

No Right of Privacy for Bikini-Clad Student Image on Facebook

The use at a seminar on internet safety of a picture of a 17-year-old bikini-clad student taken from her Facebook page by a school district technology director did not violate the student's right to privacy under federal law, a Georgia District court ruled.

The school district's director of technology services pulled the student's image from her Facebook page as part of his presentation at a county-wide community awareness seminar at the student's high school. He used the photo to demonstrate the permanency of posting to social media sites. The photo, taken while the student was on vacation, showed her in a bikini standing next to a life-size cutout of singer Calvin "Snoop Lion" Broadus. The slide presentation included the student's full name.

The student filed a lawsuit against the director in his official capacity, as well as individually, and against the school district under the Fourth and Fourteenth Amendments as well as under state law. The district court dismissed the claims against him in his official capacity and against the school board.

The student argued that she had a reasonable expectation of privacy and that the use of her image violated her expectation when it was used in the presentation. The student's Facebook privacy setting was for "friends and friends of friends."

The court found that, "[b]y intentionally selecting the broadest privacy setting available to her at that time, Chaney made her page available to potentially hundreds, if not thousands, of people whom she did not know (i.e., the friends of her Facebook friends)."

By using this setting, "Chaney surrendered any reasonable expectation of privacy when she posted a picture to her Facebook profile, which she chose to share with the broadest audience available to her. Thus, Chaney cannot show that society would be willing to recognize her expectation of privacy as legitimate," the court wrote.

The court also found that the school district "had express policies that appear to prohibit Cearley's use of Chaney's photo," so there is no violation by the district of the Fourteenth Amendment. The court order did not address the claims against Cearley in his individual capacity.

Chaney v. Fayette County Public School District et al., N.D. Georgia No. 13 CV 89 TCB, issued September 30, 2013.