

**Expert Witnesses**  
**Rabbi Ariel Rackovsky**  
**Parshas Shoftim**  
**The Jewish Center 5770**

New York has a new folk hero- his name is Steven Slater, and, in case you were under a rock for the past few days, he is the one who responded to an allegedly rude passenger by unleashing a stream of invective over the PA system, taking two beers for the road and deploying the emergency slide. This story has been all the rage, with a groundswell of popular support for Slater and his actions. Indeed, the Facebook group “Free Steven Slater,” formed in response to the possibility of him serving up to seven years in prison, has 160,000 members, and commenters on the website for New York Magazine wanted to know whether he had a legal defense fund to which they could contribute. If there is one theme that has been discussed ad nauseum in the relentless coverage of Slater’s spectacular slide, it is the sense of justice- that somehow, the woman who provoked him with her unforgivable rudeness deserved every ounce of vituperation hurled in her direction, and that Slater’s reaction was completely understandable. Of course, there is more than one side to the story, but in general, we love it when wicked people get their just desserts. The moral satisfaction engendered when evildoers are hoisted by their own petard is a major theme in fairy tales, like Hansel and Gretel and Ali Baba and the Forty Thieves, and in films as well, such as the 1983 classic *Trading Places*, in which a bet by two amoral and astronomically wealthy brothers comes back to haunt them as their targets bring about their financial demise. When it came out, it was called by Richard Schickel of Time Magazine “one of the most emotionally satisfying and morally

gratifying comedies of recent times.” But the truth is that this theme is not just found in popular culture; it is discussed in this week’s Parsha.

The Torah describes the case of עדים זוממים, or conniving witnesses who are found to have committed perjury while testifying about a crime. The Torah is very clear about the punishment.

**דברים פרק יט**  
(יט) ועשיתם לו כאשר זמם לעשות לאחיו ובערת הרע מקרבך:

“You shall do to him as he plotted to do to his brother, and you shall [thus] abolish evil from among you.” So if the punishment resulting from their testimony would have been death, these witnesses are put to death themselves. If the witnesses are Kohanim and they testify that another Kohen’s lineage is faulty and he is invalid to serve, they are deemed invalid as Kohanim themselves, as are their children. And if their testimony would have obligated the defendant to remit some kind of payment, they must make the payment themselves.

At first glance, this seems to be a classic case of evildoers getting their just desserts. After all, they attempted to bring harm to an innocent person through their perjury, so it seems only fair that they suffer from their own iniquity. But a further look reveals issues that are quite troubling- so much so that this law is called a major *chiddush*, a great novelty in Jewish jurisprudence, by many commentators.

- Consider the process of rendering witnesses עדים זוממין. There is only way for it to happen- namely, if a second set of witnesses testifies that the first set could not possibly have witnessed the crime, as they were with the second set of witnesses in a different location at the time the crime was allegedly committed. And there is no limit to the number of witnesses whose testimony can be discredited in this manner. If, however, the second set of witnesses testifies about the whereabouts of the defendant or the victim, the testimony of the first witnesses is *not* discredited. This is rather strange. Why is this only way to turn witnesses into עדים זוממים?
- This question is heightened when one looks at the punishment for a common perjurer, who is proven to have testified falsely. We have plenty of examples from athletes and ex presidents, but the common case might be where two witnesses testify that they saw Reuven kill Shimon, and were actually there, but it was Levi who was actually committed the murder. Do you know what the punishment is for such an individual? Certainly, the Torah, and later the Talmud describe, on numerous occasions, the severity of bearing false witness, but there is actually very little punishment for it, at least through the court; that is in God's hands, not ours. So why is the punishment for the עדים זוממים so severe and the punishment for perjurers a comparative slap on the wrist?

Perhaps we can suggest that the Torah imposes a severe penalty only upon those who incriminate others through lying about their whereabouts to teach us an important lesson. In life, the most important thing you can do is be present. Shul may not be the best place

to quote Woody Allen, but he was right- 99% of life *is* just showing up. It's true for witnessing a crime- you cannot say you were there when you were not, but this is true in so many other realms as well.

Perhaps the most obvious one is the realm of family and friends. One of the great debates in parenting, particularly in the modern world when people have so many obligations and commitments, is quality time vs. quantity time. But regardless of which parenting expert you follow, there has to be time; there must be a presence, for which nothing can compensate. Our innate sense that this is correct is the reason why Harry Chapin's song "Cat's in the Cradle" is still a classic 36 years after it topped the Billboard 100, and was his only #1 song in his short life. And the importance of presence is true for friendships as well. It can be a challenge to maintain a presence in the life of a friend, whether they are separated by six thousand miles, a six stop subway ride or a six minute walk. This can be mitigated somewhat through modern technology, but even that is insufficient unless augmented by actual physical presence on occasion. And this is especially true when it comes to difficult times. So many people are afraid of saying the wrong thing when their friends are going through difficult times that they step back and reduce their contact- committing actual social atrocities out of the fear of potential ones. If only they realized that more important than what we say in many of these situations is that we are emotionally and physically available.

And presence is not just critical in a social life- it is essential in religious life as well. So many times, we think to ourselves that we are running late, or perhaps are not feeling our

best, so we tell ourselves that there is no point in showing up for a class or for minyan at all- and that is if we even have this internal dialogue. This is a mistake; in its insistence on presence, the Torah is telling us to show up anyway, because there is great value in that, too, both personal and communal. It is of personal value, as it allows us to develop lasting connections through meaningful mutual commitment, and to connect with G-d in the midst of his people. It is of communal value, because as a full service shul that provides daily minyanim and a meaningful Shabbos experience, we can only succeed if people are present- whether we “feel it” or not. But once we are physically present, the challenge is to really be present. Go into any shul during the week, and you can see people sending emails on their Blackberries or text messages from their phones during all sorts of different times in davening (I am not completely innocent of this myself). I have even seen people who were *leading the davening* take advantage of the downtime between when they finished Shemonah Esrei and the Rabbi did to send off a few messages. Certainly, there is a value to being a part of communal experience that is minyan, but the rewards we reap are so much greater if we are actually *there* for it.

How appropriate, then, that we always read this parsha in Elul, usually in the first week. The Torah’s severe view of the עֲדִים זֹמְמִין who lie about their presence represents a powerful challenge for us as well, particularly around this time, when we take stock of our interpersonal and religious lives. Were we there for our friends and family this year, and if not, how can we improve? Have we been present in body and spirit for prayer, Torah study and other initiatives- and if not, how can we improve? Let us use this time to take an honest assessment and work toward being present- present for our family, present

for our friends and present for our souls, so that we will be able to feel Hashem's presence in our lives as well, as he draws closer to us.