



## Stephen Nalepa: Second-grade Victim of Death Ed

Had eight-year-old Stephen Nalepa not been shown a movie about suicide in his second-grade class on March 23, 1990, he would now be 22 years old and probably enjoying life as a young adult. But, apparently, the educators at his elementary school decided to show the film to these second-graders to see what would happen.



After all, the school had adopted Professor Benjamin Bloom's humanist educational objectives as outlined in his book, *Taxonomy of Educational Objectives*, in which he wrote:

By educational objectives, we mean explicit formulations of the ways in which students are expected to be changed by the educative process. That is, the ways in which they will change in their thinking, their feelings, and their actions....

The evidence points out convincingly to the fact that age is a factor operating against attempts to effect a complete or thorough-going reorganization of attitudes and values....

The evidence collected thus far suggests that a single hour of classroom activity under certain conditions may bring about a major reorganization in cognitive as well as affective behaviors.

What an intriguing idea: Just one hour of the right humanist lesson might completely change a child's behavior forever. Maybe that's what the educators were thinking when they embarked on their experiment to see what would happen to these eight-year-olds if they were shown this film on suicide. The *Detroit News* of 3/27/90 described exactly what happened:

An 8-year-old boy hanged himself on 3/24/90 in Canton, Michigan, one day after seeing a film on suicides shown to his class. Stephen Nalepa was found by his brother Jason about 9:30 p.m., Saturday, dangling by a belt from his bunk bed, his feet barely an inch off the floor.

Stephen's shocked parents, Larry and Debby Nalepa, said their son's hanging may have been an accident inspired by a movie on suicides shown to his class Friday at Gallimore Elementary School in Canton....

Three officials at Plymouth-Canton Community Schools said they had never heard of the movie and refused to comment.

What was Stephen like? Was he neurotic or depressed? He had an IQ of 130 (100 is the norm), was an outgoing child, played soccer and basketball, collected baseball cards, and took art and music lessons. In other words, he was a perfectly normal American boy who did not expect the school to perform experiments on him that would lead to his death.

On November 8, 1990, the Nalepas filed a wrongful death cause of action in Wayne County Circuit Court against the parties involved in the production, distribution, and showing of the film, entitled *Nobody's Useless: Encyclopedia Britannica* (distributor), Osmond Productions (producer), the Wayne



Written by [Sam Blumenfeld](#) on April 16, 2012

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Oakland Library Federation (which obtained the film from defendant Wayne County Intermediate School District, and which distributed the film to the Plymouth-Canton Community Schools), the Plymouth-Canton School Board, Dr. Jacqueline Hisey (school psychologist), Shirley Spaniel (executive director of elementary education), Jane Armstrong (Stephen's teacher), Norma Foster and Alice Brown (second-grade teachers who showed the film to the three second-grade classes). The Nalepas' attorneys requested a trial by jury but were denied it by the court.

Curiously enough, the Plymouth-Canton schools had adopted Professor Bloom's Outcome Based Education and Mastery Learning in 1982. Did the educators read *Taxonomy of Educational Objectives* so that they could implement Bloom's ideas? The Nalepas' attorneys had obtained an affidavit from another parent whose son saw the same film. The parent testified:

Shortly thereafter, my daughter Janie telephoned me at work and said that Jimmy had just tried to kill himself by climbing on top of the freezer in the basement, tying a noose around his neck and pretending to jump. When I came home and asked why Jimmy had done this, he said because the boy did it in the movie Jimmy had seen at school.

An affidavit from Encyclopedia Britannica stated that the film was released for distribution in 1980 and that by 1990 it had been shown to at least 1,800,000 children without a claim ever having been made by anyone against the distributor. Just because nobody filed a claim doesn't mean that many of those children who saw the film didn't suffer traumas of one sort or another.

How did the educators defend themselves? After the judge dismissed the case against Encyclopedia Britannica, the teachers' attorneys argued:

Allowing the civil action to continue and/or the imposition of civil damages against these Defendants would violate the right of free speech guaranteed by the First Amendment of the United States Constitution.... The complaint filed by Plaintiffs herein alleges duties that resemble teacher malpractice and not those dealing with personal injury proximately caused by a teacher.... However ... Michigan law does not recognize teacher malpractice as a theory of recovery.

On November 9, 1992, Judge Turner dismissed all of the complaints against all of the defendants. He wrote in a semi-literate opinion:

Although defendants herein owed plaintiffs' decedent a duty of reasonable care, as a matter of law that duty did not include an obligation to view and thereafter decline to exhibit the subject film based on the contingency that a student might resultingly commit suicide.

The judge also agreed with the defendants that they were protected by the First Amendment to the Constitution. Of course, the Nalepas were devastated by the judge's opinion and took the case to the Court of Appeals. But they had a problem obtaining documents from the educators, such as the teachers' lesson plans. The reason? The teachers destroyed them. Indeed, Stephen's own teacher, Jane Armstrong, testified at her deposition that she had destroyed her lesson plan book for the 1989-1990 school year. She had no recollection of what was in her lesson plan for the day the film was shown, March 23, 1990. If she was so innocent of wrongdoing, why did she destroy her lesson plan book, the day-by-day record of her entire year's work, and why couldn't she remember anything about the day the film was shown?

Finally, on November 23, 1994, four years after Stephen's death, the Court of Appeals announced its decision. It dismissed the Nalepas' case against all of the defendants. The court had decided that the school district and the superintendent were "entitled to absolute governmental immunity from tort



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liability when acting within the scope of their authority.... The film dealt with mental health issues, about which our state has evinced a concern.” The court’s opinion further stated:

The rationale for declining to recognize claims of teacher malpractice stems from the collaborative nature of the teaching process.... Even where the chain of causation is complete and direct, recovery may sometimes be denied on grounds of public policy because ... allowance of recovery would enter a field that has no sensible or just stopping point.

Further, we conclude that recognizing the cause of action could lead to a flood of litigation which would be detrimental to our already overburdened educational system.... Finally we do not wish to embroil our courts into overseeing the day-to-day operations of our schools.

In other words, “parents beware,” because the educators can do just about anything they want with your children and you will have no recourse in the court system. Indeed, the Nalepa case provides homeschoolers with a very strong argument against any government regulation or oversight of their children’s home education. If educators have absolute governmental immunity from tort liability, it would be risky for homeschoolers to have anything to do with such educators.

On Saturday morning, March 24, 1990, the last day of his life, Stephen Nalepa was tested to see if he qualified for the talented and gifted program. Terri Michaelis, the program coordinator, provided an account of how Stephen behaved. She wrote:

Mrs. Nalepa also asked me to comment on my recollection of Stephen during the testing on March 24th. I picked up the students at the front of the school. Stephen first came to my attention when I called the roll from my list to see if I had everyone I should. Stephen corrected my mispronunciation of his last name self-confidently. He sat directly in front of my desk. He was active during testing with a lot of moving in his seat during the test. There were three short breaks while testing, during which he moved about with others and chatted at my desk. He tried hard and seemed to want to do well. He finished the test. The whole group left chatting and my memory is that Stephen was glad the test was over and as eager as the rest of the group to go home and play on a sunny Saturday. My memory of Stephen is that of a bright energetic second grader.

Despite all that the courts did to clear the teachers of any wrongdoing, the Nalepas know that if Stephen had not been shown that film by his teacher on March 23, 1990, he’d be alive today.



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