating witness to join him. (22a – 22b)

THE BAYSUSSIM'S PLOY

➤ The Gemora relates how the Baysussim attempted to trick the Beis Din into sanctifying the incorrect day as Rosh Chodesh. They hired two false witnesses to testify that they saw the moon on the night of the thirtieth. They didn't know that one of the witnesses was not loyal to their beliefs. They arrived in Beis Din and the Baysusse gave his testimony and left. The second one testified that he was walking up Maaleh Adumim and he saw the moon crouched between two rocks, it's head had the appearance of a calf, it's ears resembled a young goat, it's horns were like a deer's horns and it's tail was between it's legs. He continued that when he stared at the moon, he became shocked and fell backwards. He then showed them the two hundred zuz that he received in order to testify falsely. He informed Beis Din that when he heard that the Baysussim were looking to hire false witnesses, he volunteered in order to foil their plot. Beis Din told him that the two hundred zuz should be his as a present and the one that hired you should be taken out to receive lashes. It was at this time that the Chachamim instituted to only accept witnesses that were recognizable to Beis Din. (22b)

INSIGHTS TO THE DAF

RETROACTIVE ADULTS

➤ The Mishna lists different types of people that are ineligible to testify regarding the sighting of the new moon. The Minchas Chinuch (4) inquires as to what the halacha would be regarding the ability of a minor to testify that he saw the new moon. Beis Din does not accept the testimony of a minor, however, what would be the halacha if the minor would become an adult through his testimony. If a boy was born on Rosh Chodesh Nissan and thirteen years later wishes to testify that he witnessed the new moon. At the time of his testimony, he is a minor but if they accept his testimony and sanctify the day as Rosh Chodesh, it would emerge that retroactively, he is already an adult from the night before and therefore his testimony can be accepted.

The Minchas Chinuch states that it would be dependent on two answers of Tosfos in Makkos (2). There is a principle that in order for a testimony to be valid it must be a testimony that has the ability to be disqualified by making them "eidim zom'min" (conspiring witnesses). "Eidim zom'min" means that two witnesses testify regarding a certain incident and another set of witnesses disqualify that testimony by saying that the first set of witnesses were with them in a different place at the time that the first set of witnesses claim that the act took place. The first witnesses are termed "eidim zom'min." The

Torah commands that the second set of witnesses are believed, rather than the first. In general, they would be punished with the punishment they tried to inflict. Tosfos discusses if this principle applies also to the witnesses who are testifying that they saw the new moon. If minors would testify, we would not be capable of making them "eidim zom'min" since witnesses can only become "eidim zom'min" prior to Beis Din acting on the testimony and in this case, that would be before Beis Din sanctifies the day to be Rosh Chodesh. At that juncture, they are still minors and they could not become "eidim zom'min." However, Tosfos cites an opinion that witnesses testifying on the new moon do not have this requirement and therefore the minor's testimony can be accepted since retroactively they would be regarded as adults at the time in which they testified.

HaRav Elyashiv shlita does not understand the Mibchas Chinuch at all. He comments that if all that would be required is for Beis Din to clarify that this day is Rosh Chodesh, perhaps the clarification can be accomplished through the testimony of minors who retroactively will be adults if it is Rosh Chodesh. However, that is not the case. Beis Din must listen to testimony, analyze their words and issue a decision sanctifying the new month. If these witnesses are minors at the time, Beis Din doesn't even have the ability to listen to them since they are disqualified from offering testimony.