

Judge should have known better Series: EDITORIALS

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What was Hillsborough County Circuit Judge Richard Nielsen thinking when he forced a 16-year-old to represent himself in court? Juveniles in Florida are entitled to a lawyer. The defendant, Juan Carlos Elias, whose family is Puerto Rican, clearly showed he had trouble understanding the rules and language of court procedure. What teenager wouldn't? Nielsen showed poor judgment and a striking inability to balance competing rights.

This isn't a mistake Nielsen can chalk up to being a newcomer on the bench. When he asked for the job, which Gov. Jeb Bush gave him in 2000, he credited himself with being thoughtful and fair, qualities necessary every day as a judge.

This wasn't even a gray area of the law. Children are entitled to a lawyer "at all stages of any" delinquency proceeding. The right to an attorney is fundamental, and not only is a judge obligated to ensure that right upon children in his court, he also can act against parents who fail to provide their child a lawyer.

Nielsen could have ordered that Elias be represented by a lawyer, but he failed to do so. He also chose not to seek a determination on whether Elias' family finances had sunk to the point the boy needed a public defender. He simply told the teen: "You don't have a lawyer, Mr. Elias, so you're going to represent yourself in this matter" - a restitution case involving the theft of one car and the burglary of another.

The judge later tried to characterize his decision as "a balancing act" - and what he balanced was Elias' right to competent legal representation against the inconvenience of asking the victims to return for a later court date. Nielsen later added he thought Elias was somehow protected by the fact his co-defendant had an attorney. That is either an alarming perspective on the law or an inept attempt at damage control, for he also said, in the same breath, that the attorney may have had a conflict playing two roles in the case. In any event, a mistake was made, and the court needs to correct it.

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Abstract (Document Summary)

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