

Promoting Diversity in the Courts: Hon. Peter O'Donoghue

John Caher: Welcome to Amici, news and insight from the New York Courts.

I'm John Caher. We're joined today for a Diversity Dialogue segment by the Honorable Peter O'Donoghue, a Supreme Court justice in Queens. Justice O'Donoghue was born legally blind, lost sight in his left eye due to a detached retina when he was 10, and lost his remaining sight when he was 19 years old.

Despite the disadvantage, he graduated from St. John's Law School and eventually passed the bar exam. That's a story he will share with us momentarily. He clerked for a judge for many years and began his own judicial career in 1996 as a New York City Civil Court Judge. He was elected to Supreme Court in 2002 and will retire October 1st after 27 years on the bench.

Judge, thank you for coming on the program. What is childhood like for a legally blind boy?

Judge O'Donoghue: At the time, I really did not understand what my situation was. I didn't start to realize things until I got into about the fifth or the sixth grade. I didn't know what the difference was between the vision I had and the vision my brothers and sisters had. I just didn't understand it. I started to realize it when Dr. Campbell told me that at some point I was going to lose my sight.

John Caher: Boy, that must have been a blow.

Judge O'Donoghue: It was a wake-up, not only to me, but to my parents. My father at one point said to me, "We'll take care of you for the rest of your life if we have to." I said, "Well, let's see what happens."

John Caher: You realized fairly early in life that sooner or later you were likely to be totally blind?

Judge O'Donoghue: Yes. Yes, it was very clear to me, especially when I lost my left eye when I was around the fifth grade.

John Caher: How did you cope with that? How did you adjust?

Judge O'Donoghue: I didn't have a choice. I came from a large family, a large number of brothers and sisters. They all supported me, and they encouraged me to keep going as much as I could. I went to a Catholic grammar school, and

the sisters and the priests were very supportive. My brother, Joseph, who was a year older than me, I hung out with him and most of his friends, which included my grade and his grade. But I liked the idea of having money, so I went out at the age of 10 and got a paper route. I was able to ride a bike. I was able to deliver the papers to the right addresses, and I did as much as I could.

John Caher: It sounds like you didn't let it get you down too much. Riding a bike at that time? At 10, you're about to lose your sight in one eye, and your sight in your other eye is not all that great either.

Judge O'Donoghue: That's right. I was able to see enough. Cars were big enough that I could see them and hear them. In those days, cars were very noisy. I couldn't see people that well from a distance. People would say hi to me, and I would just wave. I wouldn't know who it was.

John Caher: And you couldn't read the newspapers you were delivering?

Judge O'Donoghue: Not easily. If I put my face right on top of it, I could read the headlines and maybe a couple words, but not too much.

John Caher: What did you do for entertainment as a kid or activities?

Judge O'Donoghue: I tried Little League. Didn't work out. I did play basketball. But we were all swimmers in my family, to the point where one of my brothers missed the Olympics by four tenths of a second.

John Caher: Wow!

Judge O'Donoghue: He was All American. So we were all swimmers—Joseph, Peter, Michael, John. I know a bunch of the younger ones, Paul, Regina, they all got college scholarships for swimming. The three of us, Joseph, Peter, and Michael, competed with each other, and Michael ended up beating us by the time we finished high school.

John Caher: Now you told me offline that you went to a local community college and then to St. John's business school before enrolling in law school. What sort of accommodations or help did you receive in college?

Judge O'Donoghue: In those days, a lot of the books were on cassettes or reel-to-reel tapes. So I had those. I was a member of social services for the state, so they gave me an allowance to pay for students to record their notes. I had that advantage. That's basically all I did. Then the teachers would arrange for the test. They would have a secretary or a colleague or someone

administer the test, or another student from a different class who were paid to read the questions to me, and I would answer the questions. That lasted right through law school. St. John's Law School was, "You tell us what you need and we'll make it happen."

John Caher: Good for them. Now, I understand the Board of Law Examiners was not as accommodating.

Judge O'Donoghue: In the beginning, no, they were not. You have to take into consideration the time. The timing of it all was 1979. The first exam was July of '79, and three blind people were taking the bar exam. We requested additional time, and we requested quiet, and not a public office with telephones or people coming through, which they didn't do. Surprisingly, all three of us did not pass the first time around, nor the second time, because they wouldn't make accommodations. The third time, they did make the accommodations at our request, and they did so because we started a petition in the Court of Appeals. The Chief Judge of the Court of Appeals contacted the Board of Law Examiners and they came to an accommodation. They asked us what we needed. We told them, and they accommodated us.

Now in that time period, that was the beginning of the push by Vietnam veterans and other groups of people who were disabled. We were involved in working on the Americans with Disabilities Act, which took us a good eight, 10 years to get to President Bush to get it signed and into legislation.

John Caher: How did the Americans with Disabilities Act change things for you and other people with disabilities?

Judge O'Donoghue: It made the public much more aware of the disabilities, especially for veterans from Vietnam in those days. It started a movement for accommodations for people. For wheelchair people trying to get on the subway, it wasn't easy. For deaf people, sign language, and for legally blind people, large print and other materials.

At one point, I was involved with Claire Shulman [Borough President in Queens from 1986 to 2002], and she nominated me to be the chairperson of her Committee on Disabilities. I became much more aware of the little things—for example, a microphone on a stand. It just didn't occur to me after I was finished with it to lower it so that the next person, who was in a wheelchair, could use that microphone. It just didn't occur to me. But once I became aware of it, of course I made the adjustment. These days, 30, 40 years later, everybody's very accommodating.

John Caher: What do you wish people with sight better understood about your world?

Judge O'Donoghue: I've established from early on that once I became a lawyer that, "Hey, I'm as smart as you, if not smarter. You need to listen to me and I need to listen to you." Once I became a judge, that became abundantly clear to the public and to the lawyers around me. I know that everyone that appeared in front of me respected my accomplishments and my intelligence, and it worked very well for them and for me.

John Caher: Why did you want to become a lawyer in the first place?

Judge O'Donoghue: My father [James F. O'Donoghue. My father was a lawyer. He ultimately became a judge. As I was growing up, he was my best friend. He was the most supportive and with me every time I went to the doctors. He very often talked to me about some of his cases that he was preparing as a lawyer. I had many surgeries between the ages of nine and 19. After surgery, I wasn't allowed to do anything for six weeks. So I spent a lot of this time with him at the dining room table, reviewing his paperwork and his cases and his approach. I learned a lot from him. He was my mentor. When I did finally go blind in June, he said, "You don't have to go to college. We'll take care you." I said, "I'm going to college."

John Caher: What level of judge was your father?

Judge O'Donoghue: He started out in Criminal Court. He was appointed by Mayor Beame in 1975. Ultimately, he became an elected Supreme Court judge somewhere around 1990.

John Caher: Now, to some extent, you're almost clerking for your father as a kid at the dining room table, right?

Judge O'Donoghue: Yep.

John Caher: Then after graduation, you became a formal clerk for another Supreme Court Justice.

Judge O'Donoghue: Eventually, yes. I started out as a court attorney in the Bronx Criminal Court, in November of '79. Then two years later, a Supreme Court judge in Queens County, a Criminal Court judge, John Clabby, was looking for somebody, and I happened to be at the right place at the right time. I was with him for 15 years.

John Caher: What did you learn as a clerk that made you a better judge?

Judge O'Donoghue: I learned how to listen to both sides and to be neutral, to be objective and be open. Then I would formulate my opinion and discuss them with my boss, Judge Clabby. We did that for 15 years.

John Caher: You just mentioned that you learned to listen to both sides. Now, I wonder if you listen more carefully than other judges, perhaps because you have to.

Judge O'Donoghue: A good judge listens to both sides at all times. If it involves paperwork, you have to read them and you have to be open. Of course you have to be knowledgeable. You have to know what the law is. You have to know what the substance of law is, what the procedural law is. When you work for a judge, you need to know it all, as much as you could possibly absorb.

John Caher: We recently had Chief Judge Wilson on the program, and he discussed his experiences growing up with a blind mother, and remarked on how her other senses, especially her hearing, were heightened. Do you think that's the case with you? Do you think your heightened focus on sounds maybe allows you to pick up things that other people wouldn't?

Judge O'Donoghue: First of all, I wear hearing aids. I've always been partially deaf. Thank God for hearing aids! I probably hear more things than anybody else around me. I am acutely aware of everything around me. My five children certainly have lived with a blind father, and my seven grandchildren so far are living with a blind grandfather, but they wouldn't know. They don't know the difference. I'm as "normal" as you are. But yes, I do hear a lot better. I'm more acutely aware of my surroundings.

John Caher: Now, you became a judge in the mid '90s. Obviously, you're not able to view exhibits or attorneys or witnesses. How did you adjust and how did attorneys adjust to you?

Judge O'Donoghue: As per exhibits, such as on the criminal side, a gun or a knife or other types of weapons, it's very simple. I just feel them if I need to. Most of the time I didn't need to, because the police officer's on a witness stand and he's telling you what kind of a gun it is, a 38 or a 9 mil or 10 mil, whatever, and we know what it is all about or what kind of a knife it is. Then you have the medical examiner on the witness stand testifying in a homicide case, giving you all the details.

As for other exhibits, I would have the witness describe it for the record. If they were not comfortable, I would have my assistant, my law clerk or my secretary, describe it to me on the record. But it doesn't happen that

often. If I did it more than 10 times over the last 25 years, it'd be a lot. Wasn't really that necessary.

As for attorneys with medical malpractice, a lot of it has to do with the skeletal parts of the body or the nerves or so on. The doctors who have to come in and testify will give a very detailed description to the jury. I listen to them just as well as the jury does.

John Caher: Do you find the court system and your staff and colleagues supportive and considerate?

Judge O'Donoghue: Absolutely 100,000%.

John Caher: One of your colleagues told me the cardinal rule in your chamber is don't move anything.

Judge O'Donoghue: Oh, that's absolutely true, because I know where everything is. But I will tell you that, from the first day in November of '79, Bronx Criminal Court, Judge Garfinkel was the supervising judge, and he basically said, "Peter, whatever you need, tell me." I said, "Well, judge, I'm new at this. I might take a little longer to get things done until I get comfortable." He said, "No problem at all. You need more time to write a decision, I'll give you more time to write a decision." Everybody from that day on treated me with respect and courtesy. I didn't ask for much help. I didn't need it. I had my own staff when I went to Supreme Court. I had my own court attorney when I went to civil court. That was all I needed.

John Caher: Now, you mentioned your children and grandchildren. Tell me about your wife. Where did you meet her? What's her name?

Judge O'Donoghue: My wife's name is Denise, and I met her at the courthouse. She is a librarian. I called her boss and I said, "I need one of your people to come down here and teach me how to do legal research on my new computer."

I was savvy with legal research on a computer, but I had received a new one, a new computer with a different narrator, voice narrator. So her boss sent her down, and we got together. She would come to my office at four o'clock, once or twice a week for six weeks. I said to then my secretary, "Listen, I'm thinking you people go out for cocktails on Friday. Why don't you mention that to Denise?" Denise joined us and one thing led to another.

John Caher: Let's discuss, if we could, disability as an element of diversity. What does a person with a disability bring to the bench, to the judiciary?

Judge O'Donoghue: To the bench it brings another characteristic to the courts, for the courts.

The courts need to be aware of people with disabilities and what their needs are. I certainly contribute to the court system. Everybody knows me in my building, and we have over a thousand employees in my building. They all know me, and I know most of them. We all get along very well. They respect me and I respect them. I always make sure they know what I'm doing and why I'm doing it. So I participate, and I know that they all need to know what I know. That's how we got along very well. All the administrative judges loved it. All the chief clerks loved it.

John Caher: I understand the court officers used to argue over who would get to be your court officer?

Judge O'Donoghue: Yep. Yep, they did.

John Caher: What are you going to do in your retirement?

Judge O'Donoghue: I'm probably going to do some mediation work.

John Caher: Well, Judge, thank you so much for your time and your insight and for your career serving the people of the State of New York.

Judge O'Donoghue: John, it's a pleasure to meet you. You're welcome. If I can be of any further service, you know my number.

John Caher: Thank you, Your Honor.