

**Testimony to the New York State Senate Standing Committee on Alcoholism and
Substance Use Disorder**

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Delivered by Ashley Santiago, Senior Community Organizer, Freedom Agenda

Dear Committee members,

I submit this testimony in strong support of the Treatment Court Expansion Act (S4547/A4869).

I am a Senior Community Organizer with Freedom Agenda and the aunt of a young man with several mental health diagnoses and developmental challenges, who has been incarcerated for the past four and half years, on Rikers Island and in multiple state prisons. His experience sadly highlights the failures of our current treatment court landscape – in which people without any clinical experience hold far too much power in determining who can access treatment, and in their ignorance, shut the door on far too many people, like my son, for whom intensive treatment could be the most important intervention in preventing future court involvement.

My nephew is close in age to me, so we grew up like siblings. He has an array of challenges - a diagnosis of Disruptive Mood Dysregulation Disorder, Autism Spectrum Disorder (ASD) and operates on borderline intellectual functioning. Because of this his lawyer requested him to be evaluated when he faced charges in Queens County. We provided the Queens ADA on his case and the Judge with his mental health records from five different mental health facilities. After reviewing all of his records, the ADA denied him an evaluation stating that she finds he only has behavioral problems as he has "tantrums" when he does not get his way. After writing directly to DA Katz and reminding her of her prior statements in support of treatment diversion, my nephew was eventually referred to TASC for an evaluation which was completed by a psychiatrist, Dr. Fernandez. Dr. Fernandez highlighted the severity of his impairments and his need for treatment. Contrary to the ADA's nonclinical interpretation of my nephew's records, he stated due to his diagnosis of ASD, my nephew does not fully comprehend the implications of his behavior. Dr. Fernandez and my nephew's Care Coordinator with the Office of People with Developmental Disabilities (OPWDD) discussed locating residential programs with specific services to rehabilitate him. Dr. Fernandez indicated my nephew would have a chance of success by receiving specific treatment and interventions with his disorder and cognitive abilities

taken into consideration. His Care Coordinator met with Alternative Sentencing Director Douglas Knight in the Queens DA's office to further discuss the matter and started working on finding a restricted residential facility. However, during my nephew's court hearing, Mr. Knight stated because OPWDD had not yet found a placement, he was ineligible, and the ADA suggested a sentence of 6 years. The Judge scheduled a meeting in her chamber, including the ADA, Mr. Knight, clinical staff from OPWDD, and my nephew's attorney. At that time, the ADA stated she was never considering any mental health treatment and the evaluation was only done as a courtesy to the mother (my sister) because she contacted their office. The ADA then proceeded to take pieces out of the assessment to criminalize my nephew; his impairments are due to an illness and should not be used to dehumanize him. The law currently gives prosecutors the right to disregard the findings of mental health professionals, which undermines both public health and community safety.

The daily dehumanization of Rikers, along with the grueling trips to court, wore my nephew down, and he eventually took a plea deal. His time in the New York State prison system has included aggression from officers, multiple stints in solitary confinement, and months without programming or regular recreation, but, predictably, no substantial treatment. I know what would give my nephew the stability he needs to be at this best - he needs intensive, quality treatment. Instead, he's gotten years of neglect and abuse, requiring him to be transported to emergency rooms three times. As we prepare for his return home, my family is faced with the reality that the trauma of prison is now added to the mental health challenges we will need to help him cope with.

We are grateful to the Senate for holding this hearing, and we need you to take the next steps with your colleagues to ensure that the Treatment Court Expansion Act passes in the next legislative session. Decades of criminalizing mental illness has brought New York State to a crisis point. We can't wait any longer to expand the pathways to healing and safety that the Treatment Court Expansion Act offers.