



INTEROFFICE MEMORANDUM

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TO: FILE

DATE: 7/31/14

DEFT NAME: JOY CLAYTON

FROM: ASA Jessica Dobbins

CASE NO: F13-18204

RE: Case Closed on 7/31/14

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On March 22<sup>nd</sup>, 2013, the victim, Ana Mares, was struck by a vehicle, which failed to remain on scene, in the area of SE 8<sup>th</sup> Street and Brickell Bay Drive. The victim subsequently died as a result of the injuries sustained from the crash.

The defendant did not stop after the crash because she did not know that she hit a person and believed that "something" had struck her car. The defendant slowed down in the area but did not see anyone in her rearview, so she left the area.

After speaking to a friend on the phone and sending him a text message containing a photo of the damage to her windshield, the defendant's friend suggested that she come to his place on Miami Beach because it was closer than her house.

The defendant's friend stated that she told him that she believed someone threw something at her windshield, but she did not know what it was. She advised that she stopped, looked around but did not see anyone because it was really dark, so became concerned for her own safety and left the area, ultimately travelling to his house.

The following morning the defendant and her friend conducted a visual inspection of her vehicle during daylight hours. The vehicle sustained a dent to the front right portion of the hood on the passenger side of the vehicle just behind the headlight, a missing side view mirror and damage to the windshield located on the far right portion of the passenger side of the vehicle. There was no visible evidence of blood, brain matter, skin, flesh or any other biological material on the interior or the exterior of the vehicle according to the defendant's friend.



It was subsequently discovered that, the night of the accident and into the next morning, the defendant contacted several auto glass repair companies to arrange to have her windshield repaired. Two of the agencies she contacted regarding this request maintained recordings of the phone calls. A subsequent review of those calls revealed in one of the calls the defendant requested information about windshield replacement and advised that her windshield was hit by “something like an object”. In the second call, the defendant identified herself and advised that she was calling for an estimate for a windshield replacement for a 2010 Mazda 3. The defendant then advised that as she was driving all of the sudden, “something hit my car; I’m assuming it’s a bottle”.

On the scene at Brickell Bay Road on the night of the accident, City of Miami police spoke to a witness who did not see the actual impact of the accident or the driver of the vehicle, but could describe the vehicle and the damage it sustained. At the time of the accident, the witness was parked on the side of the road several car lengths in front of where the accident actually occurred. The witness advised that as he was getting into his vehicle he heard an impact. He then saw the victim on the ground and noticed a midsized, Japanese style black vehicle drive past him at a relatively slow rate of speed. He was able to observe damage to the windshield of the vehicle and the side view mirror dangling from the passenger door. The witness observed the brake lights to the vehicle turn on, he then saw the vehicle continue to drive away heading north on Brickell Bay Drive. The witness was unable to see driver of the vehicle or the tag number on the vehicle.

Officers processed the scene and canvassed the area for possible surveillance footage of the accident and were unable to find any video surveillance which captured the area of the impact. Detective Kennedy spoke with the media on scene at this time and requested public assistance in locating any witnesses and/or advising the offender to surrender. Detective Kennedy also spoke with the victim’s family and ascertained that she had been at a restaurant across the street prior to the accident that evening, however her vehicle had been parked parallel on the opposite side of the street as the restaurant close to where the impact occurred.

On March 24<sup>th</sup>, 2013 at 12:10 a.m., approximately 24 hours after the plea to media for assistance which included the location at which the accident occurred, description of the vehicle and the fact that a pedestrian had been hit and injured, Detective Kennedy was advised that a private attorney had just contacted the police department advising that his client wanted to surrender for the current ongoing traffic homicide investigation.

Detective Kennedy properly advised that further investigation needed to be done before his client could surrender. Detective Kennedy inquired as to the suspect’s name and was given the name of Joy Clayton, the defendant. Detective Kennedy then asked if the attorney would provide the defendant



for an interview, but was advised that the defendant would not be giving an interview at that time.

Detective Kennedy also inquired about the location of the defendant's vehicle was told that it would be provided in the near future. Detective Kennedy received the vehicle information and location at approximately 9:45 a.m. that same day and immediately responded to the location to inspect the vehicle. Upon visual inspection of the vehicle he observed that the vehicle sustained a dent to the front right portion of the hood on the passenger side of the vehicle just behind the headlight, a missing side view mirror and damage to the windshield located on the far right portion of the passenger side of the vehicle. Upon closer inspection of the damage to the windshield, Detective Kennedy was able to observe a few individual strands of hair that appeared to match the victim's hair color. Detective Kennedy later admitted in his deposition that the strands of hair were difficult to see and not immediately apparent. This assertion is supported by the Crime Scene Photos in which the strands of hair are *very* difficult to see. Detective Kennedy did not observe any blood or flesh on the exterior of the vehicle.

In an effort to further investigate and gather more evidence, Detective Kennedy processed the scene and took measurements to attempt to reconstruct the accident. He made assumptions and rendered opinions in his report regarding what happened to the body and the speed of the vehicle based upon the evidence that he recorded at the scene. He made a determination that the vehicle was travelling no more than 30 mph at the time of the impact and that the body travelled a distance of approximately 60 feet before it came to rest. At the scene, he interviewed a witness but did not take a written or recorded statement. He later recounted in his reports and deposition that the witness observed the victim crossing the street prior to the impact.

Based upon the information received from Detective Kennedy, the State filed the charge of Leaving the Scene of an Accident Involving Death.

Subsequent lengthy and detailed discovery was conducted and revealed that the pertinent assumptions and opinions rendered by Detective Kennedy were inaccurate based upon the sworn testimony of the witness in deposition, the autopsy results, and a critical review of the basis of the accident reconstruction opinions.

Specifically, the eye witness testified that the street and area were dark , as opposed to well lit, at the time the accident occurred and that he never saw the victim, or anyone cross the street from the west side of the street (where the restaurant was located) to the east side of the street (where the vehicles were parked, including the victim's). He also testified that after he heard the impact, he looked and saw the defendant's car driving towards him, but at no time did he ever see a body flying through the air or a body being carried on the hood of the car. In fact, he testified that after the car had



slowly passed by, braked and left, only then did he see the victim's body lying on the ground off to the side of the road behind him. Additionally, a second witness, who was not interviewed by Detective Kennedy, corroborated the first witness' account of the circumstances surrounding the accident.

Detective Kennedy based his opinions about the distance that the victim's body travelled upon a 12-inch fresh gouge mark that he found on the side of the pavement near where the vehicles were parked. The use of the gouge mark as a point of reference was determined to be inaccurate based upon the nature of the accident and the damage to the vehicle. In addition, the injuries sustained and reported by the Medical Examiner in the Autopsy Report are inconsistent with the opinion that the victim's body was either thrown or carried any significant distance from the point of impact. Therefore, there is no expert testimony that could support Detective Kennedy's original opinions about how the accident actually occurred. In fact, the damage to the vehicle and the injuries to the body support the defendant's assertion that she did not know what had struck her car, much less know that it was a pedestrian.

The evidence in this case is solely circumstantial, as such, if there is a reasonable hypothesis of innocence based on the facts, the State must rebut or disprove that reasonable hypothesis of innocence by facts and evidence beyond and to the exclusion of every reasonable doubt. One of the essential elements the State must prove for the crime of Leaving the Scene of an Accident Involving Death, is that the defendant knew or should have known of the injury to or death of the victim at the time of the accident.

At no point in time did the defendant ever state that she believed she struck or hit a pedestrian with her vehicle that night. Nor did she ever state that she knew anyone was injured or had died as a result of the accident that night. Based on the testimony and admissible evidence, the State cannot prove otherwise beyond a reasonable doubt.

The testimony and admissible evidence that the defendant immediately claimed to her friend and subsequently to the auto glass companies that "something" hit her car causing damage to the windshield of the vehicle, but that she was not sure what that "something" was, is consistent with the location and extent of damage to her car. There was no blood, flesh or any other evidence of human remains on the defendant's windshield and no evidence that the victim's body travelled on the hood of the car for any amount of time or was thrown any significant distance that would prove that the defendant should have known that she hit a pedestrian and that pedestrian was injured. The evidence adduced by the damage to the car and the autopsy findings are consistent with the victim's body being hit by the right front bumper of the defendant's car and her head being thrown up against the upper



right side of the windshield, farthest away from the driver. The evidence is further consistent with the body then immediately rolling off the side of the car causing damage to the side view mirror.

Based on the forgoing evidence the State cannot prove the essential elements of the crime charged beyond and to the exclusion of every reasonable doubt and disprove the reasonable hypothesis of innocence supported by the evidence. Therefore the State announced a Nolle Prose on July 31<sup>st</sup>, 2014 of this criminal charge.

(revised)  
Closeout approved by  
Kathleen Hogan  
Chief Assistant State Attorney  
7/31/14



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