

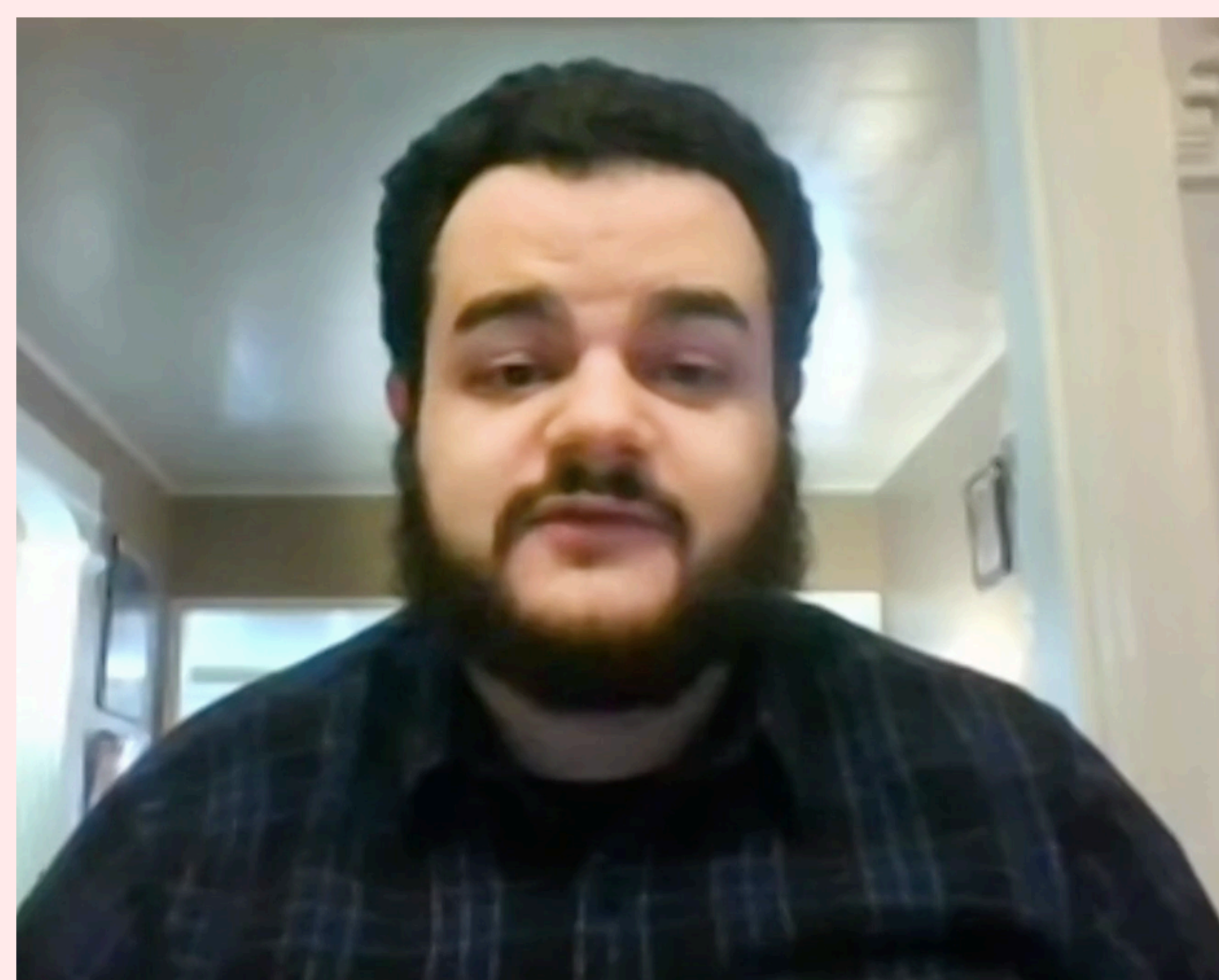
AN ESPECIALLY EXCITING RESTORATION OF RIGHTS (and an unusually long Good News, but worth it!)

From the beginning, one of SDMNY's charges has been to pilot a facilitation process culminating in an SDMA as a means of terminating existing guardianships and restoring all the civil and legal rights that a 17-A guardianship removes. Over the years, we have been successful whenever one of our Decision-Makers has petitioned the Surrogate's Court to do just that. However, perhaps because it is so obvious that a person who has made an SDMA through SDMNY facilitation is able to make their own decisions, Surrogates have generally granted the termination petition without issuing a written decision. While a written decision is not necessary, it is useful in educating the bar and providing guidance to other courts. And, of course, it would provide an important affirmation of the value of our work.

This week, our hopes for a decision that would explicitly recognize SDMA's and SDMNY's facilitation process were met by Queens County Surrogate Peter Kelly when he terminated the guardianship of Decision-Maker Louis. ([Click here for Louis's story](#))



Queens Surrogate's Court



Decision-Maker Louis

In 2017, when Louis was 18 and his parents petitioned for guardianship, it was granted with an unusual twist. Surrogate Kelly recognized how Draconian 17-A guardianship is, explaining the consequences as "all-encompassing...prohibit[ing] [Louis] from having any input...with any decision whatsoever." He continued that, "the maturity and wisdom that comes with time could obviate the need for such continued oversight" and provided for the family to return to court for a status hearing in four years. At that hearing, the decision continues,

"in recognition of Louis' continued progression, and in view of the paramount requirement that the least restrictive means possible be utilized, the Court referred the parties to Supportive Decision-Making of New York (SDMNY)'... SDMNY was founded in 2016 to develop a process for the then-emerging practice of supported-decision making (SDM). The goal of the SDM process is to provide an alternative to guardianship, whereby an intellectually or developmentally disabled person is able to make their own decisions with the assistance of a trusted network of chosen supporters. In the Court's estimation, Louis presented as an ideal candidate for SDM."

The case resumed after Louis completed SDMNY facilitation and entered into an SDMA, "with his parents among his supporters". The Court found that a "*continuation of the guardianship was neither necessary or appropriate* "given [that] Louis has a system of supported decision-making in place, formalized by a written agreement" (emphasis added). The decision concluded

"Louis has aptly demonstrated that he possesses to make the capacity to make and act on his own decisions. Accordingly, the petition is granted to the extent that Louis' full legal capacity is restored...and he is deemed free to exercise all decision-making powers with full force and effect..."

Last night we reached Louis (now working as a paraprofessional at Grover Cleveland High School in Queens and acting in community theater) to ask how he felt receiving the official news that he can finally exercise his human right of legal capacity "on the same basis as all others." He responded

"it feels great...that I'm not tethered to anyone who would take advantage. Even my mom...[if she had an idea regarding a decision I wanted to make]... I would still want to be in charge. I want the final say."

We are so proud of Louis and his wonderful family, and grateful to our partner Disability Rights New York (DRNY) for their vigorous representation. And we are thrilled at this ground-breaking decision that so vividly explains and affirms SDM, SDMNY and New York's new SDMA statute.

CONGRATULATIONS TO LOUIS AND HIS SUPPORTERS, AND THANKS TO DRNY AND SURROGATE PETER KELLY!