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EIRUVIN 69A

BY RABBI AVIGDOR BERENSTEIN

A shameless, confirmed sinner cannot be *mevattel reshus* (renounce his rights to carry in a shared, enclosed area to allow other Jewish residents to make an *eiruv*), following the opinion of Rabi Yehuda. A man went out [on Shabbos] wearing a *chumarta dimdusha*. (Rashi: 1. A signet ring whose stamp is a different material than the ring. 2. A packet of fragrant spice.) When he saw Rabi Yehuda Nesiya, he covered it. He (Rabi Yehuda Nesiya) said, "Such a person can be *mevattel reshus* according to Rabi Yehuda." (*Eiruvin* 69a)

In other words, although a confirmed Shabbos desecrator is like a *goy* in that he cannot be *mevattel reshus*, this is only if he is shameless, but if he is ashamed, he can be *mevattel reshus*. The *Gemara* illustrates this, telling of a man who went out wearing something that is considered carrying. When he saw Rabi Yehuda Nesiya, he hid it out of shame to be seen desecrating Shabbos, upon which Rabi Yehuda Nesiya ruled that since he was ashamed to be seen doing *melacha* by an important person, he is not like a *goy* and can be *mevattel reshus*.

Indeed, the *Sefer Toras Chaim* infers from here that one who desecrates Shabbos in the presence of ten Jews but hides it from a great person does not have the status of a public Shabbos desecrator. This *din* is cited by *Elya Raba* 385:3, *Chayei Adam* 75:26, *Mishna Berura* 385:6, *Kaf Hachaim* 385:10, *Shu"t Or Letzion* Vol. II Chap. 20 Resp. 2, and others.

Shu"t Minchas Elazar Vol. III Resp. 24 differs, wondering how anyone could *pasken* a *din* that is not found in the works of any earlier *Poskim*. Indeed, *Sefer Imrei Chizkiya* writes that *Hagaon* Rav Bentzion Abba-Shaul *ztz"l*, *Rosh Yeshivas Porat Yosef* and author of *Or Letzion* wondered why the *Rambam* and *Shulchan Aruch* omit this novel, relevant *din* that is stated explicitly in the *Gemara*.

Before resolving these questions, let us note that *Tosafos* on our *Gemara* asks how Rabi Yehuda Nesiya could consider that man a Shabbos desecrator at all, if in *Moed Katan* 12b it says that Rabi Yehuda Nesiya himself went out on Shabbos wearing a *chumarta dimdusha*? *Tosafos* answers by noting a number of differences between the cases, concluding that in our *Gemara*, the man did desecrate Shabbos according to Rabi Yehuda Nesiya.

In *Sefer Siach Hasadeh* Vol. III on our *Gemara*, *Hagaon* Rav Chaim Kanievsky *ztz"l* writes, "See *Piskei Tosafos Moed Katan* #53 to resolve this." Orally, he explained what he meant. The *Piskei Tosafos* writes, "One who thinks that a permitted act is prohibited but still does it is called a sinner." Strangely, no source from *Tosafos* is cited. Rav Chaim *ztz"l* explains that the author of *Piskei Tosafos* had a *Tosafos* that we do not have, that asked the same question as *Tosafos in Eiruvin* and answered that although Rabi Yehuda Nesiya permits wearing a *chumarta dimdusha* outside, the other man held that it is prohibited but still wore it. Rabi Yehuda Nesiya said that he could be *mevattel reshus* only because he was ashamed, which proves that otherwise he would be considered a Shabbos desecrator even though the act was really permitted! This amazing *pshat* is also found in *Tzafnas Paane'ach Hilchos Terumos* 2:1 p.33 line 1, and briefly in *Hilchos Yibum* 6:19.

Indeed, although we do not have such a *Tosafos* printed in our *Gemara*, it is printed in the *Tosafos Talmid* Rabi Yechiel Miparis on *Moed Katan* (loc. cit.). Apparently, the author of *Piskei Tosafos* had such a *Tosafos*, on which he based his psak.

Now we can answer the questions raised earlier. According to *Talmid* Rabi Yechiel Miparis, we only see that being ashamed of being seen by an important person prevents one from being a Shabbos desecrator only when he did not actually sin, and only thought he was sinning. Since the only issue is his brazenness, his ashamedness shows that he is not so brazen. However, if he actually sinned, the sin itself makes him a Shabbos desecrator and his ashamedness does not prevent that.

Since this *din* does not apply to someone who really sinned, and it is most unusual for someone to think an act is prohibited when it is really permitted and to do it anyway, it was not necessary for the *Rambam* and *Shulchan Aruch* to write this *din*.

(Editor's note: The *Poskim* who do bring this *din* regarding a real sinner are supported by *Tosafos* in *Eiruvin* who apparently does not agree with *Talmid* Rabi Yechiel Miparis.)

Amud HaYomi recently began its inaugural cycle through Shas! This historic initiative will enable deeper comprehension of Shas. Additionally, there are optional monthly bechinos with stipends, which affords one a much greater opportunity to be koneh Shas through Dirshu's proven retention and accountability methods.

UPCOMING AMUD HAYOMI LIMUD SCHEDULE

יום	תאריך	DATE	עמוד היומי	דף היומי	דף היומי בהלכה - משנה ברורה עמוד	סימן וסעיף
– פרשת אחרי מות-קדושים –						
א	ו' אייר	5/4/25	עירובין סו:	שבועות ג	קיח: (236)	שי"ג ג'-ד'
ב	ז' אייר	5/5/25	עירובין סז.	שבועות ד	קיט.	שי"ג ה'-ז'
ג	ח' אייר	5/6/25	עירובין סז:	שבועות ה	קיט: (238)	שי"ג ח'-י' שי"ד א'
ד	ט' אייר	5/7/25	עירובין סח.	שבועות ו	קכ.	שי"ד א'-ב'
ה	י' אייר	5/8/25	עירובין סח:	שבועות ז	קכ: (240)	שי"ד ג'-ו'
ו	י"א אייר	5/9/25	עירובין סט.	שבועות ח	חזרה	
ש"ק	י"ב אייר	5/10/25	עירובין סט:	שבועות ט	חזרה	
– פרשת אמור –						
א	י"ג אייר	5/11/25	עירובין ע.	שבועות י	קכא.	שי"ד ז'-י'
ב	י"ד אייר	5/12/25	עירובין ע:	שבועות יא	קכא: (242)	שי"ד י"א-י"ב
ג	ט"ו אייר	5/13/25	עירובין עא.	שבועות יב	קכב.	שט"ו א'
ד	ט"ז אייר	5/14/25	עירובין עא:	שבועות יג	קכב: (244)	שט"ו ב'
ה	י"ז אייר	5/15/25	עירובין עב.	שבועות יד	קכג.	שט"ו ג'
ו	י"ח אייר	5/16/25	עירובין עב:	שבועות טו	חזרה	
ש"ק	י"ט אייר	5/17/25	עירובין עג.	שבועות טז	חזרה	