

The Naked Truth

By Reg P. Wydeven
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My senior year of high school, I concussed myself while attempting to jump off a friend's back to dunk a basketball during our lunch hour. Shockingly, I got too high. My forearms hit the rim and my legs swung under the hoop so I crashed on my head. If that would have happened today, invariably one of my buddies would have filmed it with his phone and immediately have posted it to YouTube.

Memories fade (especially with a concussion), but photographs are forever. This is a concept that Leigh Anne Arthur has learned all too well, unfortunately.

Arthur was a mechatronics (a combination of mechanical and electrical engineering and computer programming) teacher in Union County, South Carolina. On February 18, she went out into the hallway to monitor students in-between classes. When she stepped out, a 16-year-old student took her unlocked smartphone off her desk, opened the photos application and found a nude selfie she had taken for her husband as a Valentine's present. Then, using his own phone, the boy took a picture of the image and shared it with other students, who, in turn, shared it on social media.

When Arthur returned to her classroom, the student turned around and said to Arthur, "Your day of reckoning is coming." In addition, copies of the pictures with threats written to Arthur and her family on the back were left in her mailbox.

To no one's surprise, the school took swift action in response to the student posting the pictures. To almost everyone's surprise, the action was taken against Arthur and no action was taken against the students.

Union County School District Superintendent David Eubanks gave Arthur the choice of resigning or being fired, claiming the incident was her fault for leaving students unattended during the four-minute break between classes. "She has tried to make this out as though it was strictly related to the photos," Eubanks told The Associated Press. "I could care less what her pictures are on the cellphone."

In an interview with The State newspaper, Eubanks conceded that, "I think we have a right to privacy." However, in justifying his decision, he went on to say that, "but when we take inappropriate information or pictures, we had best make sure it remains private." Eubanks also told television station WSPA that the school was concerned that Arthur could be contributing to the delinquency of a minor. While the delinquent minor may be charged criminally, the school has taken no action against him.

A petition to reinstate Arthur has already garnered thousands of signatures. If the school board denies it, Arthur's plight hinges on Katz v. United States. In this 1967 case, the U.S. Supreme Court defined the parameters of an unlawful search and seizure under the Fourth Amendment and also the right to privacy. In the case, phone conversations were recorded by a bug planted on a telephone booth by the FBI. In the recordings, Charles Katz was heard placing illegal gambling wagers across the country. The court threw out the recordings, claiming they violated Katz's Fourth Amendment rights because he had an "expectation of privacy" in the phone booth.

So if Arthur pursues legal action, the question will be whether she had a right to privacy by having her phone unlocked and on her desk, as opposed to in a drawer or in her purse.

I hope Arthur sues and wins. After all, I would be embarrassed if anyone looked at my smartphone. A 43-year-old man's phone shouldn't have that many Taylor Swift songs on it.

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