

He saved a life & court was the price

An Ironic Injustice

By Stephen Rusiniak

*"My wife called this 'an ironic injustice.'
I, however, called it much worse."*



(A true story and based upon reports provided by various law enforcement agencies & witness statements)

"Hey Dad, have the police called yet?" he asked as he walked through the door. "No," I answered, now wondering what my kid had done. Michael sat down. Slowly, he began to reveal bits and pieces of the events that had led to his just-asked question—events that would soon cause him two court appearances, and to become the recipient of a small town prosecutor's threats. He would eventually plead guilty as charged, but in the end, he would be called a hero for his actions on that late August afternoon.

Michael and friends, Kevin and John, had a passion for hiking. With summer winding down, and college commitments looming, there was time for one last trek into the woods. After leaving the car in an area just off the road, they entered the park's dense forest. The trail they chose was rugged, rock-covered and steep—accessible only on foot. Temperatures hovering in the mid 90s simply added to the challenge.

About an hour into their excursion they came upon a large pond and welcomed the opportunity to escape the sultry conditions, but just after entering the water, they heard cries for help. A swimmer, far from shore, was in trouble. Others around the pond helplessly watched but did nothing. With no other options available except perhaps to watch the swimmer slowly submit to his imminent demise, Kevin and Michael acted.

The effort required to reach the swimmer, almost fifty yards from shore, quickly sapped their strength. Sheer tenacity closed the distance, but once there they couldn't rest. Absolute panic had overtaken the distressed swimmer whose own adrenalin driven survival instincts were now fully engaged. Desperately, he tried to extricate himself from the water by climbing atop his potential saviors, but recalling their Boy Scout lifesaving training, they anticipated this and took the necessary steps to protect themselves. And then, all at once, the struggling stopped. With the last of his strength depleted, the swimmer simply surrendered. Captured now and cradled in the arms of his would-be hero, he gave in to his rescuers efforts.

The long journey back to the shore commenced.

As they slowly made their way through the water, the rescuers were stunned to learn that there had been a second swimmer—the brother of the first, and he was still missing. While Kevin kept the first victim afloat, Michael made repeated dives for the second, but his

efforts were defeated by the deep and murky conditions—and now, by fatigue. They had no choice but to continue towards the shore.

The pond had claimed its first victim.

An overwhelming exhaustion had overtaken their bodies as they tried valiantly to swim. These two tired rescuers and their teenaged victim had arrived at that mystical threshold—that time and place that differentiates between those who live from those who do not. As the sinking sun watched from above, the cool-dark waters below waited patiently for the inevitable deposit of three more tired souls. This time, however, tenacious determination would prevail, and in the end the pond was cheated of its intended victims.

Someone had called 9-1-1, but it was well over an hour passed before authorities could reach the remote location. The two rescuers, now back on shore, waited with their fellow hiker—a decision they would soon come to regret. Because of their choices—to hike, to swim, to save a life, and to remain afterwards, unforeseen consequences followed. When the Park Police arrived, the three friends provided statements as to what happened and then helped to carry the victim back down the now rainy, dark and perilous trail to the waiting ambulance.

Afterward, the responding officers thanked the heroes for their help, commended them for their actions, and then informed them that summonses for illegal swimming would be forthcoming. Two weeks later, they did. My wife called this an *ironic injustice*. I, however, called it much worse.

Subpoenas and court appearances followed. An officer said a sign a mile from the pond prohibited swimming. The heroes said they never saw it. Of course, they could have lied, but the time for that would have been *before* admitting that they'd been swimming. A lie then could have changed everything, but instead, they were truthful. Regardless, the theoretical scales of justice could have balanced the totality of circumstances surrounding this matter; while all pertinent information was being considered thus providing guidance in deciding on an appropriate outcome.

But in the end, none of this mattered anyway.

The heroes were offered a deal—guilty pleas with fines and fees waived. John, away at school, had already accepted. Kevin, fearful of the monetary costs should he lose, took the deal. The judge accepted Kevin's plea and then heaped praise upon him for his heroic actions and for his "citizenship."

Michael, however, declined the offer. Maintaining his innocence, he wanted to explain his side of the story, and to this end, requested a trial. The prosecutor, clearly angered by this decision, informed Michael that if he pursued the matter, additional charges—such as trespassing, (of course, he wasn't), would be filed against him. The courtroom audience was stunned: one hero had been commended for his actions while the other was threatened for wishing to exercise his constitutional rights. Fearing the ramifications if he proceeded, Michael reluctantly surrendered to the prosecutor's bully tactics, accepted the plea deal and pled guilty.

It was over, almost.

The media had picked up the story and overnight it went national. In subsequent coverage and as well in the court of public opinion, the heroes were hailed and they were exonerated. Michael, however, remained uncomfortable in the spotlight—even after a popular

late-night television program invited him to appear on their show as their special guest—he declined the invitation.

One morning, after all of the attention had finally faded, I asked Michael, if given the chance, would he ever again risk his own life to save another. His answer—an emphatic, “Yes,” to which he added, “even if it means going back to court.”

Of course he would, I knew that. I could have just hugged him—while taking his car away from him at the same time.

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the backstory:

In preparation for writing this piece, I first retrieved all relevant reports and court documents before commencing with the actual writing.

As I began reviewing these reports, I immediately felt sick—they readily revealed how I had almost lost my son; how Michael and Kevin, while risking their own lives to save another came precariously close to drowning themselves.

I mentioned how Michael remained uncomfortable in the spotlight—which included granting interviews (and while not specifically named, an invitation to appear on **The Colbert Report with Stephen Colbert**). Later I would learn that Michael felt recognition was inappropriate because while they had saved one life, they could not locate nor save the second. I, however, disagreed with him on this point, by hey, I’m his dad!

By the way, the information that Michael, Kevin, and John provided authorities was spot on concerning the location where the rescue commenced (and the second swimmer drown). The following day, and based upon their provided information, *NJ State Police Search & Rescue* divers exited a helicopter directly over the location provided and quickly located the body of the missing swimmer in waters far deeper than any diver not equipped with scuba gear could ever have reached.

Lastly, I asked Michael how he could definitively state that the struggling swimmer had been “50 yards from shore.” And his answer: he had played high school lacrosse and to this end, he was very much aware where the 50-yard line was! And as the recovery of the missing swimmer’s body proved, he was absolutely correct.



Michael, then a BSA volunteer, was recognized for utilizing his Scouting skills during the rescue, received the **Chapel of the Four Chaplains Award** from the Marine Corps League, With Michael is Frank Mackey USMC retired, the gentleman who nominated Michael for the award.



Today, Michael is an 8th grade Social Studies teacher

(continued)

A few of the earlier newspaper reports. Eventually, there were many, many more, both nationally, and surprisingly, abroad as well!

But, it was one area newspaper that prompted a nationally syndicated late night TV show, **The Colbert Report with Stephen Colbert**, to invite Michael to appear. They said they'd provide him with a limo ride to their NYC studio, and then, during the interview, he could share his side of the story with the show's television audience.

Not surprisingly, at least to his Mom & Dad, Michael declined the invitation.

Eagle Scout's heroics were an ironic injustice

DEAR EDITOR:

Regarding "Eagle Scout ticketed after saving the life of a drowning man" (Nov. 26, 2009, Wayne Today), my son Michael and I, Bigin, saved a life each. I received fines and court fees waived), and fearful of the monetary costs if he lost, Kevin accepted. The judge lauded him in open court for his "citizenship." Michael, maintaining his innocence, simply wanted to tell his side, and asked to be tried. The prosecutor, still in open court, told Michael if he pursued his trial request he faced additional complaints - including trespassing. Unbelievable! true: one hero was convicted and the other was threatened with fines and court fees waived), and fearful of the monetary costs if he lost, Kevin accepted. The judge lauded him in open court for his "citizenship." Michael, maintaining his innocence, simply wanted to tell his side, and asked to be tried. The prosecutor, still in open court, told Michael if he pursued his trial request he faced additional complaints - including trespassing. Unbelievable! true: one hero was convicted and the other was threatened with

Former scouts save swimmer

WAYNE - "Be Prepared" is the Boy Scout motto and fortunately for one struggling swimmer, two former scouts were just that. Chit-ta Sikder, scoutmaster of Wayne Troop 102 likes to remind his boys that so much of the valuable training point during their scouting will be utilized in a life saving situation. Wayne Troop 102 likes to remind his boys that so much of the valuable training point during their scouting will be utilized in a life saving situation. Wayne Troop 102 likes to remind his boys that so much of the valuable training point during their scouting will be utilized in a life saving situation.



Student Gets Ticketed After Saving a Life

Junior Michael Rusiniak holds up the ticket he received for illegal swimming when he rescued an 18-year-old Clifton resident from drowning in Terrace Pond.

DROWNING

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which is about 40 feet deep. "When we got shore their friends quickly dialed 911 and then Kevin and I ran back in to try and find his brother," explained Rusiniak. However they had rain started to fall, making the pond murky. Terrace Pond is about a 45-minute hike from the parking lot so emergency responders did not arrive until we knew the EMS people had a rough time with their equipment and Rusiniak said. The boy who drowned was 18 and his brother was 17. Both were Clifton residents. The body was recovered by a search team today, according to police reports offered to the press by Rusiniak.

Eagle Scout ticketed after saving life of drowning man

Rusiniak later said that one of the officers made mention that there had been several other signs posted on trees but had since been removed. Spaulding plead guilty and paid a \$71 fine.

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But on the flipside realizing the judge's zero tolerance policy, Rusiniak says he understands the authorities' side of it. "The family of the drowned kid could sue. This was a member of the family of the drowned kid who is a retired Scoutmaster, and being he knew his way around the park the group just got their stuff together and began hiking. Rusiniak later said that one of the officers made mention that there had been several other signs posted on trees but had since been removed. Spaulding plead guilty and paid a \$71 fine.