

# HERB HINKLE

## 30 Years of Legal Advocacy

by Jonathan Jaffe

Ask attorney Herbert D. Hinkle to come up with a case that helped define his 30-year legal career and he recalls a man with intellectual disabilities who was kept isolated and naked in a cell at the former North Princeton Developmental Center.

It was the mid-70s. Staff at the now-defunct Skillman facility insisted he was dangerous. The young man was given a mat on the floor on which to sleep. On at least one occasion, when staff members tried to dress him, the man tore to shreds the T-shirt he was wearing, Hinkle recalls.

“We later realized that this young man had behavioral problems, but was not dangerous. We learned this shirt had simply been put on inside-out and he was objecting to that in the only way he knew how,” says Hinkle, then a young attorney with New Jersey’s fledgling Public Advocate’s Office.

“There was no malice or neglect on the part of the facility or its staff. It was a just ignorance,” says Hinkle, 57, in a recent interview. “The people who dealt with this young man were clueless. We don’t encounter that kind of ignorance today.”

Just three decades ago, there were far fewer programs for people with developmental disabilities in New Jersey. “Instead,” Hinkle says, “there were institutions.”

“That kind of situation does not

exist anymore in New Jersey,” says Hinkle, who called that incident “something of a turning point” in his early legal career, helping him to gain a better focus.



Herbert D. Hinkle

A graduate of Drexel University, Hinkle received a Master’s degree in taxation from Temple University and then graduated Rutgers University School of Law before being hired by the New Jersey Public Advocate’s Office. He later served as director of the New Jersey Division of Advocacy for the Develop-

mentally Disabled for a decade.

Today, Hinkle is widely known as a leading legal eagle for people with disabilities in New Jersey

During his time in the public sector, Hinkle says he saw a need for drastic improvement in the way the state, private care facilities, hospitals and schools dealt with people with physical and developmental disabilities.

Over the past two decades in private practice, Hinkle has been involved in a number of New Jersey’s precedent-setting cases concerning the people with developmental disabilities and the elderly. Hinkle & Fingles, in Lawrenceville, Marlton and Florham Park, and in Yardley and Plymouth Meeting, PA., is among only a few New Jersey firms that specialize in this particular area of law.

When he went into private practice in the 1980s, a number of New Jersey law firms did guardianships and estate planning for the elderly and for families of people with disabilities, but Hinkle says few law firms concentrated on disabilities issues and the plight of the elderly.

“Herb is the patriarch of law as it concerns people with developmental disabilities,” says attorney S. Paul Prior, who has been with the Hinkle & Fingles firm for four years. Prior

came to the law firm from the New Jersey Office of Protection and Advocacy, a federally funded legal resource for people with disabilities and the successor to the public advocate's disabilities unit.

"In this area of law, Herb is respected, knowledgeable, experienced, and even a little feared," says Prior, with a chuckle. "He has a strong reputation for helping people with disabilities. And, in one way or

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—ATTORNEY S. PAUL PRIOR

another, Herb has been connected with most if not all of the precedent-setting cases in this area (of law) in New Jersey for the past couple of decades."

Among those cases was the 1995 New Jersey Supreme Court decision to reject claims by the state Division of Developmental Disabilities that budgetary constraints forced it to place a young man in a service that would likely cause him to regress.

The court ruled that "B.F."—a 21-year-old man with autism—could not be transferred from an out-of-state autism center until an appropriate, adult placement became available (*B.F. vs. New Jersey Division of Developmental Disabilities*, 139 N.J. 522, 1995). In this important decision, the court placed the responsibility of obtaining an appropriate placement on the state agency,

instead of the family of the person with a disability.

"The state Division of Developmental Disabilities always argued that economic woes prevented it from providing continued service to people with disabilities once they turn 21," Prior says.

"The court ruled economic constraints will not relieve the division of its responsibility to a person with disabilities," Prior says. "The decision means the state cannot just abandon these people. Herb's work on the 'BF' case has prevented hundreds, if not thousands of people with disabilities from languishing at home after they reach age 21. Instead, they continue to receive much-needed services so they don't regress."

Prior called the 1995 decision "perhaps the single most important case" Hinkle has handled in his career. "It was a high-water mark for Herb."

And he knows the case all too well. "Had that case been decided before 1989, things would have been very different for my brother David and my family." Prior's older brother, David, has autism.

"That was absolutely part of the driving force behind why I went into law and had a particular interest in this area," he says. In 1989, when Prior graduated from high school, his brother turned 21 years old. Prior said his family discovered the state would no longer help pay for an adult residential care program for his brother.

"My parents hired this attorney named Herbert D. Hinkle to help." Prior recalls. "That was my first exposure to this area of the law and it

absolutely stayed with me."

For Hinkle, his work is not just about the practice of law.

It's about improving conditions for the people with developmental disabilities, the elderly and their families. What is needed today—50 years after the state Law Against Discrimination was adopted—are more places to live for New Jersey's aging adults with disabilities, says Hinkle.

"People with disabilities are living longer," Hinkle says. "We are going to need sufficient adult services for them, especially group homes and supervised living situations. As children with disabilities grow up and grow older, there is a need for places for them to live when their parents or guardians are gone. Waiting lists are growing longer each year."

Particularly at risk are persons with milder developmental disabilities, not the most severe cases, he notes. "People think the more disabled their child is, the more money they need to put away for their child's care, when the opposite is true," says Hinkle.

"Money is often available for the severely disabled, but it is not necessarily available for people with milder disabilities."

Similar sentiments are echoed by Paul A. Potito, executive director of the New Jersey Center for Outreach and Services for the Autism Community (COSAC), a non-profit advocacy agency for New Jersey's autism community.

"In less than two generations, we are seeing people with autism and people with other kinds of developmental disabilities living longer, more normal life spans," Potito says. "As

a result families, private agencies and government services were not prepared for it and hadn't planned for it. We must figure out how to provide longer-term services and how to fund those services."

To that end, Hinkle—who for a decade has served on COSAC's board of directors—helped the agency establish Autism-New Jersey, a charitable foundation that is exploring new fund-raising mechanisms, including corporate and private donations and inheritance from people in their wills. The foundation's first donations came from Hinkle's law firm and from the New Jersey Kiwanis, Potito says.

"I saw other organizations being very successful with their private fund-raising efforts and I saw disabilities organizations being somewhat less successful in finding those generous, caring people who I'm sure are out there," Hinkle says. "Most of the time, it seems to be for a lack of asking."

While Hinkle pointed out that organizations such as COSAC, for example, host events like golf fundraisers to generate money, "we needed to improve our ability to ask for continued financial support . . . to ask for support in a larger way."

Potito, who has known Hinkle for almost twenty years, described him as "a man who cares very deeply on a professional and, more importantly, on a personal level."

"He holds workshops and gives lectures on his own time," Potito says. "People come expecting to see this prominent attorney in a suit and tie. Instead, they find this unassuming man who pulls off his tie, sits on the top of a desk and answers their questions in a homespun way. He is cas-

ual and knowledgeable. He puts them at ease. It makes them comfortable and you can see their anxieties vanish."

"Herb gives of his time generously," Prior agrees. "He's been lecturing, holding workshops and educating families of developmentally disabled people for twenty years, all free-of-charge on his own time, evenings and weekends."

"Herb believes it's important for us to spread the word about what families need to do to help their son, daughter, brother or sister," Prior says. "If anything, it generates fewer clients for us because it helps prevent problems and helps families avoid land mines."

Among those education efforts, Hinkle's firm recently joined with The Arc of New Jersey to launch an outreach program — one that includes printed material, workshops and a website — to support the siblings of developmentally disabled people.

As parents or guardians grow older or die, brothers and sisters often become guardians for their disabled siblings. Hinkle said he believes this program is the first of its kind to recognize a need among adult siblings who must assume surrogate decision-making responsibilities. It gives them a primer in the New Jersey state service system, state and federal benefits programs and shows them how to plan for their siblings' futures.

The same passion that Hinkle has for law, he also brings to other significant interests in his life: Classical music, Shakespeare, the New York Yankees, his black Labrador Retriever named "Mike," and his collection of "*shrunken heads*."

The most treasured item in his law

office, Hinkle says, is his old Sony radio on his desk that he keeps tuned to WWFM, a classical radio station in Mercer County.

"He absolutely loves classical music," says Prior, recalling Hinkle's enthusiasm about attending a six-month lecture series on Johannes Brahms at the Westminster Choir College in Princeton. "He was telling us about these upcoming lectures on Brahms. We're all thinking '*how boring would that be*,' but Herb came back and thought they were just great . . . just absolutely fascinating."

It's the same with Hinkle's love of Shakespeare.

Staff in his law office said Hinkle has a keen interest in Shakespeare, from whom he often quotes. "You're trying to get some work done in your office and Herb shows up at the door," Prior says. "Herb couldn't find the 'on button' on his computer if his life depended on it. So, he asks you to go online and find a particular passage or quote from Shakespeare. Twenty minutes later, I'm thinking: '*Okay, so which client do I bill this time to?*'"

The so-called "*shrunken heads*" are actually part of Hinkle's collection of ceramic Royal Doulton character figurines. "Herb's got (figurines of) Shakespeare and Othello, the Mad Hatter and other characters from Alice in Wonderland all over his office. He's got more at home," Prior says.

"To break the ice with clients, Herb used to tell them that as a young attorney he kept the scales of justice on his desk. Now he's got the Mad Hatter because it's more appropriate to what we actually do," Prior says. **F**