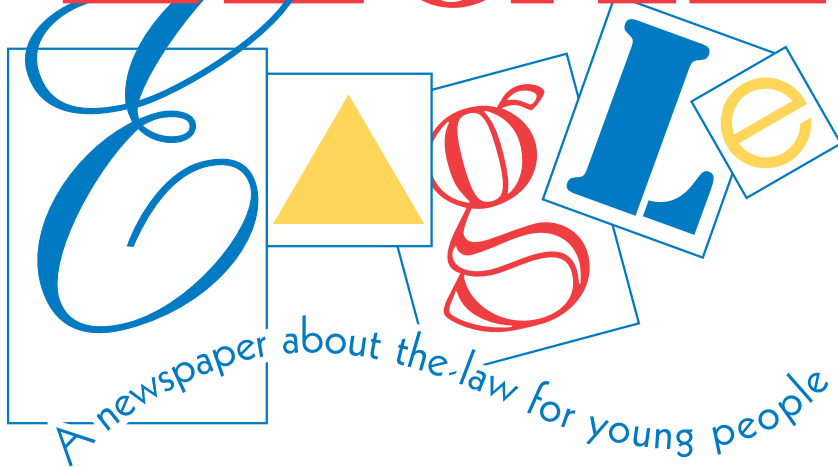


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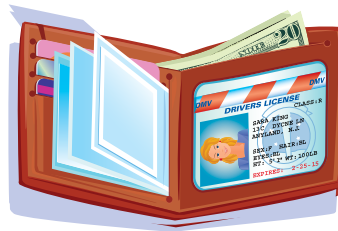
Kyleigh's Law Still the Rule of the Road

by Cheryl Baisden

In New Jersey, like all other states, a driver's license is a privilege, not a right, and comes with obligations. For those under the age of 21, in addition to following the regular rules of the road you have to abide by the regulations spelled out in the state's Graduated Driver License program, as well as the controversial legislation known as Kyleigh's Law.

The Graduated Driver License (GDL) rules say that young drivers must be off the road between 11 p.m. and 5 a.m.; can only have

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Public School Sports Teams— Should Homeschoolers Play?

by Barbara Sheehan

A controversial subject, one that draws strong feelings on both sides, is whether homeschooled students should be allowed to participate on high school sports teams. This is a question that some school districts around the state may be asking as this school year gets underway.

Up until last year, the New Jersey State Interscholastic Athletic Association (NJSIAA), the organization that governs high school sports in the state, prohibited homeschoolers from



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Should the First Amendment Protect the Right to Lie?

by Jodi L. Miller

You've probably been taught that lying is unacceptable and will only lead to trouble. While lying will never win you friends, is it a form of free speech

that deserves First Amendment constitutional protection? According to a recently decided U.S. Supreme Court case, in certain circumstances, it is.



Stealing valor

The case, *U.S. v. Alvarez*, centered

around the boasts of Xavier Alvarez, who in a public meeting claimed, among other things, he had been a Marine for 25 years and was awarded the Medal of Honor after being shot while rescuing the American ambassador during the Iran hostage crisis. None of these claims were true. In fact, Alvarez has never been a member of any branch of the U.S. armed forces.

Alvarez also claimed to have once played for the Detroit Red Wings and that he is married to a Mexican starlet. Those claims were also false. It was the claim about the Medal of Honor, however, that violated the Stolen Valor Act, a law passed in 2006 that made it a federal misdemeanor to "falsely represent oneself as having received any U.S. military decoration or medal." Penalties for violating the Act were imprisonment for up to six months for lies about most military honors, but up to one year for lying about the Medal of Honor, the military's highest honor.

Convicted under the Stolen Valor Act, Alvarez was sentenced to three years probation, 416 hours of community service and a \$5,000 fine. Alvarez's defense that his statements were protected under the First

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Homeschoolers? CONTINUED FROM PAGE 1

participating on public school teams. In November 2011, the NJSIAA changed its policy to give individual school districts the authority to decide.

Why the change?

NJSIAA Executive Director Steven Timko said the policy change was needed to eliminate a conflict with the state Department of Education and to provide clear direction to its approximately 430 member schools. Before last November, the NJSIAA said no to homeschoolers, but the New Jersey Department of Education said yes—if they get the approval of their local school board.

The state law reads, “A board of education may, but is not required by law to, allow a child educated elsewhere than at school to participate in curricular and extracurricular activities or sports activities.”

Noting this conflict, the Midland Park School District publicly challenged the NJSIAA’s policy last year when it sought to allow a homeschooled athlete from its district to play on one of the high school sports teams. Not long after Midland Park’s challenge, the NJSIAA rule change was enacted.

The Tebow effect

Questions about homeschoolers and high school sports aren’t just coming up in New Jersey. They’re arising around the nation, as a number of states consider laws that would allow homeschoolers to play. These laws are sometimes called “Tebow Laws,” named after NFL quarterback Tim Tebow, who now plays for the New York Jets. Tebow was homeschooled in Florida where state law allowed him to play for the local high school team.

According to an April 2012 *Time* magazine article, 29 states “allow access to sports for homeschooled students.” Like New Jersey, however, in many states that access comes with restrictions. Of those 29

states, only 13 allow homeschoolers access to school sports teams with no restrictions. Another 13 states, including New Jersey, are considering legislation to broaden the access of homeschoolers to school sports teams.

While New Jersey’s current policy leaves the decision of access up to individual school boards, proposed legislation would “require school districts to allow homeschooled students and students who attend charter schools to participate in interscholastic sports programs in the student’s resident district.” Introduced by Assemblywoman Celeste Riley, the bill was referred to the New Jersey Assembly Education Committee in May 2012. No action has been taken on the bill since its introduction.

What are the issues?

Those in favor of allowing homeschoolers to join school sports rosters say, why not? Competition is good and school districts should be concerned with producing a winning team no matter where its team members originate. Why not recruit homeschooled students if they have talent? Another argument is that parents of homeschoolers pay taxes just like their public school counterparts. So, their kids should have access to the public school services that their taxes fund—in this case, extracurricular sports.

Opponents, on the other hand, say, time out... not so fast. By definition, the parents of homeschoolers have chosen not to have their children educated in the public school system, and in doing so, have forfeited that child’s right to a spot on the high school team. They also argue that by allowing a homeschooled student to play on a school sports team, it is taking a spot away from a student who actually attends the school.

Interestingly, even the opinions of homeschool families are mixed. While some support so-called Tebow laws, others oppose them and worry that

bringing homeschoolers into public school athletics may mean more regulations for them, which some homeschoolers do not want.

Chris Davis, a father in Virginia who has three homeschooled children, told *Time* magazine, “We asked 20 years ago to be able to do our own things. Now they’re saying, ‘Let us back in.’ As soon as you do that [the government is] going to start asking something of you.”

Making the grade?

According to the National Center for Education Statistics, in 2007, the number of students being homeschooled was more than 1.5 million nationwide. Due to the lack of reporting required in the state, there are no official New Jersey numbers available. Rough estimates, however, put the number of homeschooled New Jersey students around 38,000.

The most important question that the Tebow law controversy has raised is how to determine a homeschooled student’s eligibility to play. In accordance with the NJSIAA, students must fulfill a number of requirements in order to participate on school sports teams, including proving academic eligibility. That means that if a student is not making the grade in the classroom, he or she will not be making it onto a high school sports team either.

For a public school student, one need only look at the latest report card or standardized test to know how he or she is doing in school; but for homeschoolers in New Jersey, finding this information may not be as easy. In New Jersey, homeschooled students are required to receive academic instruction that is “academically equivalent to that in public schools,” however, unlike in some other states, there are no requirements for testing, record keeping, or even notification.

According to the Home School Legal Defense Association (HSLDA), New Jersey is one of 10 states that do not require parents to initiate any contact or notify the state if they are

homeschooling their children. This, some argue, may make it especially tough to determine a student’s academic standing.

Opponents of Tebow laws also point out that comparing a homeschooled student and a public school student academically is unfair since a homeschooled student is not required to attend a full day of school, five days a week, while maintaining the required grade point average.

New policies in New Jersey schools

Since the NJSIAA rules were changed last year, some districts have already moved to put policies in place. Leading the charge was Midland Park, which challenged the NJSIAA last year and helped to bring this matter into the public spotlight.

Just a month after the NJSIAA’s new policy was enacted, Midland Park established a policy of its own, allowing homeschooled students to participate if they meet certain eligibility requirements. Since that time, they have had two homeschooled students compete on teams for basketball and baseball.

Principal Nicholas Capuano, who was the athletic director and assistant principal at the time Midland Park challenged the old NJSIAA ruling, noted that Midland Park has a small high school with about 80 students in a graduating class and a competitive athletic program. He said the school welcomes the participation of homeschool players, who must meet with the principal and have their transcripts and other paperwork (including medical records) approved before playing on a school team.

Academics come first,

Capuano pointed out, noting that it is “important to keep that balance.” He added that the district has received a lot of support from its school board and the families of the homeschool players in what he describes as a truly collaborative effort.

While Midland Park’s new policy seems to be working for them, it is not the choice for everybody. Other school boards, like the South Orange-Maplewood Board of Education, have reportedly opted against opening their teams to homeschoolers.

Game on

Even though this topic brings out strong opinions on both sides, it doesn’t seem to be causing too much interference in New Jersey’s interscholastic sports at this time. NJSIAA Executive Director Steven Timko estimated that his office has received fewer than a dozen calls from member schools since the association’s policy changed. While the NJSIAA does not officially monitor its member schools’ activities regarding homeschool policies, Timko noted that it has not created the problem that some people thought it would. 🏀



Corporal Punishment in Schools: Outdated Punishment or Necessary Discipline?

by Phyllis Raybin Emert

Another school year is beginning and across our nation students in 19 states will face the prospect of corporal punishment if they misbehave. More than 100 countries, including Germany, Israel, Spain, Portugal, New Zealand, Kenya, Poland and South Sudan, have banned the practice; however, the United States has no federal law forbidding corporal punishment. The issue of paddling in schools is currently left to individual states.

According to *Black's Law Dictionary*, the definition of corporal punishment is "physical punishment as distinguished from pecuniary [monetary] punishment or a fine; or any kind of punishment of or inflicted on the body." While corporal punishment is still legal in 19 states (Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Wyoming), it is important to note that some school districts in these states have banned the practice.

New Jersey was first

Students of the Garden State can rest easy since New Jersey was the first state to ban the use of corporal punishment in schools in 1867. In *Corporal Punishment and American Education*, writer Donald R. Raichle reported that parents and legislators supported the ban of corporal punishment in New Jersey, but educators did not. In 1894, an attempt was made to bring back corporal punishment if parents or guardians gave permission, but the bill was defeated 41 to 11 in the New Jersey State Assembly.

It would be more than 100 years before another state banned corporal punishment when Massachusetts did so in 1972. New York City banned corporal punishment in public schools in 1870, but the practice was not officially ended throughout the entire state until 1985. New Mexico was the last state to ban corporal punishment just last year.

Corporal punishment stats

According to the Center for Effective Discipline, a non-profit organization, there has been a steady drop in the number of children physically punished in school since the early 1980s, which could be due to more states banning the practice over the years. As of 1988, only nine states banned corporal punishment.

U.S. Department of Education numbers indicate that more than 223,000 children were subjected to corporal punishment in the 2006-2007 school year—the last year that statistics were available. The two worst offending states were Texas and Mississippi which accounted for nearly 40 percent of all corporal punishment cases in the

U.S., with more than 49,000 cases in Texas and more than 38,000 cases in Mississippi.

U.S. Supreme Court makes a ruling

The last time the U.S. Supreme Court made a ruling on the issue of corporal punishment was with the 1977 case of *Ingraham v. Wright*. The case involved James Ingraham, an eighth-grader at Drew Junior High School in Dade County, Florida. According to Virginia Lee in "A Legal Analysis of *Ingraham v. Wright*," which appeared in *Corporal Punishment in American Education*, Ingraham was one of several students who "were slow in leaving the stage of the school auditorium when asked to do so by a teacher." They were sent to Principal Willie J. Wright Jr.'s office to be paddled.

James claimed he was innocent and refused to bend over for paddling. Wright then brought in his assistant principal and another male staff member who "grabbed" Ingraham and laid him across the table face down. The two men held him down as the principal administered more than twenty swats of the paddle on his backside. After the beating, Ingraham had severe black and purple bruises and his skin was swelled and inflamed. His mother took him to a local hospital where he was diagnosed with a **hematoma**. Pain medication, sleeping pills and ice packs were prescribed. Three days later, fluid was still "oozing" from the six-inch bruise. Eight days later, the doctor told Ingraham to rest at home for an additional three days.

The parents of Ingraham and the parents of another student at Drew Junior High, who was also paddled, sued the principal and the school district on behalf of their children. The Court issued a 5 to 4 decision against the students. According to Lee, "the Court held that the punishments administered...did not violate the cruel and unusual punishment clause of the Eighth Amendment to the U.S. Constitution." In addition, "the Court also held that the due process clause of the 14th Amendment does not require



notification of charges and an informal hearing prior to the infliction of corporal punishment as the state's laws authorized the practice."

Corporal punishment debate

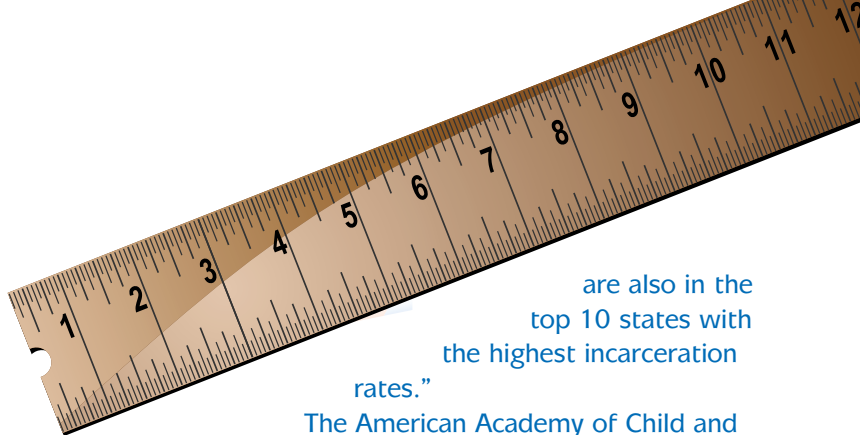
According to the Florida Department of Education 3,661 students were paddled in 2010, and most of these cases occurred in rural north Florida. A bill to ban corporal punishment failed in the Florida state legislature. Most of the parents and even the students in Florida believe that paddling teaches kids "discipline and respect" according to a National Public Radio (NPR) report.

One mother, however, whose five-year-old son attended Joyce Bullock Elementary School in Levy County, disagreed with the state's law. She did not give permission for her son to be paddled, yet he came home with red welts on his backside after two weeks at pre-school. The boy's mother, Tenika Jones, tried to sue the school district but was advised by a civil rights attorney that schools actually don't need parental consent under Florida law and the school district and teachers are immune from prosecution.

Jones told NPR, "If I would have hit my son how she hit him, I would have been in jail, I would have been on the news, I would have been messed up trying to get my children back."

The Center for Effective Discipline analyzed the reasons many supporters of corporal punishment give for supporting paddling as a disciplinary measure in the school. One reason given is that since many counties and school districts have abolished the practice, there are more shootings in schools. Another reason supporters cite is that more students end up in jail as adults if they have not had "proper" discipline in school.

Figures from the National School Safety Center's Report on School Associated Violent Deaths reveal that there were more cases of student shootings in states that allow corporal punishment. The Center also found that threats and attacks against teachers decreased as the rate of paddling decreased. In addition, "non-paddling states have higher ACT scores and higher graduation rates" than states in which corporal punishment is permitted. As for incarceration, the Center reported, "School corporal punishment is associated with higher incarceration rates of the adult population. Eight of the top 10 paddling states



are also in the top 10 states with the highest incarceration rates."

The American Academy of Child and Adolescent Psychiatry took a position on corporal punishment in 1988, stating, "corporal punishment signals to the child that a way to settle interpersonal conflicts is to use physical force and inflict pain. Such children may in turn resort to such behavior themselves. They may also fail to develop trusting, secure relationships with adults and fail to evolve the necessary skills to settle disputes or wield authority in less violent ways...Adults who...humiliate children and punish by force and pain are often causing more harm than they prevent."

Pushing for federal law


In 2010, New York Congresswoman Carolyn McCarthy attempted to introduce federal **legislation** banning corporal punishment in schools. The Ending Corporal Punishment in Schools Act would have banned the practice of corporal punishment in all states.

A congressional hearing to discuss *Corporal Punishment in Schools and Its Effect on Academic Success* was held on April 15, 2010. Congress had not held a hearing on corporal punishment since 1992.

Congresswoman McCarthy, who presided over the hearing, noted that there are laws banning physical punishment in "prisons, jails, and medical facilities, yet our children sitting in a classroom are targets for getting hit." According to Congresswoman

McCarthy, "Most students are paddled for minor infractions, such as violating a dress code, being late for school, talking in class or being disrespectful."

During the course of the hearing medical experts testified that of the nearly 250,000 cases of corporal punishment per year, more than 20,000 children required medical attention because of injuries they sustained—injuries that kept them out of school.

The McCarthy bill died in committee for lack of support, never making it to the House floor for a full vote. So, in those 19 states that still allow corporal punishment, it is up to state legislators to change the tide for their students. 



Amendment's guarantee of free speech was rejected by the trial judge who stated, "the First Amendment does not apply to statements the speaker knows to be false." Alvarez appealed his case to the U.S. Court of Appeals for the Ninth Circuit who **reversed** the lower court's decision claiming that if the law were **upheld**, "there would be no constitutional bar to criminalizing lying about one's height, weight, age or financial status on Match.com or Facebook."

Before the Stolen Valor Act, it was not a crime to lie about receiving a military honor; however, the Act of February 24, 1923 made it a federal offense to "wear, manufacture or sell certain military decorations without authorization." In addition, it has always been a crime to wear a military uniform without authorization, except in certain circumstances, one being for the purpose of theatrical productions.

What the Court decided

With its 6 to 3 decision, the U.S. Supreme Court **overturned** the Stolen Valor Act. In his opinion for the Court, Justice Anthony Kennedy wrote, "The Act seeks to control and suppress all false statements on this one subject in almost limitless times and settings without regard to whether the lie was made for the purpose of material gain. Permitting the government to decree this speech to be a criminal offense would endorse government authority to compile a list of subjects about which false statements are punishable. That governmental power has no clear limiting principle. Were this law to be sustained, there could be an endless list of subjects the National Government or the States could single out."

Justice Kennedy noted, "Our prior decisions have not confronted a measure like the Stolen Valor Act, that targets falsity and nothing more. Even when considering some instances of defamation and fraud, moreover, the Court has

been careful to instruct that falsity alone may not suffice to bring the speech outside the First Amendment. The statement must be a knowing or reckless falsehood."

The government's brief to the Court stated, "It must be acknowledged that when a pretender claims the Medal to be his own, the lie might harm the Government by demeaning the high purpose of the award, diminishing the honor it confirms, and creating the appearance that the Medal is awarded more often than is true. Furthermore, the lie may offend the true holders of the Medal. From one perspective it insults their bravery and high principles when falsehood puts them in the unworthy company of a pretender."

Addressing this argument, Justice Kennedy wrote, "these interests do not satisfy the Government's heavy burden when it seeks to regulate protected speech. The Government points to no evidence to support its claim that the public's general perception of military awards is diluted by false claims such as those made by Alvarez. ...The remedy for speech that is false is speech that is true."

In his **dissenting opinion**, Justice Samuel Alito agreed with the government's argument and stated that he would have upheld the law.

"The lies covered by the Stolen Valor Act," Justice Alito wrote, "have no intrinsic value and thus merit no First Amendment protection unless their prohibition would chill other expression that falls within the Amendment's scope." Justice Alito cited "an epidemic of false claims about military decorations, which Congress had concluded were

inflicting real harm on actual medal recipients and their families."

Reaction to decision

The Medal of Honor was established in 1861 and is reserved for those who have distinguished themselves "conspicuously by gallantry and **intrepidity** at the risk of his life above and beyond the call of duty." According to the Congressional Medal of Honor Society, there have been 3,457 recipients of the Medal of Honor since the Civil War. Only 81 of those individuals are still living.

One of those recipients, retired Army Lt. Hal Fritz, disagreed with the Court's ruling. In *Associated Press* reports, Fritz, who was awarded his Medal of Honor in 1971 for his bravery in Vietnam, said, "We would disagree with the majority saying lying about receiving the medals doesn't devalue them. I would say go back with me to Vietnam dragging the dead and dying off the battlefield."

Murel Winans told the *Associated Press* that he doesn't buy the free speech argument. The 87-year-old, who stormed Normandy's Omaha Beach on D-Day, said, "You feel like you never earned it, because when you tell someone what you've done, they'll say, 'you're lying just like those other guys.'"

Still, other Medal of Honor recipients see the Court's decision differently. "I'm a free speech guy," Jack Jacobs told the *Associated Press* after the decision. "There are lots of things people do that revolt me, but I'm happy that I fought for this country not to give them the right to do something stupid, but for the majority of the people to do the right thing." Jacobs earned his Medal of Honor in 1969 for carrying several of his fellow soldiers to safety despite his own injuries.

For 20-year Army veteran Raymond Hunt, it is enough that Alvarez was publicly shamed and



one passenger with them unless they are accompanied by a parent or guardian, or the passengers are the driver's children; and cannot use any wireless devices—not even a hands-free cell phone or GPS—while driving. Kyleigh's Law helps identify young drivers so the police can be sure they are following the GDL rules when they are pulled over for any reason.

The law was named after 16-year-old Kyleigh D'Alessio, who died in a 2006 accident where another teenager was at the wheel. That teen was also killed. Kyleigh's Law went into effect in May 2010. The law requires that young drivers place small red stickers on the front and back license plates of a vehicle when they are behind the wheel. Failure to display the magnetic stickers can result in a \$100 fine, but the state Motor Vehicle Commission estimated that only two out of every five young drivers purchased the \$4 decals in 2010. In May 2012, the *Associated Press* reported that approximately 1,800 tickets have been issued to underage drivers for not complying with the law.

Keeping kids safe

Keeping young drivers, and the motorists who are on the road with them, safe is the objective behind the GDL. Traffic accidents are the leading cause of death among teenagers, according to the National Highway Safety Administration, and a 2007 New Jersey Teen Driver Study Commission report found that over 40 percent of the state's fatal teen driver accidents took place in the late evening and pre-dawn hours. Young drivers were twice as likely to be killed in a crash when they had a passenger with them, the report also found.

The GDL addressed both problems, as well as distractions caused by using cell phones and other devices.

"Where Kyleigh's Law comes in is that it is a way for the police to identify someone as a young driver when they are pulled over for some reason. This way the police know the driver should not be out at that time, or have a carload of friends," said Warren attorney Todd Ruback, who practices constitutional law. "Of course like many laws, there are people who think it's a good thing and others who believe there are problems with it."

The first of its kind

New Jersey is the first state to pass a law requiring that young drivers' vehicles be clearly identified. License plate decals are required in some European countries and Canada, but they must be displayed by *all* new drivers, not

just young motorists. This distinction between the New Jersey law and the regulations in place in other countries has some people up in arms in the state.

"People who are opposed to the law compare it to a law that existed in Florida several years ago, which required that rental cars have special stickers on their license plates," said Ruback. "There were complaints that the stickers would be used by criminals to target tourists who might not know their way around the state, and while there were a few cases where that apparently took place, the court found that the incidents were rare, and upheld the law."

Opponents of Kyleigh's Law believe sexual predators will use the stickers as a way to identify and pursue young drivers. Fueled by this fear, a handful of state legislators proposed a bill that would revise the law and eliminate the decal requirement, and a North Jersey attorney filed a lawsuit against the state hoping to have Kyleigh's Law overturned.

The fight against Kyleigh's Law

In response to public outcry over Kyleigh's Law, a few state lawmakers introduced legislation that would eliminate the decal requirement and instead require that parents become more actively involved in enforcing the GDL rules.

At the request of Governor Chris Christie, a vote on the bill was delayed while the Attorney General's Office reviewed the safety concerns surrounding

Kyleigh's Law. A year after the decal requirement went into effect, the report found there was no evidence the stickers put young drivers at risk. State police noted that only one incident had been reported, involving a 17-year-old girl who was allegedly stopped by a man posing as a police officer who said he saw the sticker and asked for her phone number. When she refused, he drove away.

While the state report seemed to have halted legislative action against Kyleigh's Law, Rockaway attorney Gregg Trautmann viewed the findings in a less positive light. "What the report does confirm...is every parent's worst nightmare and the danger of this law when it recounts the story of a 17-year-old girl being pulled over by a would-be rapist posing as a police officer, who stated he specifically targets her because of the red decal," he told the *New Jersey Law Journal*.

In 2010, he filed a lawsuit on behalf of his teenage son and nephew, attempting to have Kyleigh's Law

CONTINUED ON PAGE 8



called out on his lie. “For the rest of his life he has to walk around with that look on his face and know that he was the biggest liar in the country on something that is so sensitive to our country,” Hunt stated in *Associated Press* reports.

What comes next?

The Court indicated that had the Stolen Valor Act focused on making claims for personal gain, it may have survived constitutional scrutiny. In July 2012, a revised version of the Stolen Valor Act was introduced in the U.S. Senate. The revised bill targets an individual who “with intent to obtain

anything of value, knowingly makes a misrepresentation regarding his or her military service.”

In the meantime, the federal government launched a website on July 25, 2012 that lists those who have received the military’s two highest honors (the Medal of Honor and Service Crosses) since September 11, 2001. Expansion of the site to include other military medals, as well as those that received their honors prior to September 11th, is being explored.

B.G. Burkett, a military researcher and coauthor of *Stolen Valor: How the Vietnam Generation Was Robbed*

of *Its Heroes and Its History*, told *The Philadelphia Inquirer* in a 2004 article, “The Constitution does not guarantee freedom; that’s a piece of paper. The only thing that guarantees your rights is the willingness of citizens to stand up against our enemies. And one of the only things they get is decorations—62 cents of material, but they’re the esteem of the nation bestowed upon you. When it’s desecrated, it weakens our resolve. It’s an emotional thing. . . and you can’t understand the depth of that emotion unless you were there.”

Kyleigh’s Law CONTINUED FROM PAGE 7

overturned. His concern, he said, was the safety of the state’s teenagers; his argument was that the law was unconstitutional.

The constitutional arguments

“The constitutional argument being presented is that Kyleigh’s Law violates the federal and state constitutions in three areas: equal protection, unlawful search and seizure, and privacy rights,” explained Ruback. “The courts have disagreed on all three issues, and the reason they have seems pretty clear.”

Under the 14th Amendment, individuals are entitled to be treated equally and fairly, without discrimination. But under Kyleigh’s Law, the lawsuit contends, New Jersey’s young drivers are treated differently than out-of-state drivers, who are not required to display decals when driving in the Garden State.

According to Superior Court Judge Robert Brennan, the trial judge who ruled on the Trautmann lawsuit in March 2010, the idea of equal protection does not apply when it comes to driving.

The suggestion that Kyleigh’s Law might subject young drivers to being stopped by police and having their vehicles searched simply because of their age also

was shot down by the courts. “The Fourth Amendment of the Constitution protects citizens from unlawful search and seizure,” said Ruback, “but there is no reason to believe the police will be stopping drivers just because they have a red sticker and searching their cars.”

The final argument involves privacy rights, noted Ruback, and both the superior court and the appellate court agreed that identifying someone as a young driver does not violate their right to privacy. Identifying a person as a member of a certain age group is not the same as releasing their photograph, Social Security number, driver’s license number, telephone number or address, the appellate court said.

New Jersey Supreme Court rules

In a unanimous decision, rendered in August 2012, the New Jersey Supreme Court upheld Kyleigh’s Law. According to the state Supreme Court’s ruling, “young drivers have no reasonable expectation of privacy in their age group, which can generally be determined by their physical appearance and is routinely exposed to public view. Because the decal is affixed to the exterior of the car, in plain view, an officer’s review of the decal does not constitute a search.”

This may not be the last word on Kyleigh’s Law. Trautmann plans to take the case to the U.S. Supreme Court.



dissenting opinion — a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues.

hematoma — a swelling containing a mass of blood.

intrepidity — unshaken in the presence of danger.

legislation — the law enacted by a legislative body (i.e., the U.S. Congress or the New Jersey Legislature).

overturned — in the law, to void a prior legal precedent.

reverse — to void or change a decision by a lower court.

upheld — supported; kept the same.