

1 IN THE CIRCUIT COURT OF THE SEVENTEENTH
2 JUDICIAL CIRCUIT IN AND FOR BROWARD
3 COUNTY, FLORIDA CRIMINAL DIVISION

4 STATE OF FLORIDA,)
5 Plaintiff,)
6 vs.)
7 WILLIAM CAMERON,)
8 Defendant.)

COPY

NO. 98-25227CF10A
JUDGE SCHAPIRO

9 ----- X
10 201 Southeast 6th Street
11 Fort Lauderdale, Florida
12 October 7, 1999
13 12:00 o'clock p.m.

14 APPEARANCES:

15 MICHAEL J. SATZ, STATE ATTORNEY,
16 BY: DAN LOSEY, ESQ.,
17 ASSISTANT STATE ATTORNEY,
18 appearing on behalf of the Plaintiff.

19 LAW OFFICES OF JOHN DEMMI, PA.,
20 BY: JOHN DEMMI, ESQ.,
21 appearing on behalf of the Defendant.

22 -----
23 DEPOSITION
24 OF
25 RICK SWOPE

RECEIVED
STATE ATTORNEY'S OFFICE
OCT 10 1999

1 Deposition of RICK SWOPE, a
2 witness of lawful age, taken by the Defendant for
3 the purpose of discovery and for use as evidence
4 in the above-entitled cause, wherein STATE OF
5 FLORIDA is the Plaintiff and WILLIAM CAMERON
6 is the Defendant, pending in the Circuit Court of
7 the 17th Judicial Circuit in and for Broward
8 County, Florida, pursuant to notice heretofore
9 filed, before JAMIE D. MACKRELL, a Court Reporter
10 and Notary Public in and for the State of Florida
11 at Large, at the Office of the State Attorney,
12 201 Southeast 6th Street, Suite 655, Fort
13 Lauderdale, Broward County, Florida, on the
14 7th day of October, 1999, commencing at
15 12:00 o'clock p.m.

16
17 Thereupon:

18 RICK SWOPE,
19 a witness named in the notice heretofore filed,
20 being of lawful age, and being first duly sworn in
21 the above cause, testified on his oath as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. LOSEY:

25 Q Please state your full name and spell your

1 last name.

2 A It's Rick Swope, S-W-O-P-E.

3 Q And what is your address?

4 A 8211 Southwest 28th Street in Davie, Florida.
5 33328.

6 Q Just to save time, I don't know if we'll be
7 here a long time or a short time, but I pulled this up
8 off the internet. It looks like your CV; is that
9 correct?

10 A Yeah, it's probably an old one though. I
11 think I have a new one for you. That's a new one.
12 And before we get started Mr. Losey, I just want to
13 make sure that did you get -- Is there an order or
14 something on fees? Nothing against you, your office
15 traditionally does not pay me deposition fees or they
16 take 2 to 3 years to pay it.

17 Q There is an order and I gave one to Stefan
18 Rose, an administrative order from Judge Ross who's
19 the chief judge here that says what people are paid
20 for if you live in the Tri-County area as I recall an
21 expert gets paid port hole to port hole. I'm sure
22 that was one thing Rose said people had given him a
23 hard time about. I gave him the order from the judge.

24 A I just wanted to make sure --

25 Q I don't do payment. It goes through our

1 administration.

2 A I understand that. But the last couple depos
3 I still haven't been paid on. They've been over the
4 past year.

5 Q I can't control that, sir.

6 A And, you know, Mr. Demmi had to pay your
7 expert's fees.

8 Q No, sir.

9 A And he had to pay -- :

10 Q No, sir. Our office is paying Mark
11 Montgomery's fees.

12 A For the deposition? Gary Stevens?

13 Q Gary Stevens is being paid by Demmi, but
14 we're paying Mark Montgomery.

15 A Well I don't know who Montgomery is.

16 Q Okay. He's another expert.

17 A Okay. Well, I'm just talking about --

18 MR. DEMMI: I did pay Gary Stevens
19 300 bucks.

20 MR. LOSEY: Oh, I know, I just said
21 that.

22 A But I'm just saying, I don't get that from
23 your office. I don't get anything from your office.

24 (BY MR. LOSEY:

25 Q Sir, you're preaching to the choir because I

1 don't have anything to do with the payment. If you
2 want to speak to Mike Satz or Monica Hoffines is the
3 head of our administration division. I can't control
4 that is what I'm saying.

5 A Well, I just want to make sure that I have
6 some kind of guarantee.

7 Q I can't give you a guarantee, if you're
8 wanting a guarantee from me. How could I give a
9 guarantee on something I don't do? That's like the
10 defensive coordinator of the Dolphins guaranteeing
11 that Cecil Collins is going to rush for a hundred
12 yards. He can't make anybody that guarantee. I can't
13 make a guarantee that you're going to get paid. I
14 mean, we're supposed to pay you. The administrative
15 order says we pay you. As far as I know, my office
16 pays you. But if you tell me you weren't paid, I
17 can't quarrel with that, because I don't have anything
18 to do with payment. That's all I can tell you. I
19 gave the names of people who do it, and they are right
20 down the hall.

21 A I understand that. The names don't do me any
22 good, because Mike Satz has no idea where he's at in
23 the building most of all let alone paying me. And
24 Monica Hoffines, I don't know what she's got to do
25 with it. And it's nothing against you, I'm just tired

1 of giving these depositions and nobody pays the fees
2 and I'm stuck holding the bag.

3 Q Right. Okay.

4 A So I need some kind of court order or
5 something to advise that I'm getting paid in this
6 case.

7 Q I can't give you that, sir.

8 A Well, what do you want me to do?

9 MR. DEMMI: I mean, it's up to you.
10 It's up to you. I mean, I don't know -- My
11 understanding is I thought -- I could be
12 wrong, I didn't get involved, my understanding
13 is I thought Dr. Rose was assured he was going
14 to get paid. Was he not? I don't know.

15 MR. LOSEY: I don't know. I don't
16 pay experts. I don't know. I can't assure
17 him he's getting paid. I would be shocked if
18 he didn't get paid. But he had the same
19 complaint, oh I didn't get paid for a while.

20 MR. DEMMI: I thought he set that up
21 with you before the depo.

22 MR. LOSEY: He didn't set anything
23 up with me about being paid, no, nothing,
24 incorrect.

25 MR. DEMMI: I paid Gary Stevens

1 \$300, he wouldn't take the deposition. I had
2 to send him the check before I went up there.

3 A Well, so in other words, you had to pay their
4 expert?

5 MR. DEMMI: To take his deposition.

6 A So in other words, he wouldn't give the depo
7 without the fee. So my question is, why should I give
8 a depo without a fee? I mean, I don't see that he's
9 any different than I am. :

10 MR. LOSEY: Well, the only
11 difference is that the government, the State
12 of Florida is the people that are paying you
13 for this case. You say you haven't been paid
14 before by the State of Florida, I don't know
15 if that's true or not, but certainly a private
16 attorney can go out of business -- I mean,
17 John Demmi can go out of business in a week,
18 who knows. I mean, that could happen and then
19 an expert that was sending a bill and
20 expecting to get paid down the road is not
21 going to get a cent. I don't think the
22 Broward County State Attorney's Office or
23 State of Florida is going to go out of
24 business, but it's your call, you do what you
25 want. But you know, you do whatever you think

1 you need to do. I can not make a guarantee.
2 I'd be a fool to make a guarantee on something
3 that I don't take care of. I don't pay
4 experts. My office does. I gave you the
5 names of the people. That's all I can tell
6 you.

7 A Who is the judge on this case?

8 MR. DEMMI: Sheldon Schapiro.

9 A Well, I will do it this way, Mr. Losey, just
10 so that you're advised and I know you obviously don't
11 have anything to do with the payment. But I'm going
12 to go on the record that if I am not paid in this
13 particular case for my fees, since I haven't been the
14 last several cases, then so you're aware that I will
15 be filing legal action against the office as well as
16 Florida bar complaints as well on everyone involved.

17 Q You got to do what you got to do.

18 A Just so you're advised. I don't want you to
19 be surprised if you get a Florida bar complaint.

20 Q That's no big deal to me because clearly it's
21 nothing I have to worry about, because I just told you
22 I don't pay experts, I have no reason to think you
23 wouldn't get paid. I know of defense experts that
24 have depositions taken. I never heard that they haven't
25 gotten paid. You tell me you haven't gotten paid. I

1 have no knowledge of that. It wasn't my case that
2 weren't paid on, was it?

3 A No, it was not your case, no, but you work
4 for the same office.

5 Q Okay. Right. Yes, I am one of about two
6 hundred lawyers in the State Attorney's Office, that's
7 correct. Okay. So are we going forward or we're not?
8 It's your call. Certainly I'm not going to tell you
9 that you have to give a deposition. '

10 A Should I go forward?

11 MR. DEMMI: You could do what you
12 want to do. I wish this would've been
13 resolved before I guess.

14 MR. LOSEY: I didn't know anything
15 about this problem.

16 A No, I will go forward.

17 (BY MR. LOSEY:

18 Q Okay. You've handed me a copy of your CV
19 which is 9 pages which we'll make an exhibit of this
20 deposition. I had pulled up off the internet, you
21 have a website on the internet, right?

22 A Yes.

23 Q SwopeRecon.com or something like that?

24 A Right.

25 Q I pulled that up, it's a 5 page document. I

1 obviously haven't reviewed the document that you
2 brought, but let me give you the document that I
3 pulled up off of your website. You can see the date.
4 I pulled it up, yesterday October the 6th. What is in
5 here that's not in the 9 page CV that you gave me or
6 is there something in there that should be in the 9
7 page that's not or something that's in that website
8 one?

9 A Well, the one on the website is old. It's
10 probably a couple years old, and I think there's been
11 a few -- Obviously, there's been additions and there's
12 been some changes, I think.

13 Q So could I assume that the additions would be
14 chronologically there's been more recent activities on
15 your part or whatever?

16 A Right. There was also one page, I know in
17 the publications section you will see on the new one
18 that I gave you, there's some date changes as to the
19 actual publication dates.

20 Q Could you tell me what those are please?

21 A No, I don't have them off the top of my head.
22 I just know whatever they are on my Page 8 of my new
23 one is correct and on Page 5 of my old one there were
24 some errors in the dates. But I mean, all the
25 publications are correct on Page 8 of the new one.

1 Q Okay.

2 A I know that was taken care of.

3 Q And this website CV, this is still -- Well, I
4 pulled it up, would you have any quarrel with the fact
5 that least of October 6, 1999 this is what your
6 website says?

7 A I'm sure that's what it says, but they're
8 updating it. That's why I brought you a new one.

9 Q Okay. We'll make the one you gave me, the 9
10 page an exhibit and we'll make the one off the website
11 also an exhibit. Just to figure out quickly if we're
12 going to be here a long time or a short time, you
13 reviewed Officer Greg Forsythe's traffic homicide
14 investigation, correct?

15 A Yes, correct.

16 Q I assume you were provided with that by
17 Mr. Demmi?

18 A Yes.

19 Q Can I assume you went to the scene of the
20 crash?

21 A Yes.

22 Q Okay. Based upon the review of Forsythe's
23 document, your going to the scene of the crash or
24 anything else, would you have any quarrel, any
25 disagreement with the opinions propounded by Officer

1 Greg Forsythe in his traffic homicide investigation?

2 A Not necessarily. There's one error that I
3 found that it doesn't make a significant difference
4 but there is one error and I don't think I talked to
5 Greg about it, but there is an error that I saw in the
6 report.

7 Q And would that be the coefficient of friction
8 air?

9 A No.

10 Q Okay. What's the error?

11 A The error that I found was on the narrative
12 portion of his report. Officer Forsythe indicates
13 that there's 72 feet of preimpact skid marks left by
14 the defendant vehicle and on his diagram sheet it only
15 appears to be about fifteen or twenty feet before
16 impact. And the measurements work out to be that way
17 also. Whether that's a typographical error or he just
18 added a number with another one. I don't know. It
19 doesn't significantly affect my opinion, but just on
20 the time diagram it shows different.

21 Q Okay. How about just the six million dollar
22 question, would you have any quarrel, any disagreement
23 with the speed that Mr. Forsythe has determined
24 William Cameron was traveling and that being
25 approximately 55 miles per hour?

1 A I do have a difference in speed. Again, not
2 significant. I have approximately 54 to 52 -- 52 to
3 54, so significantly, I don't think that matters to
4 you.

5 Q Right. Would I be correct to say then that
6 it would be your opinion that Mr. William Cameron was
7 traveling at least 54 miles per hour, a minimum of 54
8 miles per hour at the time that he crashed into the
9 bicycle, or prior to that I should say?

10 A Prior the -- At the inception of the skid
11 marks, I would say he was going between 52 and 54.
12 And again, there's a little bit on coefficient. Again,
13 I don't think 2 miles an hour is significant in my
14 figures, but that's up to you.

15 Q Okay. Did you do your own drag sled pulls
16 out there?

17 A Yes.

18 Q You did?

19 A Yes.

20 Q Did you have any difference with the drag
21 sled pulls that you got, any significant difference
22 with that that you got and the pulls that Forsythe
23 got?

24 A I don't recall exactly what Forsythe was
25 using right off the top of my head, but I came up with

1 a .77. So I think we were still fairly close and I
2 think the only other difference would be, I think
3 Forsythe used a straight drag and obviously the car
4 went off the road. I did compensate somewhat for it
5 being in the grass area for a short distance, but
6 again significantly over the long haul, it doesn't
7 really matter that much. I mean, you're talking
8 probably 3 miles an hour either way.

9 Q So in regards to your testimony in relation
10 to accident reconstruction, am I correct to assume
11 then that you really wouldn't have a quarrel, a
12 disagreement with what's in the traffic homicide
13 report other than what you've already said?

14 A Well, other than what I said and I probably
15 on the conclusions we have a little bit difference as
16 to the opinions as to the final opinions as to who
17 caused what. But I think that I agree with Forsythe
18 as far as the violations or statute violations that
19 were committed, the diagrams, scenario, with the
20 exception of what I told you, and probably the vehicle
21 inspections, everything else I believe that Greg did
22 okay in putting that together.

23 Q What was the opinion that you -- I think your
24 final opinion or final conclusions, I forgot what
25 words you used.

1 A Right. Well, basically my opinion is or
2 conclusion is that the cause of the accident, in other
3 words, as you're I'm sure fully aware and I don't have
4 to explain it to you, that there is a cause, and in
5 some cases a contributing cause or a secondary cause
6 to the accident. The initial cause of the accident as
7 to what started this chain of events was the Martone
8 vehicle making the lefthand turn. That would be
9 without signaling, without warning. I don't believe a
10 signal was operational, there was no hand signals.
11 That's what caused the initial accident. And to give
12 you an example, just so that maybe to eliminate some
13 questions is that the reason that I feel that was
14 important was because had Mr. Cameron been traveling
15 at 20 miles an hour or 120 miles an hour, Mr. Cameron
16 would not have left the roadway and struck the
17 bicyclist had the action of Martone not have been
18 initiated. That's basically what I based it on. In
19 other words, if Cameron was going 120 down the road,
20 he would not have veered off the road and struck the
21 bicyclist.

22 Q If Martone would not have done what he did?

23 A That's correct.

24 Q Let me ask you this while we're on that
25 subject, if Cameron was going the speed limit and

1 Martone did what he did?

2 A Right.

3 Q Would Cameron have gone up on the sidewalk
4 and hit the bicycle?

5 A It's possible and I will tell you why, is
6 that a stopping distance of a vehicle traveling at 30
7 miles per hour with a perception reaction time of a
8 about 1.5 seconds and I use that, you can usually use
9 from 1 second to 3 seconds depending on the scenario.
10 That's why I'm giving you a little bit of a range. In
11 other words, a perception time of 1.5 seconds, if the
12 turn would've been initiated as it was here and if
13 Mr. Cameron would have been right along side or near
14 along side of the car of the Martone vehicle, it would
15 have taken him 104 feet to stop. That's what it
16 would've taken.

17 Now, on -- Just grab something here. The
18 average skid mark according to Officer Forsythe
19 was 139 feet with the longest skid mark being 138
20 feet. I'm sorry, I'm sorry, 147 feet. Now, I
21 know I just gave you a distance of 104 feet.
22 Meaning, that if he would've perceived at a
23 certain point in time, Cameron, what was going to
24 occur, could he have stopped the car and chances
25 are based on a perception of a 1.5, the answer

1 would be yes.

2 If he had any more of a perception time,
3 in other words, if he began passing and he got
4 along side of the Martone vehicle and at some
5 point the Martone vehicle made the turn and made
6 contact as it did before, you're talking a
7 distance of approximately from what he has as the
8 approximate point of impact to the point of final
9 rest or where he hit the bicyclist roughly, you
10 have a distance of about 70 to 90 feet somewhere
11 in that ball park.

12 So if it's going to take 104 to stop,
13 then he's still going to end up hitting the
14 bicyclist. Now would he have hit the bicyclist at
15 a slower speed, sure he would have hit him at a
16 slower speed, but would the accident still have
17 happened, the answer is yes it still would've
18 happened. Unless absent the fact that maybe he
19 was quicker. In other words, that he saw what was
20 going to happen and anticipated it quicker. But
21 remember there's all kinds of scenarios that can
22 go into that. I'm just saying that it's possible
23 he could've stopped at 30 and it's just as
24 possible or probable that he would not have
25 stopped and hit the bicyclist if the events were

1 the same.

2 Q Okay. Can you tell me how many feet per
3 second he traveled at the 54 mile per hour that you
4 came up with?

5 A Yeah, probably -- I know I got my notes
6 somewhere. It's about 70 some feet per second
7 roughly.

8 Q And what's the speed limit out there?

9 A 30.

10 Q Okay. How many feet per second do you go at
11 30 miles per hour?

12 A About 45.

13 Q And when you say that you go 70 feet per
14 second at 54 miles per hour, is there a formula or is
15 there a publication or what are you basing that on?

16 A Well, it's a formula and a basically all it
17 is the miles per hour times 1.466 and the 1.466 comes
18 from the number of seconds in an hour divided by the
19 number of feet in a mile, and that's what you come up
20 with.

21 Q Did you look at photographs?

22 A Yes, sir, I did.

23 Q And were you able to determine from the
24 photographs where Mr. Cameron was located when he
25 perceived or at least where we know for sure at this

1 point is the earliest point we know for sure he
2 perceives Martone making his turn? Do you understand
3 my question?

4 A I believe so. And probably was if he's
5 traveling at 54 miles per hour roughly probably was
6 somewhere about 100 feet to 120 feet before or as
7 Mr. Martone was making the turn. Roughly he's about a
8 hundred feet back when he --

9 Q A hundred feet prior to impact when he first
10 leaves skid marks on the ground?

11 A No, it's when he first notices. Obviously by
12 the time he goes from the accelerator to the brake and
13 before the brakes engage that's called preperception.
14 In other words, he saw -- About a hundred feet back he
15 saw something was happening or must have made a
16 determination the car was going to turn or come over
17 or something, he then went for the brakes and then he
18 traveled a distance of 100 to 120 feet, then the
19 brakes locked in.

20 Q Do we know how far it was when he locked the
21 brakes until the crash, do we know that distance?
22 That should be the length of the skid mark, right?

23 A Well, that would be the length of the skid,
24 right, which I think Forsythe averaged at 139. Again,
25 I think I came out with, and again it's -- I'm not

1 even going to call it a major error, but he took an
2 average skid of 139. I used the 3 skid marks that he
3 had and divided that by 3 and I came up with 132.
4 Again, it's minor.

5 Q Minor differences here.

6 A Right. Minor differences.

7 Q Okay. Am I correct that we can also
8 approximate how much further back Cameron would've
9 perceived the accident because from the moment
10 somebody perceives something we don't immediately have
11 skid marks, it takes time to react and there's also
12 when you've applied the brakes there's a distance
13 before you leave any skids, right?

14 A Exactly.

15 Q How far was his distance when he applied his
16 brakes before leaving skids at the speed he was going?
17 Can you determine that?

18 A Right, as I indicated before, that was about
19 100 to 120 feet.

20 Q So he travels 100 to 120 feet once he's
21 placed his foot on the brake but before the brakes
22 actually lock up and leaves skids?

23 A Well, that's from the time that he made the
24 mental determination that this car, the Martone
25 vehicle was either going to turn or take some kind of

1 movement. So that's basically what I call the oh shit
2 factor. In other words, he knows at that point
3 something is going to happen, so he goes from the
4 accelerator to the brake and he travels that distance
5 before the brakes engage.

6 Q So that would be the reaction time, is that
7 what we call it?

8 A Perception reaction, right.

9 Q Isn't there also a period of time when you've
10 reacted and you've taken your action of hitting the
11 brakes but doesn't a vehicle travel a ways once brakes
12 are applied before skids are left? Do you know what I
13 mean?

14 A Well, I know what you mean, but not
15 necessarily. In other words, that's all taken into
16 account, because the brakes should engage somewhere in
17 .05 seconds, so basically in less than a second, half
18 a second, the brakes are going to engage. So really
19 that's a --

20 Q So really that's minor.

21 A Right, but in a truck it might be lag time,
22 but in this case I don't think we have a lag time.

23 Q So it is your opinion that if Cameron was
24 going 30 miles an hour and perceived the action on the
25 part of Martone, Martone making his left turn without

1 a signal when Cameron perceived that, we determined
2 when that was, that had he been going 30 miles an hour
3 he still would have not only hit Cameron but would
4 have hit Mr. Gomez on the bicycle?

5 MR. DEMMI: Dan, not to -- You said
6 not only hit Cameron.

7 (BY MR. LOSEY:

8 Q Not only hit Martone, but hit Gomez on the
9 bicycle?

10 A It's probable if all the other events are the
11 same, and of course you have to realize that a lot of
12 different facts can be changed. In other words, the
13 bicyclist, assuming the bicyclist is traveling, he's
14 moving down the sidewalk as I think was indicated,
15 obviously his position is going to be different as
16 well if he is going 30. In other words, if the car's
17 going 30 and the events change, the bicyclist may have
18 been further away from the scene than he was at the
19 time of the accident. So that kind of changes, but
20 assuming that the bicyclist is in the location that
21 Forsythe has him struck and assuming that Cameron is
22 passing Martone and assuming that he's right along
23 side Martone when Martone begins to make his left turn
24 at 30 miles per hour, he is going to strike the
25 bicyclist.

1 Q Well, we really can't say he was right beside
2 Martone when Martone began to make his turn, can we,
3 because you said there was a hundred and something
4 feet of skid marks, right, prior to impact?

5 A That's right. There was a hundred and some
6 prior to impact, that's right.

7 Q So then the truck's not a hundred feet long?

8 A No.

9 Q And the car's not a hundred feet long, so if
10 we got a hundred feet of skid marks, wouldn't by
11 definition Cameron have to be not right along side of
12 the truck but somewhere behind the truck?

13 A Well, I think maybe you and I are on
14 different pages. Basically what I think you're asking
15 me, what you didn't before, I think what you're asking
16 me is if Cameron had observed this event, in other
17 words, if he had observed Martone at 100 to 120 feet
18 before he began laying skid marks as he did at 50 some
19 miles per hour, then the answer is definitely he would
20 have stopped before hitting the bicyclist at 30.
21 You're going back, in other words, you're going back
22 to where this event initiated at 54 miles per hour.

23 Q Right.

24 A I'm saying that if Cameron is along side or
25 near the Martone vehicle where the skid marks started

1 A Martone is also traveling the same direction
2 as Cameron.

3 Q Right.

4 A So if he's traveling the same direction and
5 Cameron is traveling the same direction, okay, at 30
6 miles per hour, then the situation and the time
7 distance is going to change for the Martone vehicle as
8 well. Because obviously Cameron at 50 some miles per
9 hour is catching up to him rapidly. '

10 Q Right.

11 A And so therefore the turn and all the other
12 events change as well.

13 Q Let me interrupt you just for a second
14 though.

15 A Okay.

16 Q What Cameron is doing, however fast Cameron
17 is going, would you agree with me, doesn't have any
18 effect on when or how Martone makes his left turn down
19 Cleveland Street, does it?

20 A No, just to the times.

21 Q Okay. So Martone is going to make his turn
22 when he made his turn. In this case, Cameron was
23 going 54 miles an hour, so as it turned out, Cameron
24 and Martone collide and we know what happens after
25 that. But if Cameron is going 30 miles an hour,