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**Nikki Kellenyi**

02 January 2013





### Nikki's Story

"You are free to choose, but you are not free from the consequences of your decisions.

Nikki was the rear passenger of a car driven by her friend and high school classmate Alex Giantonio when the fatal collision between a F-150 pick-up truck and a Saturn occurred. Alex received no injuries, her best friend Taylor Petnor, the front seat passenger, was ejected from the vehicle and received severe head injuries and cuts all over her body. Nikki was killed.

The accident investigation with The Gloucester County Prosecutor's Office is now closed. Police investigators have ruled that drugs and alcohol were not the cause behind the crash. The driver who killed Nikki, Alex Giantonio, plea bargained to have her careless driving dropped. She plead guilty to, failure to stop or yield, an open alcohol container and failure to wear a seat-belt. \$600 in fines and lost her license for 6 months for killing her friend Nikki Kellenyi by distracted driving. The driver of the pick-up truck received no violations. The phone was use was never charged because at the time laws prohibited the prosecutors, their hands were tied.

Please read the letter from the Gloucester County Prosecutor below which explains the cell phone use and the reason no charge was brought upon the driver who ran the stop sign, killing her friend. PADD® is working to change laws to help future victims and their families to bring justice to this crime of DUI (of cell phones). Our mission is to make distracted driving penalties the same penalty as drunk driving and to make it a federal law. State by state laws vary widely and need to be the same in every state. Our drive to change the mindset of society towards distracted driving and change the law to a federal statute is fueled by Nikki Kellenyi's preventable tragedy and the laws that were and are in place at the time of her death as a victim to distracted driving. Please note the last sentence of the first paragraph below received from the Gloucester County Prosecutor in regards to the crash that killed Nikki.

6/14/13

Mike,

Thank you for reaching out to us with your questions. The first issue that you raised in your email is about issuing a ticket for operating a mobile device. Unfortunately, the law requires us to issue that ticket within 30 days, so we are precluded from issuing that ticket at this time. The investigation in this matter was originally focused on whether Alex was intoxicated at the time of the offense. The cell phone use did not come into play at the beginning because the matter preceded the change in law, making cell phone use evidence of recklessness, and the evidence in the case, open container and statements of Alex drinking, pointed to a possible prosecution for Vehicular Homicide. The cell phone use was discovered and pursued subsequently, but due to court rules we were and still are barred from bringing that ticket against Alex.

Next, you asked about prosecuting Ms. Finnegan for speeding. While our investigation shows that Ms. Finnegan was speeding it is not a basis to prosecute her with speeding. A crash reconstruction is a tool that we use to try to figure out what happened to cause a crash, but is not reliable enough by itself to prosecute someone for speeding. Our crash reconstruction tells us that Ms. Finnegan was likely speeding, but is not proof "beyond a reasonable doubt" that she was speeding.

If you have any more questions or concerns please feel free to contact me.

Thanks

Bryant J. Flowers  
Assistant Prosecutor  
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UPDATED 10-13-13

The car Nikki died in (98 Saturn) was driven by her high school friend Alex Giantonio. Nikki was in the backseat, and another girlfriend, Taylor Petner was in the front passenger seat. Nikki was the only one out of three with her seat belt on. Three girlfriends out having the time of their life. They had just returned from their senior trip to Disney World and senior prom was only a few weeks away. They were getting close to graduating high school and living their dreams. In a split second things would change forever. As Alex drove her Saturn towards the intersection with her head down, she didn't notice the two stop signs marking the intersection, nor did she notice the F-150 barreling down the road. The result would be deadly. The F-150 would impact the little car at close to 50 mph. Taylor was ejected through the windshield from the force of the impact which resulted in a cracked skull and cuts and abrasions all over her body. As a result of the Taylors injuries, almost all memory of the crash was gone. Nikki died, but not instantly. It would take almost an hour for first responders to cut her out of the back seat, it was only then when she died. Forty five minutes crushed alive in the car, knowing she was dying. The car had crushed around her body, holding everything together until the the firemen cut off the roof and the mangled steel around her body to pull her out. That moment was the first time Nikki died, she bled out from the internal injuries. That left the only person that could say what caused the crash to be Nikki's friend, Alex, the driver who caused the crash and who walked away unscratched. The driver of the F-150, Joanne Finnagen, crashed directly into the spot in the car that Nikki was sitting in. Joanne had the right away and had no chance to even hit the brakes. She too was taken to the hospital for treatment of minor injuries. Both Joanne and her husband were in the truck and became victims of the distracted driving epidemic. Joanne's statement to the police was that Alex never stopped at the stop signs, she just shot out in front of them with no warning. The only other witness was a young man, Brad. He was driving behind the pick-up. Brad also said the car never stopped, it just shot across the road without any hesitation. Although the witnesses saw the car run the stop signs, they could not tell what the driver was doing. Alex was texting and driving and drinking and driving as she carried her two friends as passengers and was responsible for the safety of them. She pleaded the 5th amendment, never to say another word about how she caused the crash that almost killed two of her friends, thankfully one

did survive. Taylor, the surviving passenger was released from the hospital a week later but she still suffers from pain and the agony of losing her best friend Nikki, and to this day only remembers that she was texting on her phone as they crossed the intersection and yelled watch out to the driver, who was not paying attention and never saw the truck. Alex was sent to the hospital to get a blood test for the alcohol which she pleaded guilty to and her results showed no alcohol in her system almost five hours after the impact. Alex was released to go home as soon as they took the test as she received no injuries from the crash and slept soundly in her own bed that night. Nikki Kellenyi was released in a body bag, never to sleep in her bed again. Instead, she sleeps peacefully, dressed in her senior prom dress, forever in a grave, her dreams and her families dreams shattered as she lays six foot below the grass because of texting and driving.

As a result of Nikki's friend Alex pleading the 5th amendment, the crash had to be reconstructed and phone records would be needed. It would take 13 months for the prosecutor to get the phone records. In NJ you have 30 days to issue a ticket. Alex had sent and received around 1,500 text that day, four of them in the last minute before the crash. The last text was that of a voice recording. We believe during the impact the driver was texting and the impact caused her thumb to hit the send button on her cell phone or when it was knocked out of her hand it hit the floor which resulted in a call from the Alex to her boyfriend. The call from Alex went directly to her boyfriends voicemail. Her boyfriend was unaware of the message and did not realize it was there until the next morning. The boyfriend played it for Nikki's family the next day, along with about 25 of Nikki's friends. A six minute recording that began a split second after impact. They listened to an eerie silence that lasted about a second, then the passenger, who was ejected started screaming, all the driver kept asking was where is my phone, I can't find my phone? Then Nikki begging for help. At that point Nikki's father had to stop listening. For six minutes the recording went on and on until Alex found her phone. That voice recording would later become the most important piece of evidence in the case, only to be deleted a month later by the Alex's boyfriend or the Alex herself. The prosecution would eventually get a warrant for the phone, but the boyfriend conveniently switched phones. They would later tweet how they beat the cops by switching out the phones. Without that voice recording they could not charge Alex with vehicular manslaughter. Her only charges were the original charges in which she pleaded guilty to all of them and took full responsibility for possession of the one and only beer that was in the vehicle but removed by the drivers father. Taking responsibility was not voluntary though, it was because of the statements by Taylor and the other friends who witnessed Alex drinking the beer at the house they were at before the crash. Neither Taylor or Nikki drank anything that evening. During the time Alex drank the two girls stayed upstairs, speaking to the parents that owned the house about college and their future. Nikki Kellenyi was also a body donor, she wanted to help other people if anything ever happened. That chance was ruined that night as the father of the driver that killed Nikki snuck into the damaged car and stole Nikki's pocketbook and phone, sneaking into his car and holding it for five days, making Nikki a John Doe at the crime scene.

Although no one will ever know what really happened in the last 15 seconds of Nikki's life and whether it was an incoming text or outgoing text that caused the driver to miss two stop signs and an F-150, it was determined by the prosecution that the cause of the crash was inattentive driving by Alex.. With over 1,500 text that day on her phone, over thirty of them during the short ride together with the drivers two friends, four texts in the last minute of the crash, a six minute voice mail of the crash and the first witness on the scene calling the Alex's father on his phone and then helping to find her phone, it is hard to imagine any other distraction but cell phone use as being the cause. As long as Alex continues to plead the 5th, no one will ever know exactly what happened as she ran the stop signs. It's our thought that cell phone use played the major roll, but it could have been a combination of any other distraction that young inexperienced teens are not use to. Maybe having three girls in the car was a distraction, but it's doubtful because Taylor does remember a split second before impact that she was texting, looked up at the bright lights and yelled "watch out!" At that point, Alex had crossed three lanes of the road and had still not seen the pick-up. With about three quarters of a mile visibility both ways what could have distracted her for that long? Her head being down could be one reason, maybe dropped the phone, causing it to send a voicemail, leaning over to pick it up? (Full transcripts and records are available for purchase at the Washington Township Municipal Court)

UPDATED 4/15/14

Two years have passed. There has still been no words spoken by Nikki's friend, protected by the 5th amendment. No apology for causing the crash that killed Nikki, although at the court, when given the chance to speak to Nikki's parent's, her opening statement was, it wasn't just me, we were all involved. When asked if she was sorry, after hesitating, Alex said, "well, um, I'm sorry for your loss. The Kellenyi's, who came to court by themselves with only their lawyer by their side, had purposely asked no one to come as they were hoping without any peer pressure an apology was certain. Nothing in life is certain, except for death.

UPDATED 4/15/15

Three years have passed, still the 5th amendment presides and no words or apology. The Kellenyi's have accepted that there will be no apology or remorse;

UPDATED 4/15/16

Four years have passed. The 5th amendment still presides. Nikki's story has reached 10 million people and has changed the mindset of millions. PADD is now the Voice of distracted driving victims and the leader in education and awareness..

Well known within her high school and truly loved by her family and friends, Nikki's death came as a huge and terrible loss to the community. It was estimated that over 4,000 people attended the funeral of the 18 year old described simply as a beautiful person. Instead of the traditional black clothing attendees dressed in purple her favorite color. Nikki was laid to rest in her black rhinestone studded prom gown, her prom ticket is tucked in her coffin beside her. She was excited of the upcoming prom and never got the chance to go. Nikki's sweet and kind soul was felt by all who knew her, a friend to all. Nikki excelled in academics receiving Student of the Month Awards numerous times and was accepted into the National Honor Society for Business. You could find Nikki's name on the Principals List and Honor Roll all the while holding down two part-time jobs. Sadly, on the afternoon of the day of the accident, Nikki committed to attending Rider College with an impressive scholarship as a business major. Nikki loved riding horses and owned many but her favorite was a beautiful Quarter Horse named Maggie. Nikki and Maggie were the perfect team together. Always in the ribbons they took their talent to win many Grand Champion titles at State, County and private show levels. Multi-talented Nikki won VIP awards for basketball and excelled at cheer leading, dancing, and gymnastics. Nikki loved her dogs Shep, Anna and Rocco. Having fun with her dear friends and days on the beach. But Nikki was the happiest when she would spend time with her best friend...her sister Kristen. Only a year apart in age the two shared everything from clothes to friends. They now share an eternal bond not even death will break...Forever Sisters. Nikki's parents, Mike and Gina, were her loudest cheerleaders, and supported her every endeavor. They have lived their lives for both Nikki and Kristen and have always been willing to do anything to ensure their success and happiness.

It is the hope of Nikki's family as well as her large community of friends, to carry on a campaign, in Nikki's name to call attention to and end distracted driving

Nikki, Gina and Kristen

Kristen and Nikki



