

SOMETIMES WE JUST WANT TO SHARE SOME NON-SDMNY GOOD NEWS

Good news doesn't always relate directly to supported decision-making or SDMNY, but often it's worth sharing because it advances the underlying principles of our work: that everyone has the right to make their own decisions, even if they're not always great, and that a diagnosis of I/DD should not be the basis for denying that right.



Appellate Division of the Supreme Court, Second Department; the Court that decided Bobby's case

Disability Rights New York (DRNY) is the Protection and Advocacy Agency charged with protecting the rights of people with disabilities in New York State, and has been SDMNY's legal partner from the outset of our work. They have litigated a number of "restoration" cases—terminating guardianships of people with I/DD who have developed sufficient decision-making supports (including informal supports) so that guardianship is no longer necessary.

One of those cases included a client, "Bobby," who had been placed under Article 17-A personal and financial guardianship at 18 when his parents died. Bobby subsequently established himself as a person who was able to work and to live safely in the community with an informal support system. The trial court recognized this, and terminated the personal guardianship. But because Bobby had made what turned out to be a bad financial decision in the purchase of a used car, the court found that he continued to need a financial guardian, denying him the right to make his own decisions about his money and property. While celebrating Bobby's partial victory, DRNY appealed, and just last week an Appeals Court reversed, and removed the financial guardianship as well.

There are many important aspects of this new decision (you can read the opinion [here](#)) but two in particular stand out. First, the Court made clear that despite the general understanding that an Article 17-A guardianship can be imposed based only on a diagnosis of I/DD and a finding that guardianship would be in the person's "best interest", there must also be proof that because of the diagnosis, the person has

"an impaired ability to understand and appreciate the nature and consequences of decisions which result in such person being incapable of managing himself or herself and/or his affairs..."

That is, it's not your diagnosis, but what you can do, that matters.

Second, and equally important, just making a bad decision (as all of us have done in our lives) is not enough to meet the statutory standard. Reading the law through that lens, the Appeals Court held that because Bobby had learned from, and was dealing with the consequences of his "bad" decision, he did not need a guardian. The Court then terminated the financial guardianship and restored all of Bobby's legal and civil rights.

The decision in Bobby's case was not specifically about supported decision-making, but there is much in it that echoes our process. It's not a person's diagnosis, but their ability to understand and appreciate the consequences of their decisions that is critical. Understanding consequences, including doing so with the support of trusted persons in their lives, is precisely what our Decision-Makers learn in SDMNY facilitation. Making decisions often involves risk, and people with I/DD deserve the "dignity of risk" just like everyone else. What matters is that a person learns from, and deals with consequences of a bad decision, as Bobby has, and a community of supporters makes that more likely for SDMNY Decision-Makers.

CONGRATULATIONS BOBBY, AND THANK YOU DRNY FOR PROTECTING THE RIGHT OF PEOPLE WITH I/DD TO MAKE THEIR OWN DECISIONS AND TO MAKE MISTAKES, JUST LIKE EVERYONE ELSE!