

Clark v Clark: A Landmark Human Rights Decision

The following article by Shirley McNaughton, was published in Communicating Together, Vol 1, #1, 1983 and it is shared here with permission. As well as eloquently describing Justin's courageous journey and achievement, Shirley provides an important account of the essential communication supports that Justin required to reveal his capacity and testify in court.

Justin Gives to us All

By Shirley McNaughton

On November 26, 1982, Judge John Matheson of the Lanark County Court in Perth Ontario, stated, "In a spirit of liberty the necessity to understand the minds of other men and the remembrance that 'not even a sparrow falls to earth unheeded,' I find and declare Matthew Justin Clark to be mentally competent." So ended what has been called a 'landmark case for the rights of the handicapped' – and the first court case in Canadian history in which Blissymbols have been used by a witness to give testimony.

Described as moderately to mildly intellectually disabled and severely physically disabled, Justin Clark was admitted to Rideau Regional Centre in Smiths Falls, Ontario, at two years of age. In 1974 at 12, he met Carol McLauchlan, who taught him Blissymbolics for the next six years. Learning a way to communicate changed the world for him. Justin's mastery of Blissymbolics enabled all those around him to recognize that an alert mind lived within his disabled body. To anyone who would listen, he poured out the many, many questions that had been stored up for years.

At the age of 18 (legal age of adulthood), a Rideau Centre psychiatrist certified that Justin Clark was able to make his own decisions about matters affecting his life.

Justin's father, Ronald Clark of Ottawa, concerned for his son's future, filed court action to have him declared mentally incompetent under Ontario's Mental Incompetency Act. In the ensuing highly publicized weeklong case, Justin told the court, through his Blissymbol board, that he believed he was capable of making choices for himself.

At the end of the trial, Judge Matheson challenged Canadians to look beyond an individual's physical disabilities to his or her total capacity for learning and development – in a decision which was not only a legal landmark but the seal on a triumph of the human spirit.

Question: "Who will make decisions for you, Justin?"

Justin's answer: "I"

My experience as Justin's court interpreter was a very moving one. During my own testimony, when I was asked to explain the use of Blissymbolics, I felt overwhelmed by the vast amount of knowledge needed by the judge, the lawyers and Justin's family if they were to truly understand the young man before them in the courtroom. They had so much to consider: his eighteen years in an institution for the people with intellectual disabilities; his severe physical limitation; his inability to speak in a way they could understand; his 'new to them' communication system; his unique and special world perspective; his enquiring mind, eager to learn, yet deprived of normal opportunities and experiences. They had to learn, too, of the new and emerging resources and support systems for the physically disabled and the community living arrangements springing up in many regions.

I did my best to describe and explain the capabilities, requirements and effects of Augmentative Communication. Yet, when I left the witness stand, I was filled with doubt. How much of what I had tried to communicate could be really understood in such a short time?

Then it was Justin's turn to 'speak.' Although formally designated as his interpreters, Katherine Commodore of the Rideau Regional Centre and I were actually his very careful 'listeners.' I made it clear to the court that we would be transposing his message into spoken English rather than interpreting the message Justin would be conveying through Blissymbols, gestures and words. We knew the importance of this testimony and how critical it was that we not miss or alter any information he wished to transmit.

I will never forget the reaction within the courtroom – the concentrated attention for more than an hour as Justin pointed to his Blissymbols and I spoke his messages. One could feel Justin's intense concentration reflected within everyone in the courtroom. Then, his testimony finished, a standing ovation led by Justin's family climaxed what was surely a rare moment of high human endeavour.

Justin had come a long way since his first encounter with Blissymbols. He had achieved a communication capability that allowed him to defend his personal rights in a court of law and in so doing had championed the right of all physically disabled persons to be evaluated by their mental abilities, not by their physical disabilities. I left the courthouse feeling the highest respect and admiration for Justin and those who supported him.

The Gift of Understanding

Those of us who work in the field of rehabilitation regularly experience the joy of giving to individuals. But Justin has moved beyond us; his courage has reached across Canada and given to everyone. His steadfast belief in his own worth, his conviction that he must be allowed to make his own decisions about his life and his unswerving loyalty and love for family and friends, has bestowed new insight and understanding upon us all:

- To his many friends, Justin gave a sharing and caring companionship, and the courage to persevere throughout the long months of legal preparation.

- To his caregivers, instructors and social workers at Rideau Regional Centre, Justin gave the opportunity to work through the structures of their setting and demonstrate the profound effect of human support even within a large institutional facility.
- To his family, Justin gave trust and loyalty matched with the independent spirit of all 20-year-olds.
- To people who have never thought about the many disabled, non-speaking people living their lives in institutions, Justin brought the strengths and concerns of this group into bright public view.
- To everyone in the community, Justin gave vivid proof of the miraculous potential for growth that is part of every human being.

And, just as we always gain bountifully as we give, I wish that Justin may receive:

- The gift of time, to learn and to grow in whatever situation he chooses to live;
- The gift of friends with whom he can gain personal respect and companionship; and
- The gift of a family able to give him the love and understanding he has given them.

Our New Understanding

In Justin, we have witnessed the power of one non-speaking person who is determined to communicate to those around him, and we have witnessed the effect this can have upon the world – both his and ours.

We have recognized a gently, trusting, believing spirit and very much a thinking human being who has a unique part to play in our compassionate interdependent society.

*Judge Matheson
November, 1982*

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- Justin Clark lived and worked in Ottawa, Ontario.