

1 IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
2 IN AND FOR PALM BEACH COUNTY, FLORIDA
3 CRIMINAL DIVISION
4 CASE NO. 01-002850 CF AO2
5

6 STATE OF FLORIDA
7 -vs-
8 BERNARDO ECHEVERRY,
9 Defendant.

11 DEPOSITION OF RICK A. SWOPE

12 Monday, August 19, 2002
13 401 North Dixie Highway
14 West Palm Beach, Florida 33401
15 10:22 a.m. - 12:52 p.m.
16

17 APPEARANCES:

18 On behalf of the State:

19 Elizabeth Parker, Esquire
20 Assistant State Attorney

21 On behalf of the Defendant:

22 Orlando Gonzalez, Esquire
23 Cameron, Davis, Gonzalez & DeCarlo, P.A.

24 Also Present:

25 Matthew King

COPY

P R O C E E D I N G S

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Deposition taken before Cindi K. Barret, RPR
and Notary Public in and for the State of Florida at
Large, in the above cause.

Thereupon,

RICK A. SWOPE,

having been first duly sworn or affirmed, was examined
and testified as follows:

DIRECT EXAMINATION

BY MS. PARKER:

Q. Mr. Swope, we're continuing the deposition
that was taken of you on July 10th of 2002 in the State
of Florida versus Bernardo Echeverry case.

Are you ready, prepared today to render a
final opinion in this particular case?

A. Yes.

Q. First of all, let me start by asking you:
What documents -- Or what did you do in this case to
come up with your opinion?

A. I think I indicated previously that I had
reviewed all the information contained in the police
traffic homicide report as well as the statements that
were contained in that report of Charles Pressinger,

1 Versie Jones, Rebecca Renick and Virginia Jones. I
2 apologize on the names.

3 I reviewed the accident report, all the
4 police photographs that I have in my possession. I've
5 been to the accident site and I've also -- Since the
6 deposition, last deposition, I have reviewed the entire
7 field note packet that I believe was prepared by
8 Officer King, as well.

9 Q. How many times did you go to the scene?

10 A. I've been to the scene two times.

11 Q. Let me just ask you to just give me a
12 generalization of how in your opinion -- Based on what
13 you reviewed, what you observed, how did this accident
14 occur?

15 A. It's my opinion in reviewing all the
16 information that -- It's my opinion that Mr. Pressinger
17 moved into the traffic lane or moved into the Echeverry
18 vehicle, causing Mr. Echeverry to go off the paved
19 portion of the traffic highway, travel X number of feet
20 on the side of the road until impact with the victim's
21 car in this case, which basically was the initial chain
22 of events in this case which started the accident in
23 place, was the improper lane change or improper
24 movement of Mr. Pressinger.

25 Q. Now what is your belief as far as how that

1 first initial impact occurred between Mr. Pressinger
2 and the defendant, Mr. Echeverry?

3 A. I believe that the right front of
4 Mr. Pressinger's vehicle, right front fender area or
5 right front quarter panel area of the Pressinger
6 vehicle made contact with the left rear, minor contact
7 with the left rear of the Echeverry vehicle.

8 Q. Minor contact?

9 A. Minor contact, correct.

10 Q. What is that that you're looking at there?

11 A. I'm looking at a scale diagram, approximately
12 to-scale diagram I have of the intersection. The
13 diagram of the intersection is to scale. The vehicles
14 on it are not to scale.

15 Q. Is that something that you came up with
16 yourself?

17 A. Well, the diagram was actually prepared by an
18 associate in my office, Bruce Buffa. I went out and
19 checked the diagram and the measurements.

20 I think the -- The Total Station was used,
21 pretty similar to what the officers used in this case.
22 I don't know if it's same kind. I think we used the
23 Sequoia.

24 Q. Sokkia?

25 A. Whatever. I say Sequoia. Whatever it is.

1 Q. And that was made in preparation for the
2 trial in this case?

3 A. Yes.

4 Q. And do you have a copy of that for me today?

5 A. No, but you can certainly make a copy of
6 that.

7 Q. I guess going back to all that, you have with
8 you copies of everything that originally the subpoena
9 duces tecum asked you to produce in this case?

10 A. Well, not originally, because a lot of stuff
11 was denied, so I produced what was on the other sheet
12 that the judge either granted or denied. Those items I
13 have. Most of them I have.

14 Q. You produced them already to me?

15 A. No, I have them today.

16 Q. Super. Okay. You say "minor contact."
17 Would you classify that as a glancing collision?

18 A. Yes, could be.

19 Q. Could be? What do you mean by "could be"?

20 A. Well, that's terminology. It depends on the
21 terminology. Some people may say it's a partial
22 sideswipe. Some may say it's minor contact. Some may
23 say it's a glancing blow. That's just terminology.

24 Q. So you're saying minor contact could be a
25 glancing collision, could be a sideswipe?

1 A. Correct.

2 Q. But not a major impact? There was not much
3 damage as far as that contact that they had between
4 those two vehicles?

5 A. I would agree.

6 Q. Do you believe from that glancing collision
7 or the minor contact, sideswipe, however you want to
8 classify it, that forward momentum was changed in any
9 way?

10 A. I would say it would be re-directed. That
11 would be the terminology I would use.

12 Q. So the forward momentum of which vehicle was
13 re-directed?

14 A. Both vehicles were re-directed. Maybe that's
15 an inappropriate choice of words. Let me answer it
16 this way.

17 As far as both vehicles' forward speed, it
18 would not be changed due to this collision. I think
19 that's probably what you're looking for.

20 As far as the vehicles being re-directed,
21 they were both re-directed after that collision, but
22 they were not re-directed by the collision in most
23 aspects. I will explain that later, but that's --

24 Q. Both vehicles' forward speed was not changed
25 due to this minor contact?

1 A. I would agree with that.

2 Q. Just the direction in which they traveled?

3 A. Yes.

4 Q. Did you come up with a speed for both
5 Mr. Echeverry's vehicle and Mr. Pressinger's vehicle at
6 that intersection of Century Boulevard and Haverhill
7 Road when this impact took place?

8 A. I came up with a speed for Mr. Echeverry's
9 vehicle. I could not come up with an exact speed for
10 Mr. Pressinger's vehicle. I went with two different
11 things.

12 I think I went with the information contained
13 in the police report and I went with the information
14 contained in the statement of Mr. Pressinger as far as
15 his speed and I believe I also looked at the impact
16 between Mr. Pressinger's vehicle and the two vehicles
17 that he struck after the initial impact with Echeverry,
18 and I thought that was all pretty much in the same
19 range.

20 Q. What speed did you use for Pressinger?

21 A. I believe the speed was somewhere in the
22 range of 15 to 25 miles per hour. That was about the
23 best I could come up with based on the information that
24 I have. And Mr. Pressinger indicated he was going 25
25 to 35 miles per hour at the time.

1 Q. But you used 15 to 25?

2 A. Right.

3 Q. How about the speed for Mr. Echeverry, what
4 speed did you come up with for Mr. Echeverry at that
5 point and how did you come up with that speed?

6 A. Well, that's a long question, so I'll try to
7 break it down as best I can. First of all, I used the
8 information contained in Officer King's report as far
9 as distances.

10 I believe the approximate point of impact was
11 on the diagram and stated in writing from Mr. King as
12 to where the vehicles struck, Echeverry and Pressinger.

13 The vehicles, my understanding by looking at
14 photographs and looking at the police report, that
15 Mr. Echeverry's vehicle left the roadway, traveling
16 approximately a distance of 217 feet.

17 Q. And you're saying when he left the roadway
18 onto the grass?

19 A. Right. And let me just make sure I'm correct
20 there. It's a distance of 217 feet. I think the
21 officer had 217.62, but I just rounded it off to 217.
22 I don't think that matters.

23 The Echeverry vehicle then re-entered the
24 roadway, and that would be the southbound lanes, the
25 initial re-entry, traveling across into the opposing

1 lane of traffic, striking the victim in this case,
2 decedent in this case, and traveling the distance of
3 345 feet before impact.

4 What I did was several different things.
5 Number 1 is I plotted that information out on my
6 diagram based on what Officer King had in his diagram.

7 Number 2 is I ran Officer King's figures off
8 of his speed analysis chart which he has. I think it's
9 his chart. Anyway, it was given to me on Page 34. His
10 speed ranges from 53 to 56 miles per hour. That's what
11 I looked at.

12 Using a factor of .50 on the grass and a
13 braking factor of .60 -- That's on the initial 217
14 feet -- the factor then goes to a .60, then goes to a
15 .10 percentage of braking.

16 Q. Let me stop you right there. Specifically
17 what I'm asking for right now is the speed that you
18 came up with for Mr. Echeverry at impact with
19 Pressinger.

20 A. That's not what you asked me. You asked me
21 that as well as how I arrived at the speed, and that's
22 the long answer.

23 Q. I'll clarify it again. I was asking for
24 Pressinger's speed and the speed for Echeverry's
25 vehicle at impact with Mr. Pressinger.

1 How did you come up with that speed right
2 there at Century Boulevard and Haverhill Road?

3 A. You asked me the same question. That's why I
4 was in that long answer.

5 Q. The speed at the impact -- What speed -- You
6 gave me Pressinger's speed. I'm asking you for
7 Echeverry's speed when he had the glancing collision or
8 minor contact with Mr. Pressinger.

9 MR. GONZALEZ: I'm going to object. I mean,
10 he can give you a speed, but I think he has a
11 right to explain to you how he arrived at that
12 speed.

13 MS. PARKER: I agree with you, and that's
14 what I'm asking him to do, but --

15 THE WITNESS: How about if I just give you
16 the speed and then you can ask me whatever after
17 that?

18 MS. PARKER: That's fine.

19 THE WITNESS: I believe Echeverry was going
20 approximately 45 miles per hour to 47 miles per
21 hour.

22 BY MS. PARKER:

23 Q. So 45 miles per hour -- And I'm going to
24 break it down so that I understand it. 45 miles per
25 hour to 47 miles per hour through this intersection at

1 Century Boulevard and Haverhill Road when he had the
2 impact with Mr. Pressinger; correct?

3 A. Correct.

4 Q. And you stated that the speed for
5 Mr. Pressinger was a range between 15 and 25 miles per
6 hour and that's based on his statement?

7 A. Well, based on a variety of things. I
8 indicated it's based on his statement. I indicated to
9 you I believe his statement was 25 to 35.

10 The only thing I really have to look at is --
11 I didn't see the Pressinger vehicle, so I can't tell
12 you exactly. All I can do is look at the photographs.

13 I also have -- The only thing I have is that
14 Officer King indicates where the approximate impact was
15 in the intersection until the initial impact with the
16 two vehicles in the northbound travel lane.

17 So I don't really have a lot of distance to
18 play with and I don't have momentum I can look at and
19 things like that because the distance between I believe
20 the initial impact of Pressinger with Echeverry to the
21 second contact between Pressinger and the other
22 vehicles was a distance only of about 50 feet, I
23 believe. But I'll have to verify that for you later.

24 Q. What distance do you use or did you come up
25 with from the initial collision between Pressinger and

1 Echeverry, V-1 and V-2, until Echeverry enters the
2 grass? What distance did you use there?

3 A. Until it enters the paved portion of the --
4 I'm sorry. The grass area?

5 Q. The grass, yes.

6 A. Distance of approximately 33 to 35 feet.

7 Q. And that's from impact with Mr. Pressinger
8 till he enters the grass?

9 A. That's correct. And that's going off the
10 diagram because there's no physical number that was
11 provided, that I could see anyway. So I measured off
12 of the several different diagrams that I was provided
13 by, I guess, Mr. Gonzalez.

14 So I measured that using the scale that was
15 on the police report. I think it was 1 to 40. I'm not
16 sure. I think it was 1 to 40.

17 Q. Now back to these two speeds, how did you
18 derive Mr. Echeverry's speed of the 45 to the 47?

19 A. Well, what I did was, as I indicated to you,
20 I looked at the information contained by Officer King
21 and I used that information. Give me one second. I
22 then went to several different books to look at the
23 coefficient of friction.

24 Q. What books?

25 A. I looked at the Traffic Accident

1 Investigation manual by Baker. I looked at Speed
2 Analysis for Accident Investigation by Rivers. That's
3 an IPTM book. I looked at Motor Vehicle Accident
4 Reconstruction and Cause Analysis by Rudolph Limpert
5 and I think looked at a chart on the ARW 4 program,
6 computer, which I use.

7 Q. And that's Maine Computer Group?

8 A. Yes, I think so. Yes. So I looked at the
9 friction value to look at, Number 1, grass or -- A wet
10 surface or a grassy surface, those kind of things.

11 So I wanted to look at that first to see,
12 because I believe -- It's my understanding that Officer
13 King used a factor of about a .5 in his analysis, I
14 believe. And I saw that according to Limpert that on
15 grass can be anywhere from a .15 to a .35.

16 Q. I'm asking how you came up with the speed at
17 impact with Mr. Pressinger's vehicle, so that was not
18 on the grass. That would have been on the roadway.

19 A. Well, it's because I have to -- The only
20 thing I have is physical evidence where the 33 -- After
21 the 33 feet where Mr. Echeverry goes off the roadway I
22 have the 217 and 345, and I did the same thing as the
23 officer. I just kind of worked backwards.

24 Q. But you didn't use the grass, coefficient of
25 friction for grass, for wet grass in your analysis with

1 Mr. Pressinger and Echeverry's vehicle, did you?

2 A. Well, yes, in retrospect you have to because
3 the only thing I have is I only have physical evidence
4 from the grass to back on the roadway to the point of
5 impact.

6 So being there's a distance of 33 feet only
7 from the point of impact until where the vehicle goes
8 off the roadway, Echeverry, certainly the vehicle can't
9 decelerate much over a couple miles an hour in that
10 distance, so it's not like he could be going 60 or 70
11 or 80 or 100. He can't decelerate that quick in that
12 distance.

13 Also there's no physical evidence of
14 deceleration, if I recall correctly, on that 33 feet.
15 In other words, there's no markings on the roadway to
16 indicate that there's braking or yawing or anything
17 like that in that 33 feet.

18 So the only thing I can do is, as the officer
19 did, go back to where the vehicle leaves the roadway
20 and work that physical evidence forward. Or backward,
21 depending on what you're doing.

22 Q. So then it's difficult in your opinion to
23 come up with an impact speed through that intersection
24 of Century Boulevard and Haverhill Road?

25 A. Well, not necessarily. I think you can come

1 up with a reasonably scientifically accurate speed
2 based on your information from the edge of the roadway,
3 the grassy area, to the point of impact because
4 logically and scientifically you cannot decelerate much
5 in that 33 feet.

6 So in other words, the figure that I come up
7 with or Deputy King in that 33 feet difference is not
8 going to be that significant.

9 If you want to say he's going from 45 to 46,
10 then, okay, I'm not arguing with you on that. If you
11 say he's going 50 or 60 I'll say no.

12 Q. Did you do a separate equation? I noticed
13 that you used combined speed formulas. In the formulas
14 that I was given you used the combined speed and you
15 have the speed for Number 4. I'm looking at -- I'll
16 show it to you right here.

17 Speed for Number 4 right here you have 25
18 miles per hour. Is that what you're saying is -- The
19 speed going through this intersection, is that that
20 distance of 33 feet?

21 A. Give me one second here. I don't really know
22 what that number is. I just ran some initial numbers
23 and -- You wanted everything in my file, and that was
24 in the file, so --

25 Q. So this is not what you're relying on? Just

1 throw this out the window? This isn't --

2 A. Well, I don't know if each page on there -- I
3 just looked at the -- Trying to find the speed.

4 Q. Okay. Walk me through exactly what formula,
5 then -- If I'm not going to rely so much on this, what
6 formula you used to obtain the speed of Mr. Echeverry,
7 the 45 to 47 miles per hour.

8 A. Speed equals square root of 30 times distance
9 times factor times braking.

10 Q. So in that first initial portion you used
11 what for your drag factor or coefficient of friction?

12 A. I used a .25, which was between -- Limpert
13 used a .15 to a .35. I used a .25. And that gave me
14 31.24.

15 Q. Limpert used? I'm sorry.

16 A. I used Limpert's book and used his numbers
17 between a .15 and a .35 and I used .25. I thought that
18 was a more reasonable figure.

19 Q. And that was for wet grass?

20 A. Yes.

21 Q. But you would agree with me that in that area
22 where Mr. Echeverry and Mr. Pressinger made contact
23 that that's on the pavement, it's on the asphalt, not
24 on wet grass?

25 A. Yes. I'm only talking about the wet grass.

1 I'm not talking about the initial impact.

2 Q. I'm talking about the initial impact.

3 A. No, you asked me -- That wasn't your
4 question. Your question was what factor did I use for
5 the grass. That's what I gave you. That was your
6 question.

7 Q. Well, I'm trying to break it down. I'm
8 trying to figure out how you came up with the speed of
9 45 to 47 miles per hour where you say Mr. Echeverry and
10 Mr. Pressinger made initial contact.

11 A. I used the same information that Deputy King
12 used. The only difference is I varied the factors
13 based on what I found in the books, in the manual.

14 Q. Exactly what information of Deputy King,
15 Investigator King, did you use for that speed?

16 A. I don't understand the question. For Deputy
17 King? I don't understand the question.

18 Q. The 45 to 47 miles per hour speed that you
19 came up with, you said Mr. Echeverry was traveling 45
20 to 47 miles per hour when he made contact with
21 Mr. Pressinger; correct?

22 MR. GONZALEZ: Objection. That's not what he
23 said. He said Pressinger made contact with --

24 MS. PARKER: I apologize.

25

1 BY MS. PARKER:

2 Q. When they had contact through that
3 intersection, whoever made contact with whoever, that
4 initial contact Mr. Pressinger in your opinion is going
5 between 15 and 25 miles per hour?

6 A. Yes.

7 Q. Mr. Echeverry is traveling between 45 miles
8 per hour and 47 miles per hour?

9 A. Yes.

10 Q. You're saying you used the square root of 30
11 DF times braking to come up with that 45 to 47 miles
12 per hour; correct?

13 A. Yes.

14 Q. I'm asking you to break down exactly how you
15 came up with that particular speed there using that
16 formula and you're saying you used Investigator King's
17 material.

18 A. Yes.

19 Q. What of Investigator King's material did you
20 use then?

21 A. I've already answered that. I've used his
22 numbers and his measurements as the vehicle went off
23 the roadway and got back onto the roadway until the
24 point of impact with the decedent's vehicle.

25 And the only difference is I used a different

1 coefficient of friction or drag factor. That's the
2 only difference between us.

3 Q. On your combined speed formula that you used
4 here the first speed that you have, and I'm assuming
5 Speed Number 1 -- And you've got the four different
6 speeds -- Speed Number 1 is this initial impact between
7 Mr. Echeverry and Mr. Pressinger, was broken down into
8 four different areas?

9 A. Yes. Probably, yes.

10 Q. On here you have 15.73 --

11 A. Right.

12 Q. -- is the speed.

13 A. Right.

14 Q. That is the speed of Mr. Pressinger or the
15 speed of Mr. Echeverry?

16 A. I believe that was just the impact speed that
17 I have between the vehicles.

18 Q. But that would be now changed to 45?

19 A. No.

20 Q. How are you using 15 miles per hour as the
21 impact speed?

22 A. Again, that was a paper that I just ran some
23 additional numbers on to kind of give me an idea of
24 what I was looking at.

25 What I did on that particular form was that I

1 was just trying to see what would be the amount of
2 force between the two vehicles as far as damage goes
3 and I just figured, well, it must be an indentation or
4 a crash of about 15 miles per hour, maybe less. It
5 really means nothing. I was just running it to give me
6 an idea of what I was looking at.

7 I run sheets in every case with different
8 figures and numbers to kind of see what I'm looking at,
9 and I believe on that particular sheet I put that down
10 as just an initial look at the case between the two and
11 I put down the other two surfaces a speed and then the
12 fourth one was the impact between Pressinger and --

13 Q. The deceased?

14 A. I don't recall his name. I'm sorry.

15 Q. Do you have the speeds now on your new
16 analysis? Have you run with your new analysis the new
17 numbers? Have you run these sheets again?

18 A. Yes, but I want to correct you. It's not a
19 new analysis. You asked for everything that I had in
20 the file, and I had a lot of stuff that really don't
21 mean anything, but you wanted the entire file.

22 When I get a case I just run some numbers to
23 kind of give me a view, "Am I looking at a
24 100-mile-an-hour accident or a 30-mile-an-hour
25 accident?"

1 So I'm just running a couple things to give
2 me some kind of clue what I'm looking at and what I may
3 be looking at in the future, so --

4 Q. So it is a new analysis in the fact that
5 you've gone back, you've looked at it at more length,
6 you've done a different -- You plugged in different
7 numbers, so that's a new analysis.

8 A. Right, but I want you to understand that that
9 analysis, that's really not an analysis, that's kind of
10 like an overview for me, you know, just to look at the
11 case to see what I have.

12 Those numbers on there are not any kind of
13 analysis numbers. They're just kind of to give me a
14 little look at what I have. That's it.

15 Q. But this is all you had at the time we went
16 in for that first deposition?

17 A. No, I think I provided that.

18 Q. Well, this is all I got.

19 A. Well, we didn't get that far when you asked
20 me exactly what I had in my file and my notebook
21 because you were rambling on about other things. So we
22 didn't get to that part, unfortunately. But I had a
23 bunch of stuff that you could have copied at that time.

24 Q. But these are the speed formulas that you had
25 and that you were relying on at the time?

1 A. No, I wasn't relying on those at the time.
2 You never asked me.

3 Q. But you were not prepared to render a final
4 opinion on that day.

5 A. No, you didn't ask me that, either. I was
6 prepared --

7 Q. Well, I'll have you look at your letter that
8 you wrote me where you in fact said that. I don't want
9 to get into an argument much about this. I'm just
10 asking do you have new speeds -- Have you run this
11 program, this Maine computer program, again since the
12 initial deposition?

13 A. Yes, I have run them again, but I had most of
14 that stuff with me.

15 Q. Do you have the new speeds that you came up
16 with? I'm assuming they're different speeds than what
17 you initially provided to me. Do you have those with
18 you today?

19 A. Yes.

20 MR. GONZALEZ: Objection. That's not what
21 the witness said before. He said that he had
22 those speeds but he was not asked. They're not
23 new speeds. They've been the speeds he gathered
24 all along, if I'm not mistaken.

25 MS. PARKER: I think you're mistaken about

1 that.

2 BY MS. PARKER:

3 Q. Do you have those with you?

4 A. Yes, I do.

5 Q. Could I look at those, and if I need to make
6 a copy of those -- I'm assuming you don't have a copy
7 for me.

8 A. No, I don't have a copy for you.

9 Q. Can I see those right now so I can copy them?

10 A. Sure. Which ones do you want to see, the
11 speeds or --

12 Q. I'd like to see whatever you have as far as
13 the calculations in the case. I don't -- If you could
14 take them out of the notebook.

15 A. You can flip through them. That's fine.

16 Q. Is this all?

17 A. I would say you may want to get a copy of the
18 book, but, you know --

19 MS. PARKER: I would like to if I could just
20 call my secretary up here. Maybe we need to take
21 a break for a second.

22 (Thereupon, there was a recess taken.)

23 MS. PARKER: Back on the record.

24 BY MS. PARKER:

25 Q. I've got copies of your combined speed