

# NO CHILD'S GAME

by Rabbi Dovid Green

*"Do not recognize faces in judgement...Hear the small as the big...Do not be fearful of a man because the ultimate judgement is G-d's...The matters that are difficult for you bring to me and I will hear them."*  
(Devarim 1:17)

And you shall discern from among the entire people, men of accomplishment, G-d fearing people, men of truth, people who despise money, and you shall appoint them leaders of thousands, leaders of hundreds, leaders of fifties, and leaders of tens. They (the district courts) will judge the will judge the nation at all times and the all the big matters they will bring to you and all the small matters they will judge... and they will lighten the burden from upon you and carry it with you. ( Shemos 18:21-22)

When Moshe reviews the account of his father in-law Yisro's advice in the last of the five books the language of that excellent council was slightly altered. Yisro spoke about matters "big" and "small" as determining whether they would be dealt with by a lower court or Moshe himself. Moshe speaks about "hard" and "easy" as the factors to be considered. What's the big difference?

A Yeshiva Rebbe was faced with two boys fighting over a dollar. Each claimant seemed to have validity in his claim and yet it was unclear to whom the dollar should go. The Rebbe decided to teach his students a real lesson. He called the "Gadol HaDor" the great mind of the generation to help decide the case.

Reb Moshe Feinstein received three visitors one afternoon, the two contending boys and their teacher. The boys presented their case before the greatest living legal authority of the generation. He heard each side with great care and questioned each with precision. After a thorough review of the facts of the case, Reb Moshe consulted his books for a conclusion. A clear but difficult decision was arrived at. Reb Moshe decided in favor of one of the boys and awarded him the dollar. Everyone was thrilled for having had the opportunity to spend time with such a great man. They had a sense that ultimate justice had been served but, even still, the fellow who lost his legal grip on the dollar he had claimed still felt the sting of the final judgment. As they were leaving, in an act of superlative sensitivity and magnanimity, Reb Moshe reached into his pocket and gave the one who had lost the case a dollar from his own pocket. Everyone left with a dollar and a pocket full of lessons.

When Yisro gave his famous and wise advice, he spoke about easing Moshe's burden by letting only the "big" cases through to Moshe. Only if a case involved large claims should Moshe be bothered. Multi-national corporations' claims, large mergers, major acquisitions, giant chapter eleven cases,

anti-monopoly suits would all go to the "big" man of the generation according to Yisro's thinking.

Later when Moshe reviews the subject, he makes a subtle and real adjustment. "Big" and "small" are non-entities when determining the role of the "great" man. It matters only if the situation is "hard". If the truth is discernable in a huge court case and the law is clear then let the lower court make its own decision. However, if the law is unclear, and a new precedent needs to be set or a creative application of law then let the Gadol HaDor make that determination even if it's a case of "small claims". Only when the truth is hard to arrive at do we call in "the big gun".

The main focus of a judge should be truth. It matters not whether a case involves big bucks or high profile personalities. The judges need to be blind to all external factors. There is only one bottom line. Don't think for a moment that Reb Moshe deliberated lightly because of the age of the boys or the minuscule quantity of money at stake. The pursuit of truth on any scale or at any age is no child's game!

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