



נזיר דף ח'

English Halacha Topics

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Recent or Old Reports of Death

There are two sets of halachos of mourning, dependent on when the relative finds out about the death. If he hears about it within 30 days of the petirah, he must carry out all the laws of mourning: tearing kriyah, shivah, and shloshim. This is even if he finds out on the 30th day. (The Shach cites opinions if shloshim is calculated from the day of burial, like usual, or from the day of death.)

However, if he hears about it only after 30 days have elapsed, "he conducts himself with mourning for just one hour." The laws relevant to the 12 months of mourning apply as regular. And if he finds out only after 12 months, no halachos are applicable anymore; he does just the brief mourning as above (Shulchan Aruch Y.D. 402:1).

Exactly how long is "one hour"? The Poskim (Gesher Hachaim and Chazon L'Moed) rule that it is not a full hour, but some period of time. They say that when the Brisker Rav heard his brother passed away, he removed his leather shoes, sat on the floor for a short time and then rose and continued with his day.

What if one is unsure if it's within 30 days or not? The Taz (Y.D. 397:2) cites earlier authorities that he must be stringent and assume he heard within 30 days of death. This is based on the supposition (chazaka) that people stay alive. Therefore, he probably died as recently as possible, and so it's a "recent shemuah." Although this chazaka is found in Shas, the Taz says it does not apply here. The person in question is no longer living, so the assumption about his state of living is by force refuted! Indeed, since everyone dies eventually, he may have died long ago, and we may be lenient and consider it an "old shemuah."

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On the other hand, the Shaagas Aryeh (Shu"t Hachadashos 10) defends the other Poskim. Our Gemara here in Nazir is proof, as Rav Yochanan states that although R' Yehuda permits cases of nezirus in doubt, once one has accepted it with certainty, we are stringent to incorporate all possibilities. The same applies to mourning, says the Shaagas Aryeh. Yes, the rule in Shas is that we are lenient in cases of doubtful mourning. But that is only when the doubt is if there is mourning at all; one example is if a baby dies after a few days. Once there is certainly cause for mourning, though, we can't remove its obligations just because of doubt. Therefore, if the question is if the report of death was within or after 30 days, we'd have to be stringent.

Practically, we are lenient, as even the Shaagas Aryeh concludes (see there). However, Rav Wozner argued that in this age of instant communication, one must make every effort to find out the exact

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