

1 State of Florida )  
 ) SS: Thomas M. Coker, Jr., J.  
2 County of Broward )

3 IN THE CIRCUIT COURT  
4 OF THE 17TH JUDICIAL CIRCUIT

5 State of Florida,

6 Plaintiff,

7 vs.

: No. 90-1338CF10A

8 **Gilberto Estevez,**

9 Defendant.

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12 Proceedings had and taken before the  
13 Honorable Thomas M. Coker, Jr., one of the Judges  
14 of the said Court, at the Broward County  
15 Courthouse, commencing at or about 1:30 o'clock  
16 p.m., May 15, 1991, in the City of Fort  
17 Lauderdale, County of Broward, State of Florida,  
18 and being an excerpt of a jury trial.

19  
20 APPEARANCES:

21 SHARON WOOD, ASSISTANT STATE ATTORNEY,  
22 Appearing on behalf of the State of Florida.

23 HILLIARD MOLDOF, ESQUIRE,  
24 Appearing on behalf of the Defendant.

ALSO PRESENT:

MS. DIANE CUERVO,  
Assistant to Defense Counsel.

MIKE BUSH, COURT INTERPRETER.

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1 (Thereupon the following proceedings  
2 were had:)

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4 THE COURT: Any questions, Miss Wood?

5 MS. WOOD: Absolutely, Judge.

6 CROSS EXAMINATION

7 Q (By Ms. Wood) First off you said you  
8 can't say where this truck would have stopped?

9 A No.

10 Q You're an expert in accident  
11 reconstruction, and you can't do a formula that  
12 would tell us where this truck should have  
13 stopped?

14 A I think I told you that.

15 Q Well--

16 MS. WOOD: Judge--

17 MR. MOLDOF: Judge, I object to  
18 interrupting him.

19 THE COURT: I know you don't want to  
20 interrupt, but you keep interrupting.  
21 Go ahead, sir. There's some water for  
22 you.

23 THE WITNESS: Thank you, Judge.

24 MS. WOOD: I would ask the answer be  
25 responsive to the question asked.

1 THE COURT: Try to be as responsive as  
2 you can, Mr. Swope, please.

3 THE WITNESS: Thank you, Your Honor.

4 Would you like repeat the question, or  
5 could I have the court reporter read it  
6 back?

7 MS. WOOD: No, I know the question.

8 THE COURT: You ask it.

9 Q (By Ms. Wood) You say you're an  
10 accident reconstruction expert?

11 A Yes, ma'am, I am.

12 Q And do you know how to do all of these  
13 formulas?

14 A Yes, ma'am.

15 Q And you're telling us as you sit here  
16 today that you cannot do a formula that would  
17 tell us how long it should take this truck to  
18 stop after it applies it's brake?

19 A I don't believe that was my answer. My  
20 answer was based on the information I had. There  
21 are many different factors to consider in doing  
22 that. I can plug any number into a formula and  
23 come up with an answer. Anybody in the courtroom  
24 can use a formula and plug a number into it, but  
25 in this particular case, no I don't think you can

1 do that because of the arch.

2 Q And because you're not an expert in  
3 mechanics, or in trucks, you can't say why that  
4 arch would be there?

5 A I'm not an expert in mechanics and  
6 dealing with accident reconstruction? I already  
7 stated why I believe the arch was there.

8 Q And you've read Mr. Stopper's report?

9 A Yes, ma'am, I have.

10 Q You've read his whole report?

11 A Whatever information I had, yes.

12 Q Is this the report you read?

13 A Well, the book--

14 Q Let me ask you--

15 A The book isn't open, ma'am.

16 Q I'll be happy to hand it to you. Is  
17 this the report you read?

18 THE COURT: Please don't read the whole  
19 thing. It looks like it? Say it looks like  
20 it.

21 THE WITNESS: There's a lot of other  
22 things in here.

23 Q (By Ms. Wood) You might have forgotten  
24 some stuff?

25 THE COURT: You going to sit here and

1 read it, it's going to take a while. We  
2 might as well take a break.

3 THE WITNESS: There are other documents  
4 in here I have not seen, but the report you  
5 have in plastic folders is likely what  
6 looked at.

7 Q (By Ms. Wood) Let me clear up what  
8 documents you haven't seen.

9 MR. MOLDOF: Judge, he's already  
10 answered that looks like the report.

11 THE COURT: She's trying to clarify  
12 now. Go ahead.

13 Q (By Ms. Wood) Are you talking about  
14 the supplemental report of the reconstruction,  
15 the other document that's in this main report?  
16 you haven't seen that?

17 A I just saw it. That was addressed to  
18 you. I probably did.

19 Q Please check: Please check. See if  
20 you've seen the supplemental report on the  
21 reconstruction was done.

22 A Yes.

23 Q You've seen that?

24 A Yes. I didn't see the cover letter to  
25 you.

1 Q All right. And you're talking about  
2 this other document as being Mr. Stopper's  
3 resume? You haven't seen that?

4 A No, I haven't.

5 Q And then let me get this straight: You  
6 wrote a report for Mr. Moldof; right?

7 A Initial report I did initially.

8 Q Initial report? Was there a second  
9 report?

10 A No.

11 Q So, then, the only report that you  
12 wrote was this two and a half page letter to Mr.  
13 Moldof; correct?

14 A Well, that was just a brief synopsis of  
15 what I believed, yes, at the time.

16 Q This is the only?

17 A I did not write a formal report, no. I  
18 was not asked to.

19 Q Mr. Swope, did you not leave the  
20 Sheriff's department under okay circumstances?  
21 Would that be fair to say?

22 MR. MOLDOF: I'm going to object to  
23 that.

24 MS. WOOD: Goes to motive, bias and  
25 prejudice.

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THE COURT: Hold it. Approach the bench.

(The following proceedings were had at the bench, between Court and counsel, out of the hearing of the jury.)

THE COURT: I didn't hear all of the question that was interrupted. Complete the question.

MS. WOOD: The question was: You did not leave the Sheriff's Department under okay circumstances; is that a fair--correct? That was my question.

MR. MOLDOF: I'm objecting to it. It seems collateral. I can tell what I know about it. Mr. Swope, when he was leaving the Sheriff's Office, didn't want him to go into private work, and apparently there was some disagreement whether he could work on this case or not, but ultimately I think the investigation obviously was resolved, so, he could finish this case.

MS. WOOD: It resolved the day he was told to bring in his badge, he was being suspended.

MR. MOLDOF: I.A. didn't result in any



1           reprimand, any type of implication about any  
2           of his work, so I think it's just an unfair  
3           comment to try and prejudice this jury,  
4           somehow to suggest something was wrong,  
5           which really there was no resolution

6           MS. WOOD: It suggests there was  
7           something wrong. The case is now being  
8           reviewed by Dade County State Attorney for  
9           prosecution under unlawful compensation.  
10          Not only this case, there are other cases.  
11          He did not resign just because of this case  
12          and I think the fact that he had to resign  
13          before he got fired or suspended would  
14          certainly have a bearing on whether he  
15          would--

16          THE COURT: Well, how do you suppose  
17          you could word that question then "under  
18          okay circumstances"?

19          MS. WOOD: How about if I say: Isn't  
20          it true on the day you say you resigned you  
21          were told to bring in your badge and be  
22          suspended?

23          THE COURT: No.

24          MR. MOLDOF: Problem is that it's  
25          really collateral to this case.

1 THE COURT: What she said, for the  
2 purpose of showing motive and bias, I think  
3 that's legit, I will allow that question.

4 MS. WOOD: Thank you.

5 THE COURT: Objection is overruled for  
6 now.

7 Q (By Ms. Wood) Mr. Swope?

8 A Yes, ma'am.

9 Q Isn't it true that on the day you say  
10 you resigned from the Broward Sheriff's  
11 Department, that was the same day that you were  
12 told to bring in your badge because you were  
13 going to be suspended?

14 A No, ma'am, that was not. I believe my  
15 recollection was, since you ask me about that  
16 was, I was called in because of all the  
17 illegality in the Sheriff's Office. I was called  
18 in by the I.R.S., and by the F.B.I. to give  
19 statements in reference to falsification of  
20 reports and documents that were happening in the  
21 unit and throughout the Sheriff's Office, and  
22 that's why I was called in, but I never did go  
23 into the office that day.

24 Q Right. You were directed to, but you  
25 never did do what you were told; correct?

1 MR. MOLDOF: I'm going to object to  
2 this. The question has been asked, it's  
3 been answered, if there is some other  
4 evidence she wants to suggest, or put before  
5 this jury that's fine, but the question's  
6 been asked and answered.

7 THE COURT: What was your question he  
8 just objected to.

9 MS. WOOD: He said he didn't--

10 THE COURT: I heard what he said.

11 MS. WOOD: The question was: You were  
12 directed to come in, but you didn't do it?  
13 He said he hadn't done it.

14 THE COURT: To that question, I  
15 overrule it.

16 Q (By Ms. Wood) Isn't that day you were  
17 directed to come in and turn in, let's see, your  
18 badge and ID, but you didn't go there, you went  
19 to the administration building and turned in your  
20 paperwork to so you could get paid?

21 A I don't recall as to what day that was,  
22 or time, but all I can tell you--

23 Q (By Ms. Wood) Let me refresh your  
24 memory.

25 A Excuse me, you asked me this is

1 question.

2 THE COURT: Go ahead and complete your  
3 answer.

4 THE WITNESS: I don't have any  
5 documents, my attorney has them.

6 Q (By Ms. Wood) Let me refresh your  
7 memory.

8 THE COURT: Go ahead, Mr. Swope.

9 THE WITNESS: I don't remember the day  
10 that was, ma'am, but I do know the fact I  
11 was called in by the F.B.I., and immediately  
12 after that was when the Sheriff's Office in  
13 some respect did not like that, and they  
14 thought they were going to try to discredit  
15 me on the way out because I was testifying  
16 against the illegalities that were taking  
17 place in the Sheriff's Office, so I guess if  
18 you want to assume that, I guess you can  
19 assume whatever you want, but that's exactly  
20 the facts.

21 Q That's the facts?

22 A Yes, ma'am.

23 Q So, would it-- Are you denying then  
24 that Colonel Schlien (phonetic) filed and  
25 recommended disciplinary action because you were

1 untruthful to him; isn't that a fact?

2 A Yes, I am denying that. I have no idea  
3 what records you have, being that so many are  
4 being shredded over there everyday, so, I don't  
5 recall.

6 MR. MOLDOF: Judge, I have an objection  
7 to make about this, and I have a motion.

8 THE COURT: I sustain the objection.  
9 Let's get on to this case.

10 Q (By Ms. Wood) Mr. Swope, isn't it true  
11 that when you teach your classes at BCC, or  
12 wherever, that you've been--you've told your  
13 classes--

14 MR. MOLDOF: Judge, I'm going to  
15 object. I know she hasn't asked her  
16 question yet. You said let's get on this  
17 case. This about his classes, and what he  
18 told his classes, it's absolutely hearsay.

19 MR. MOLDOF: Motive, bias and  
20 prejudice, Judge.

21 THE COURT: What he says is not hearsay  
22 if it goes to show something--something that  
23 has pertinence to this case. Go ahead, and  
24 let's move back on to the facts of this  
25 case, please.

1 Q (By Ms. Wood) Isn't it true you've  
2 told your classes, "Rick goes where the cash  
3 flows."

4 MR. MOLDOF: Judge, I object to that.  
5 It's such a--

6 THE COURT: I sustain the objection.  
7 Disregard the last question. Go ahead,  
8 ma'am, next question.

9 MS. WOOD: Yes, sir.

10 Q (By Ms. Wood) Can you tell us, please,  
11 when you talk in direct examination about storing  
12 commercial vehicles, how many commercial vehicles  
13 have you been the lead investigator on, and had  
14 an opportunity to see, or have there been any?

15 A Yes.

16 Q Tell me what vehicles, in what cases?

17 A Well, we had a bus case out on  
18 Alligator Alley.

19 Q And you were the lead investigator?

20 THE COURT: He's still talking. Your  
21 next question. He is still talking.

22 THE WITNESS: I was a co-lead  
23 investigator with Deputy Rojas, and we took  
24 a bus down to the service center, and about  
25 three hours later, we towed it to Sunny's