



**AUTISM SPEAKS™**  
It's time to listen.

May 18, 2011

Re: Reginald Latson

Dear Judge Sharp:

I am writing Your Honor in my capacity as the Director of the Autism Speaks<sup>1</sup> Federal Legal Appeals Project.<sup>2</sup>

Autism Speaks and its constituency have been following the *Latson* case with a great deal of concern. In the first instance, we have a great deal of concern and respect for the law enforcement officer who was seriously injured while doing his job in the line of duty. Our hearts go out to the officer and his family.

Rarely, if ever, does Autism Speaks advocate in connection with an active criminal matter. Autism Speaks, for example, will not involve itself in any matter where there is evidence that the defendant's "autism" is, in reality, a pretextual excuse that is "diagnosed" or "discovered" only *after* the arrest of the defendant. Those kind of defendants impair our cause, and serve only to confuse or offend the public. The defendant in *Latson*, however, has a longstanding autism diagnosis. Moreover, his behaviors are further impacted by his more particular diagnosis as having Asperger's Syndrome, also sometimes known as Asperger's Disorder. We urge that there are special circumstances here that warrant the exercise of this Court's sound discretion in processing and tempering the jury's sentencing recommendation.

We certainly do not fault the officer for investigating what he erroneously *believed* to be a suspicious man with a gun. In actuality, however, there was no gun, and the defendant was waiting for the library to open. Ironically, for Reginald, a young man with

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<sup>1</sup> Autism Speaks is the world's largest not-for-profit organization dedicated to autism research, education and treatment. We have chapters across the United States, Canada and the United Kingdom, and work with federal, state, and local governments, as well as the U.S. military, to meet the treatment and educational needs of the ever-growing population of children diagnosed with autism.

<sup>2</sup> I also am writing as the founder of the very first law firm in the nation dedicated to the representation of students with autism spectrum disorders in matters arising under the federal Individuals With Disabilities Education Improvement Act, 20 U.S.C. Sec. 1415 et seq. In the last ten years, my law firm has represented nearly 700 students with autism (including dozens with Asperger's Syndrome) in more than 30 states. Some of the families we work with have one or more parents who are law enforcement officers, active state court judges, or in military service.



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Asperger's Syndrome, the quiet library he was waiting to gain entrance to was serving as a place of refuge. We do not fault the officer for not knowing about Reginald's autism (Asperger's) disability, and how that core disability would be expected to impact and degrade (1) Reginald's ability to quickly process instructions and commands, (2) Reginald's ability to properly understand and "read" social cues and situations, and (3) Reginald's reaction to physical contact.<sup>3</sup> Unfortunately, however, between the officer's mistaken beliefs and perceptions and Reginald's erroneous social perceptions and his hypersensitive reaction to physical contact, a formula for disaster arose—a formula that then spiraled out of control to its inevitable conclusion. What happened here is every police officer's worst nightmare. For parents of children with autism, it is their worst nightmare as well.

For purposes of sentencing, we respectfully urge that Reginald's reactions and behaviors need to be understood as a manifestation of his autism disorder. It also must be kept in mind that Reginald's autism was first diagnosed at age 14, and that for this reason, intervention efforts addressing his autism started relatively late.

I know from personal experience with hundreds of families that students like Reginald can be systematically taught the communication and skills needed to *safely* navigate challenging situations. Behavioral intervention delivered and supervised by trained behavior analysts is a scientifically validated approach to effectuate that change, and those kinds of services are available within the scope of Reginald's school system.<sup>4</sup> They are not, however, available in any meaningful or effective form as part of further incarceration, and on this point, it is my understanding that Reginald has already been incarcerated for more than a year. Under the federal IDEIA statute and Virginia law, Reginald is entitled to intervention and teaching support (only) until he is 22.

If the purpose of sentencing is to punish Reginald and teach him a lesson, he already has been incarcerated for more than a year, and a longer incarceration will not likely have any greater impact to him as part of a teaching lesson. In fact, any further incarceration is likely to be counterproductive, and eliminate any chance that Reginald can be returned as a productive and functioning member of society. As Reginald is entitled to teaching and behavioral support from his school system only until age 22, that clock is ticking. The next few years of educational opportunity can be put to good use for

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<sup>3</sup> In the last decade, "autism" training has become available for law enforcement and emergency first responders. Dennis Debbaudt, in particular, is a well known presenter who travels the country to provide such training. This training is designed to anticipate, neutralize and prevent autism-related situations from spiraling out of control.

<sup>4</sup> I am speaking of a professional at the level of a Board Certified Behavior Analyst, not merely a school psychologist or "counselor."



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Reginald. Or, they can be frittered away. The law provides the opportunity for judicial review of the jury's sentencing recommendation. The legislature has thus presumed that there may be any number of reasons for the court to reject or significantly temper the sentencing recommendation of the jury.

Accordingly, for all the foregoing reasons, Autism Speaks is urging Your Honor to craft a sentence that will acknowledge Reginald's prior year of incarceration and direct immediate and appropriate behavioral treatment *and* ongoing maintenance of probation requirements to be directed by your Honor as an express condition of avoiding further incarceration time. This certainly is a serious case, but it also is one that requires a more careful and thoughtful analysis of the sentencing phase, taking into consideration the impact of Reginald's autism.

We thank Your Honor for giving Autism Speaks the opportunity to address the court.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gary S. Mayerson'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gary S. Mayerson, Director  
Autism Speaks Federal Appeals Project