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Justice Eyes Court Reforms to Serve Those on Autism Spectrum

Pennsylvania Supreme Court Justice Kevin Dougherty thought of himself as a forward-thinking judge but didn't recognize a nonresponsive juvenile's autism, considering him borderline delinquent before his mother explained that her son wasn't being defiant.

By Associated Press, Wire Service Content March 27, 2021

BY LIZ EVANS SCOLFORO, York Dispatch

YORK, Pa. (AP) —

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"The juvenile was nonresponsive. I asked him to look me in the eye and he wouldn't," Dougherty told The York Dispatch. "I was finding his behaviors as being incorrigible and borderline delinquent."

It was Dougherty's job that day as a Philadelphia court judge to determine the disposition of the young man's case, he said, and thankfully the juvenile's mother was a strong advocate for her son.

She explained that her son wasn't being defiant — he had autism and couldn't respond in the way the judge expected him to, he recalled.

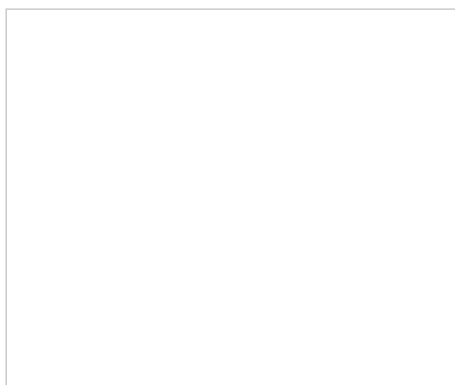
"I had viewed myself as a forward-thinking judge and was pretty much humiliated and embarrassed," the justice said.

Dougherty had no personal experience dealing with people on the autism spectrum, so after that court proceeding, "I made it a personal mission to educate myself," he said.

When he subsequently took over as head of Philadelphia's family court, he made sure his fellow judges and others involved in the court system understood that those with autism might have different court needs, and might not share their diagnoses unprompted, he said.

Seeking change: Now, as a justice on Pennsylvania's highest court, Dougherty wants to see change throughout the commonwealth that allows courts to better understand and serve those on the autism spectrum, he said, whether they be defendants, victims, witnesses, jurors or other participants.

Along with the Administrative Office of Pennsylvania Courts, he has embarked on an online virtual listening tour about criminal justice reform when dealing with those on the autism spectrum.



More than 1,000 people participated in the two online webinars Dougherty has held so far, according to Stacey Witalec, AOPC spokesperson. A third Autism & The Courts Regional Panel webinar was slated for people in central Pennsylvania with panelists including Dougherty, advocates for those on the autism spectrum, the state Department of Human Services, a state police lieutenant, the Pennsylvania Health Law Project and court personnel.

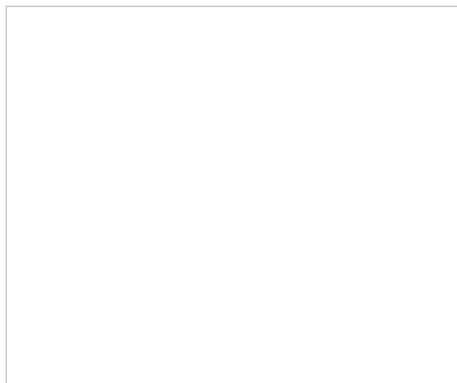
"What I want is an understanding and newfound sensitivity to the fact that individuals who come before the court ... may be on the spectrum," Dougherty said. "I'm really looking forward to some self-reform by judges and anyone in our system. I think self-reform will ultimately lead to judicial reform."

Level playing field: Dougherty said it's the responsibility of judges to ensure there is a level playing field for all, and that everyone — defendant, victim or participant — "can come into a courtroom and feel as if she will be heard."



To ensure everyone is heard requires courts to use empathy, compassion and sympathy, according to Dougherty, “without losing focus and direction that we are a justice system, and the operative word is ‘just.’”

“I want the conversation to spark an understanding, or at least an awareness,” he said. “I’ve learned that autism is not a disability. It’s just a different ability. While it seems like it’s cliché-ish, it’s essential to a decent, civilized society (to acknowledge that).



“I really need court staff, who are often the gatekeepers, to understand and appreciate (when someone has specific needs),” Dougherty said.

He noted that one in 59 children is diagnosed as being on the autism spectrum, and wondered how many more aren’t diagnosed. The nonprofit organization ASERT, which stands for Autism Services, Education, Resources and Training, notes on its website that the statistic comes from the Centers for Disease Control.

Transcends race, gender, income: Dougherty said there have been incidents in which someone on the spectrum has come to court with an advocate, only to find the advocate wasn’t permitted in the courtroom because they weren’t a named party in the proceeding — without presiding judges ever even knowing it happened.

“And that needs to stop,” he said, adding the issue “transcends race, gender and socioeconomics.”

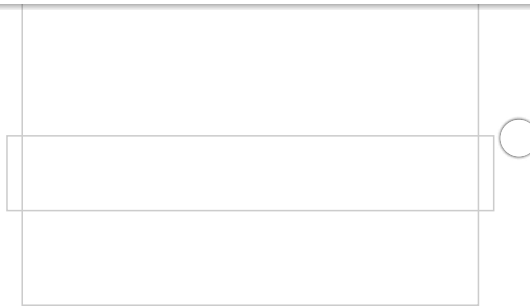
When judges understand the needs of those who appear before them, including those with autism, they can hopefully connect them to the proper resources to make them better citizens, the justice said.

The reform Dougherty envisions isn’t about letting a guilty party off the hook, he said.

“This is not to be used as a bell of sympathy, where someone’s ... not going to be held responsible,” he said.

York County Common Pleas Court already has a number of wellness courts designed to focus on defendants’ issues so they don’t reoffend. They include courts for those with mental-health issues and alcohol and drug addiction issues, as well as a specific court for military veterans. The county also has service dogs that are tasked with calming and steadying those overwhelmed in court, especially children and veterans.

“Hands down, York County is one of our best problem-solving courts in the state,” Dougherty said.



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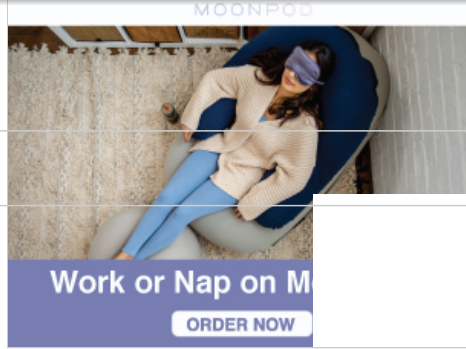
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