

Promoting Diversity in the Court System: Justin Harby-Conforti

John: Welcome to Amici, news and insight from the New York courts. I'm John Caher.

In today's diversity dialogue segment, we're joined by Justin Harby-Conforti, Principal Court Attorney for the Honorable David H. Guy, Surrogate and acting Supreme Court justice in Broome County. Justin brought a wide range of experience to this position when he started in 2017.

He was previously a Senior Attorney for Mental Hygiene Legal Services in the Third Department, a position in which he represented mentally and developmentally disabled individuals. He's litigated child abuse, neglect, child support and adult guardianship matters in Family Court. He was a Deputy Attorney General in New Jersey. He was a law clerk for a Superior Court Judge in New Jersey. In law school, he was editor-in-chief of the Seton Hall Circuit Review. Justin and his husband live in Bainbridge, New York.

Welcome to the program, Justin.

Justin: Hey John, thanks for having me.

John: Tell me a little bit about your background, your early influences and mentors.

Justin: I'm originally from New Jersey. I grew up in North New Jersey in a town called Union. Very comfortable, kind of middle-class background. I have two parents who are still with us and a younger sister who is two years younger than me.

As far as influences go, it goes without saying that my first and strongest influences were my parents. They created a really safe, loving and fun environment growing up. So, that's had a long-lasting impact on me. As far as influences in general, we had a very open policy in terms of television and media and entertainment. So, I was always very influenced early on from pop culture and probably in particular, queer pop culture. I always liked things that were a little outside the norm.

John: What sort of queer pop culture was available?

Justin: Like I said, there was an anything goes policy when it came to what we could watch. So, the Simpsons was really early on and very irreverent. John Waters, I always loved his movies, even from a young age. The music too has always been huge for me. I'm a gigantic Prince and David Bowie fan and have been since very early on. So, I've always had those things kind of swirling in the background for me.

John: What do your parents do?

Justin: My dad sells health insurance and my mom raised us. She was home when we were younger, she also always had different jobs along the way. She worked at a pharmacy for a while, in a Hallmark store at one point and a dentist's office, just kind of all different things along the way, but she was always home with us when we were in grade school and middle school.

John: And what's the genesis of your hyphenated name?

Justin: The genesis of my hyphenated name is that I am married and it's a combination of my husband's last name and mine. My original last name is Conforti and his last name is Harby. Hyphenating them that way was the compromise that we came to, rather than one of us taking the other's. I'm happy we did it, it's a little clunky when you have to call a credit card company or figure out a bill and spell the whole thing out. But I'm glad we did it.

John: That's wonderful. Now adolescence is a challenge for everyone. Is it a special challenge for those who are gay?

Justin: I think so. First of all, I agree with you that adolescence is definitely a challenge for everyone in all its different ways that it manifests for people. I think for gay people in particular, it can really be challenging because it's obviously this time where everyone's developing feelings, your body is changing. You're first coming to realize you find someone attractive or you like someone. And I think when you're gay, maybe back more in my day than now, but if you're gay and coming into your adolescence, realizing you're having those feelings, you can also simultaneously be realizing that that's something you feel like you have to keep secret or pressed down. And so you're stuck in this moment where you're seeing everyone who's around you, like your friends and peer group, having first dates and crushes and kisses and all those things. And you're just kind of watching from the sidelines, knowing that you can't really participate in that way.

So that can probably have a long - lasting impact. It can probably be hard to shake that off and maybe even cause delays. You know, you're stuck in an adolescence later that you didn't get to have at the time when you were having feelings of thinking you want to be someone else. . I'm sure feeling like you want to be someone else during adolescence is also part of that universal aspect, but I think for gay people, maybe back more in my day, can have some extra challenges to it.

John: It sounds like you had the benefit of having a supportive family, though.

Justin: Definitely. Definitely. They've always been very supportive and I'm very thankful for that.

John: Now, as a kid, did you experience any discrimination, hostility, or ostracism growing up?

Justin: I was in middle school, in high school, around the year 2000. So, it certainly wasn't the worst time in history to be the gay person, but it also wasn't a time that it had enlightened or progressed as it is now, either.

I wasn't openly gay in high school. I went to an all- boys Catholic high school. So that was a situation that was challenging for me in the first two years. And then actually for the second two years, I really enjoyed it and ended up having a lot of great friends. But in that environment, you can imagine, especially back then around 2000, the word "gay" was something that was, it became this common catchall kind of word for anything that you wanted to insult. Something that was silly, something that was stupid or feminine, or you wanted to come at it in a certain way, you would, "That's so gay!"

And that's the more benign term. People were also throwing around all sorts of slurs in very casual ways. That's what we would probably today identify as a microaggression. But, when you're in that environment every day, it can feel like death by a thousand paper cuts. So, I would say that's probably the worst kind of day-to-day environment I've been in.

But I would also say I've always kind of forged ahead of them. And I think being myself and being as fearless as I could push myself to be, helped me work through middle school and high school. Adolescence, it's got its challenges for everyone, but I forged my way through.

John Caher: I would imagine that until a certain level of sensitivity kicked in, even well-meaning people would make or could make casual comments, not realizing that they were hurtful.

Justin: Yes, and like I said, it's easy to rewrite things with the foresight now of being a little more enlightened. Things have changed so dramatically over the last, I don't know, 10, 20 years, since I've been in high school. So nowadays if someone's throwing those words around casually in an insulting way, it would not fly. Hopefully it would not fly at all. But back then, it just wasn't something anyone thought of it wasn't really on the radar in that way, but I'm glad we've changed for the better in that way.

John: So am I. What was it like going to college at Boston University?

Justin: College was really a good time for me. It was very fun. I was an English major, and I was declared from the first day. So, I was always doing a lot of reading and thinking, but I was in the city, I was in Boston, and I was running around all the time, like your first real taste of freedom. And Boston is a great place to go to college because it's just teeming with all other college kids and so I really, really enjoyed it. And I had a roommate, my roommate freshman year was someone that I was very good friends with from high school. So, we had a good established kind of situation right from the beginning. And I think our connection kind of drew a lot of other people in. So, we had a really good friend group and I enjoyed every day of college. It was really good time.

John: Oh, that's great. Now, when you were majoring in literature, were you thinking of law school at that point?

Justin: I was not, no. I guess I would say my declaration of an English major was just, I've always had a love of reading. So, I just knew I wanted to spend as much time reading as much as I could. I had a concentration in American literature in the 1800s and the American culture and the history of slavery. That was kind of where I really focused in eventually, but I've just always been a really voracious reader. The decision to go to law school didn't come until later.

John: Who's your favorite author?

Justin: Oh geez. My favorite author. Well, it's changed over time. In high school, Kurt Vonnegut was my number one and I still love him to this day. Don DeLillo is a favorite. I love Toni Morrison. Lots and lots of people.

John: It sounds like you have very eclectic tastes.

Justin: I do. And I try to mix in the nonfiction too when I can, but I do always end up gravitating most towards fiction.

John: Anyhow, you were telling me how that segued into law school.

Justin: In college, law school really wasn't on my radar. I graduated from college and moved back home and I was lucky enough, I immediately had a job right out of school. I was the editor of a local community newspaper. Those are very, I guess, far and few between these days. But when I graduated from college, there was one in a town, West Orange in New Jersey and I did that for about a year and a half and I really enjoyed it. And I got a lot of great writing experience and practical experience in terms of the [kind of] coverage of things for the paper. It was my first taste of local government, like town meetings, zoning board meetings. I would go to all of them on a regular basis and I had never

experienced anything like those before. I had no sense of local government or health functions.

But I wasn't going to do this newspaper thing forever, and I knew I had to kind of have more of a long-term plan. And in that aspect, I was like, I'm going to take the LSATs and kind of see how this plays out. I did well enough and followed it through in that regard.

On a more maybe subliminal level, going to those town meetings, almost everyone who was running the show was a lawyer or had a law degree. And so I think that maybe kind of planted a seed. It seems like if you wanted to be someone who was involved in the mix of things and decision-making or the people up at the front, doing the votes and considering all the plans, a law degree would put you in good stead. So, I think it was the combination of those things that led me in that direction.

John: What type of law were you thinking of practicing while you were in law school? Or were you always thinking about public service?

Justin: Well, no, I wasn't really thinking of public service. I think I was probably a little more geared at the beginning of law school to something more generic, like I wanted to end up at a big firm, make as much as I can as a salary and see where all that goes. I was unfortunate enough, or maybe fortunate in a way, that when I ended up graduating, it was when the recession hit and it was very hard to get jobs. I mean, really, really hard. By the time I graduated, the jobs I could get ended up being the public sector jobs.

I've actually only ever worked in the public sector, which is something that's one of my major career bragging rights. I feel like I've only ever done things that I agreed with or were lined up with what I thought maybe, principally.

But looping back to the other thing you asked, I think when I was in law school, what I was most interested in was constitutional law, which I actually did practice a little bit when I was at the New Jersey Attorney General's office.

John: Now how did you end up going from New Jersey to Broome County?

Justin: Well, I was at the Attorney General's office and I was dating and I was using online dating, which was kind of more becoming a thing at that point, and I found who is now my husband. His name is Matthew. We met on an online dating site. We hit it off right away. We had great conversations, just kind of nonstop, and we were talking on the phone and he wanted us to meet up right away, the next weekend, somewhere halfway between. And at first I said, okay, but then I thought that this is so unrealistic. He was two or three hours away at

that point from where I was living in New Jersey. And I thought, how is this ever going to be anything? We're so far away. And I actually did say that so I might just try to cut it off, but he kind of lured me back in.

And then we met up soon after that in New Paltz, which we decided was halfway from where we were both living at the time. And then we hit it off so great that we hung out every weekend after that. Either he would come down to me in New Jersey or I would go up to him. He was living in Morris at the time, which is a town that's in Otsego County, nearby where we live now. And eventually we did long distance for maybe 10 months.

And then we were trying to decide if he was going to go to New Jersey or I was going to come up here and I absolutely fell in love with the countryside. It was a totally different way of life up here and that really appealed to me. So, I threw my hat in to try to find a job and I did get a job at the Chenango County Department of Social Services as one of their staff attorneys. And then I moved up to Morris, where he was living in and we've been doing great ever since.

John: Great. Now Surrogate Court of course deals with guardianships and adoptions. What sort of gender diverse issues arise in the context of a Surrogate Court matter?

Justin: Well, first I would say in Broome County, which is where I work for Judge Guy, our adoptions are actually out of a Family Court. So, Judge Guy does not have the pleasure unfortunately, of doing adoptions. I remember when I was at DSS, the Family Court judges would always say those are the happiest and easiest cases. Unfortunately, we don't get to touch those here.

But I would say the majority of all of our cases that we deal with in our court here in Broome County involve vulnerable people who are in very, very difficult, tough times in their lives. In Surrogate's Court we obviously have people dealing with the death of a loved one and they're trying to get everything wrapped up and squared away. And then in the aspect where Judge Guy is appointed as an acting Supreme Court Justice for the 10 counties that are in our district, he is assigned all the Mental Hygiene Law Article 81 guardianship cases.

So in those cases, you see all sorts of people who are just struggling to do simple everyday activities in their lives, and you have their families trying to figure everything out and pick up the pieces and try to put a plan in place for them. Judge Guy's also assigned to Mental Hygiene Law cases with patients who are in psychiatric units in acute crisis and need to be treated over their objection. So, there's a lot of those different types of cases that we do.

To answer your specific question about gender diversity, in the Supreme Court cases that we've gotten, we actually have had a fair amount of name change petitions for people who are transgendered. For me, there's nothing challenging about that from a legal point — it's kind of processing an application— but I know for those applicants, it's a huge life changing event, the final thing that affirms their identity. So we've always been happy when we get those. Those are kind of a joyous occasion.

John: Do you think you bring a different or broader perspective on those issues than someone who is not gay?

Justin: I do. For the name change petitions, I know it's something so simple, but just even knowing the preferred pronoun for a person in an email, or when I call them to get more information or explain what the next steps are going to be, I'm definitely, immediately sensitive and mindful.

Normally when someone changes their name, there's a publication requirement, but with the transgendered individuals, they have the right to ask for that to be waived and to process it in a way that doesn't put their identity out there in a way that could be life threatening or dangerous. That's something that I definitely have on my radar for those. I think in general, with our guardianship cases or our Surrogate's Court matters, I always try to make things as painless as possible for all of our attorneys and especially the unrepresented litigants.

Having dealt with difficulties myself, I can imagine being in their shoes. Anyone who is involved in a lawsuit, even if it's one that's not adversarial like some guardianships—not all, but some are not adversarial—it still involves someone, a loved one in a vulnerable position, and it's not a good time in the person's life.

So, my goal is always to just be really helpful, keep it really professional and make things as simple as you can, especially for the pro se unrepresented litigants. I bring my perspective to that, I think, but that's also a huge thing I take away from Judge Guy every day. He's very much in that vein of just trying to be really respectful and empathetic and help people get to the solution as much as something can be solved in these cases.

John: Sure, sure. Now we talk a lot in the court system about diversity. Is it just a matter of optics or does it make a real difference in the quality of justice that the court system provides?

Justin: Well, I think it's probably both. People respond to just the numbers a lot of the times and what something looks like and you see that it's a diverse group of people. I think that actually does have value, but I think in terms of the substantive justice that gets doled out and in case at the end of the day, I think

that diversity is a huge part of that. Because everyone — gay, straight, black, white male, female—brings their different experiences that they have to all these different positions that we operate in here in the court, the judges, clerks, and administrative people and so on.

I think that the different perspectives people have get baked into the substance of everything we touch when we're moving these cases toward their completion. And I think that's really important for the people that come into the courts at what can be a low point in their lives. It can be a time that they're struggling or something really difficult that's going on and so I think that diversity helps improve outcomes.

John Legally, it seems like New York has been somewhat of a mixed bag in gay rights matters. We were well ahead of the curve with the *Braschi v. Stahl Associates Co.* decision, where the Court of Appeals became the first US appellate court to conclude that same sex relationships are entitled a legal recognition. We were behind the curve in recognizing same sex marriage. And then maybe we got ahead of the curve again in 2017, when Chief Judge DiFiore created the Failla Commission to address issues facing the LGBTQ community. Where would you say we are today? Is New York as welcoming to people of all persuasions as it should be?

Justin: Well, I would definitely say it has been to me in every possible way. So, for me personally, that speaks volumes.

But I think in general, it is kind of like you're saying, it can feel like two steps forward, one step back. There's some huge, great breakthrough, and then maybe something retreats a little bit, and maybe that's just the nature of progress in general. Here in our Judicial District, we have 10 counties that we cover and none of the Supreme Court Justices are people of color and we only have one female justice who's elected to the Supreme Court, who I have to shout out by the way, in terms of progress and where the courts are. Our one female is Judge Garry, Elizabeth Garry, who is also our Presiding Justice in the Third Department, and also a member of the LGBT community.

I think someone like her in this huge leadership position is a great example of things moving forward, the court system being really progressive and setting an agenda of inclusivity and respect. She's always putting these issues at the forefront and she's made LGBT pride events really important. Just listen to her when she gives speeches and the things she focuses on. She highlights these kind of historical discrimination issues for all groups and gay people in particular.

But, like I said, there's room for improvement, there always is, especially with the composition of the judiciary. But from the inside, I think the court system is very welcoming. And like I said, it has been to me, so I have no complaints.

John: That's always good to hear. So, it sounds like you would encourage people of your background, of any background, to consider a career in the courts. Is that accurate?

Justin: Absolutely. I tell people all the time that I hit the jackpot to end up where I am in the court system with Judge Guy and with our secretary, Cindy [Bales], who we work with closely. I'm really blessed to be part of this team and anyone who would be lucky enough to get a job in the court system, definitely go for it.

John Caher: Well, we're blessed to have you as part of the team. Thank you, Justin. I appreciate your time.

Justin: No problem. Have a nice day.

John Caher: You too.

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