

After Ruling, Nassau Alters D.W.I. Postings

By DERRICK HENRY

AFTER a judge ruled that a Nassau County Web page that featured photographs of drunken-driving suspects violated the due process rights of a Plainview woman, the county said it would post only photographs of those suspects who were convicted.

"There was zero due process here," said Brian J. Griffin, a Garden City lawyer who represented the woman, Alexandra Bursac, 27. "Not just a little bit of due process: Zero due process."

Ms. Bursac was charged with drunken driving and driving while impaired by drugs on June 10. Her photograph was posted on the Web page a week later, according to court papers. Mr. Griffin sued Sept. 29 after the county declined to remove her photo.

The ruling Monday in State Supreme Court in Mineola was essentially a restraining order against Nassau to keep Ms. Bursac's photograph off the Web page, called the Wall of Shame.

In his ruling, Judge William R. LaMarca used a "stigma plus" legal analysis. Under that test, if a governmental action causes a person stigma plus some other negative consequence, the person has suffered a deprivation of liberty.

Judge LaMarca wrote that while Nassau's publicizing of Ms.

Bursac's arrest serves a legitimate purpose, using the Internet to publicize that information is a "plus" to the stigma because it might affect her legal status and the information might be available for her lifetime, regardless of the outcome of the case.

Andrew R. Scott, deputy county attorney, said: "We don't think that in the 21st century, we should be limited to 20th-century technologies for the dissemination of public information."

The county plans to appeal the decision. In the meantime, officials said they would publish only the names and photos of suspects convicted of drunken driving.

But Thomas R. Suozzi, the county executive, said in a statement that suspects' names and photographs would still be released weekly to the news media. "The objective of the Wall of Shame has always been to change the culture that exists," he said.

The program began May 25.

In Ms. Bursac's case, the drug charges were dismissed on Aug. 1 after a urine test for drugs was negative. The drunken-driving charges, however, are pending.

But Mr. Griffin cautioned that even if Ms. Bursac is convicted, the county would be mistaken in thinking it could post her photo unchallenged.