

Justice Department

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**Excerpted and adapted from a shiur by Dayan Yitzhak Grossman**

<https://baishavaad.org/wp-content/uploads/2024/07/masei-blind-justice-2024-0709-bhv.flac>

*Or with any stone by which one could die, without seeing, and caused it to fall upon him and he died, and he was not his enemy and did not seek his harm.*

Bemidbar 35:23

The Gemara in Sanhedrin (29a) says that one may not serve as a *dayan* for a litigant that he loves (*ohev*) or hates (*soni*).<sup>[1]</sup> In this context, *ohev* means a friend close enough that he would help prepare his wedding (*shoshbin*), and *soni* means a person he hasn't spoken to for three days out of hatred (Sanhedrin 27b). The Gemara derives the halacha from this *pasuk*, which allows someone who killed unintentionally to be sent to *galus* (exile) if he was *not* a *soni*, and the Gemara assumes that *ohev* would be similar to *soni* in this regard.<sup>[2]</sup>

The Gemara in Ksubos (105b) gives a different reason for the disqualification: A *dayan* will be unable to see any defense for his *soni* or anything incriminating about his *ohev*. Some *Rishonim*, including Tosfos and the Rosh, say that the Gemara in Sanhedrin is speaking only of *ohev gamur* and *soni gamur*—which are invalid *mei'ikar hadin*—but the Gemara in Ksubos is discussing a lesser *ohev* and *soni*. These *Rishonim* explain that it is only a *chumra* or a *din lechat'chilah* not to serve as a *dayan* in this case, but *bedi'eved*, the ruling would be valid.

According to the Rambam, there is only one type of *ohev* and *soni*. The Bais Yosef understands him to hold that *lechat'chilah*, a *dayan* may not judge any *ohev* or *soni*, but *bedi'eved* his ruling stands. The Lechem Mishneh, however, maintains that the Rambam invalidates such rulings. The Shulchan Aruch rules in accordance with the Rambam (without specifying), while the Rama follows Tosfos and the Rosh.

[1] R' Yehudah and the Chachamim argue in the Mishnah (Sanhedrin 27b) whether a witness who loves or hates someone may testify about him in *bais din*, but the Gemara says they both agree that a *dayan* may not judge in such cases.

[2] Although the simple meaning of the *pasuk* is that the inadvertent killer didn't hate his victim, the Gemara understands it to teach about a *dayan* too.