

Filing # 69096797 E-Filed 03/12/2018 09:15:23 AM

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA** **CRIMINAL ACTION**

STATE OF FLORIDA
vs.
ADAM MURRAY COSTELLO

CASE NO: 16-CF-000371 - (MOS)
(MWM)
DCM TRACK: COMPLEX

Race: White Sex: Male
D.O.B.:11/12/1974
SS #: ██████████

AMENDED (4TH INFORMATION)

INFORMATION FOR:

- 1) Leaving the Scene of a Crash - Death, F.S. 316.027(2)(c),(2)(f) First Degree Felony
- 2) Tampering With or Fabricating Physical Evidence, F.S. 918.13, Third Degree Felony

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

STEPHEN B. RUSSELL, State Attorney of the Twentieth Judicial Circuit of the STATE OF FLORIDA,
by and through the undersigned Assistant State Attorney, prosecuting for the STATE OF FLORIDA,
in the County of Lee under oath information makes that Adam Murray Costello,

Count(s):

1. On or about June 19, 2016 in Lee County, Florida, was the driver of a motor vehicle involved in a crash resulting in death to Adam Roger King, a human being, a vulnerable road user, and Defendant knew or should have known a crash occurred, but failed to stop or remain at the scene of the crash, or as close thereto as possible, until he/she gave personal information and rendered aid as required by Florida Statutes 316.062, contrary to Florida Statute 316.027(2)(c),

2. Between June 19, 2016 and July 31, 2016 in Lee County, Florida, did ~~unlawfully and knowingly alter, destroy, conceal, or remove any record, document, or thing, to-wit: deletion of facebook information or account, cellular phone utilizing number 239-218-4928 or DVR from a surveillance camera, with the purpose to impair its verity or availability in a proceeding or investigation knowing that a criminal trial or proceeding or investigation by a duly constituted prosecuting authority, law enforcement agency, grand jury or legislative committee of this state is pending or is about to be instituted~~ contrary to Florida Statute 918.13(1)(a),

against the peace and dignity of the STATE OF FLORIDA,

STEPHEN B. RUSSELL
STATE ATTORNEY

BY: Mara W. Marzano
Mara W. Marzano
Assistant State Attorney
Florida Bar Number 0369950
3315 E. Tamiami Trail, Suite 602
Naples, Florida 34112
(239) 252-8470
eService: ServiceSAO-LEE@sno.cjis20.org

STATE OF FLORIDA, COUNTY OF LEE

Personally appeared before me, Mara W. Marzano, Assistant State Attorney of the Twentieth Judicial Circuit of the State of Florida, being personally known to me, who being duly sworn, says that this information is filed in good faith and certifies that testimony under oath from the material witness or witnesses for the offense has been received which if true, would constitute the offense therein charged.

Mara W. Marzano
Mara W. Marzano

Sworn to and Subscribed before me this 12th day of March, 2018, by Mara W. Marzano, personally known to me.

Elizabeth Johnson
Notary Public

My commission expires: _____

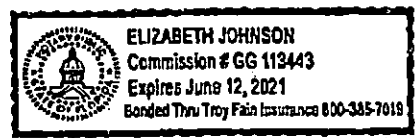


EXHIBIT -- B

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
2016-06161 911 CALL**

Q2: Okay

A1: a lot of bleeding through his helmet

Q2: okay alright I'm gonna tell you exactly what to do next he's wearing a helmet?

A1: Yes Ma'am he was wearing a helmet or he is still wearing a helmet

Q2: Okay

A1: I got PD on scene right now

Q2: okay alright I'm were gonna let the officers take over Fort Myers you want to go ahead with your question

Q1: yes I will EMS I'm sorry EMS

Q2: It's alright

Q1: Did you see which what kind of a vehicle hit him?

A1: it was a white Dodge RAM 1500

Q1: a white Dodge RAM pickup and which way did it go Sir?

A1: it went westbound on Colonial it might have turned up McGregor I lost sight of him when I stopped to help the gentleman on the bike

Q1: Certainly okay anybody catch the tag of the vehicle?

A1: (Aside) Anybody catch a tag on it? That's all I got nobody got a tag number all we got is an identification on the vehicle

Q1: Okay I appreciate your help Sir and I'm so sorry that you had to witness that could I get your name please?

A1: My name is Tim

Q1: Tim?

A1: Yep

Q1: Okay and a last name for you Tim?

A1: what's that?

EXHIBIT – C-1

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

**TAPED SWORN STATEMENT: TIMOTHY BERNAL
CASE INVESTIGATOR: OFFICER LESA BRENEMAN
DATE OF INTERVIEW: JUNE 19th, 2016
DATE TRANSCRIBED: JUNE 27th, 2016
TYPIST: JILL NEWHOUSE**

Q1: OFFICER LESA BRENEMAN

A1: TIMOTHY BERNAL

Q1: This is Officer Breneman Fort Myers Police Department it is June 19th 2016 at 11:53 p.m. I'm here with Timothy Bernal B-E-R-N-A-L is that correct Sir?

A1: Um hum

Q1: Okay Mr. Bernal as a Law Enforcement Officer in the state of Florida I'm authorized to administer sworn statements. Do you swear that everything you're gonna tell me is the truth the whole truth nothing but the truth?

A1: Yes Ma'am.

Q1: Okay can you tell me what happened were on the corner of Colonial Boulevard and Summerlin right now

A1: I was next to the gentleman on the motorcycle as we were exiting the Dicks Sporting Goods parking lot on Colonial and 41 as we merged onto Colonial from 41 he had gotten around traffic in front of me we had gone up 41 or gone up Colonial as he was progressing his merge into the left lane a full size Dodge Pickup truck was in front of him and he was going around the truck merging into the center lane progressing into the third into the inside lane truck tried to come over at the same time as the motorcycle was what appeared to me from my vantage point from directly behind them was at very close to even to the driver's side door on the truck the truck had started to merge over paused for just a second as they were side by side them progressed over with a swift jerk of the wheel hit the motorcycle and he progressed into the median took out the traffic sign and then hit the tree.

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

Q1: Okay so you guys are

A1: After that then the truck had slowed down almost as if you know he was going to stop maybe had a slight sense of consciousness there but then as soon as he slowed down he continued on and from what I could tell went through the light at that point from that far down on Colonial I couldn't tell if he went over the mid-point bridge or if he turned on McGregor one way or the other

Q1: okay

A1: but he did progress on Colonial.

Q1: okay so you're westbound on Colonial you see a motorcycle in the left lane the eventually in front of you and the pickup truck was in the middle lane cause Colonial has three lane so the pickup truck was in the middle lane?

A1: The pickup truck was in the far right lane

Q1: Okay

A1: okay and as the motorcycle came up he was getting into the center lane as he was coming up the driver's side rear of the truck then the truck started to merge over as the motorcycle got equal to the driver's side door

Q1: okay

A1: the truck had moved over to the point to where the motorcycle was on or close to the dotted line getting over into the third the inside lane

Q1: okay

A1: at that point then the truck moved over and hit the bike

Q1: and it was a quick movement?

A1: it was quick

Q1: Okay

A1: it was there was no accident I mean he stopped recognized what was next to him and then moved over and knocked him over

Q1: okay and described the pickup truck to me.

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

A1: the pickup from my vantage point was a full size white Dodge pickup truck 1500 or 2500 with a camper shell on the back.

Q1: Okay

A1: Very well you know could have been silver but from what I could tell

Q1: um hum

A1: was white.

Q1: okay do you think it was a newer model or

A1: new

Q1: older model?

A1: it was a newer truck yeah

Q1: Did you notice anything distinctive about the truck?

A1: no there was like no marking there was no like you know business sign on the back or anything like that it was

Q1: and it wasn't a dooly

A1: no it wasn't a dooly

Q1: it wasn't a dooly truck okay not that big okay

A1: so it was either a 1500 or 2500 Dodge pickup truck full size cause even when we came to look at this Jeep here right stand back and look from as far back as I was you know this could look like it's got a camper shell on the back

Q1: yeah

A1: but no it was a much larger vehicle then it was a full size truck.

Q1: okay full size like a dual cab kind of thing you think?

A1: I was directly behind it you know

Q1: sure

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

- A1: I can't tell if it was a quad cab or if there was an extended cab
- Q1: okay
- A1: very you know the most popular model in their lineup is their quad cab it could of very well been a crew cab or quad cab
- Q1: okay
- A1: but I can't from that angel I couldn't tell if it was that long or not.
- Q1: so you think the damage on the Dodge would be like the side of it like the driver's door?
- A1: oh absolutely
- Q1: Okay do you think the front end would be damaged at all?
- A1: from what I could see? No
- Q1: Okay you think more of the side
- A1: from what I could see he was right here
- Q1: okay so right adjacent to the driver's window when he merged over and the truck merged over?
- A1: yeah
- Q1: Okay
- A1: because he had come from the rear (UI) here had moved up the truck had moved up to where basically they were this close you know an arm's reach to the truck
- Q1: okay
- A1: the truck had stopped his progression from merging over at that point and then went one last just jerked and knocked the kid off the road
- Q1: when the truck initially passing you did you when you guys were way back
- A1: the truck was in front of me
- Q1: it was always in front of you?

EXHIBIT – C-5

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

A1: he was always in front of me.

Q1: Okay

A1: He either got on the road somewhere after 41 he had either got in that intersection just passed the merge getting on Colonial

Q1: okay the light the next light is Deleon it's that big light down there

A1: so he might have gotten on there but I was focusing on the motorcycle because we had just like I said we were merging on to Colonial and he was making his progression over a red truck had just gotten off and turned left on which would be I think that's Deleon where the 7/11 is

Q1: Right yep

A1: right there the red truck had turned off there and the motorcycle had progressed on he was making his merges over everything was smooth until that truck got over there got right next to him and he knew what was going on I'm telling you this was not an accident I mean he moved over everything was smooth until that last jerk and he gave that last jerk knocked the kid off the road and he kept on going.

Q1: did it look like maybe it was a road rage incident before that?

A1: No

Q1: other than the last movement no?

A1: no I mean this kid I followed him like I said I followed him out of the parking lot over there he was coming out

Q1: Okay so they weren't

A1: of the parking lot

Q1: in the same area

A1: he was properly geared he was following all the traffic laws until that point

Q1: okay

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

- A1: if he did anything he was trying to get away from the truck and he might have
goosed it once just trying to get away from him
- Q1: sure
- A1: cause he saw him moving over next to him proper instinct for a motorcycle to do
- Q1: right
- A1: but as soon as that truck struck him he most likely got him on the handle bar the
kid you know grabbed a hand full and
- Q1: um hum
- A1: and just went straight into the
- Q1: what did you do after the traffic accident cause you were back behind it
- A1: I was behind him
- Q1: okay
- A1: so as I saw the bike was still sliding when I stopped so it was
- Q1: you stopped right there
- A1: there was a it was a bang bang like do I stay with him
- Q1: right
- A1: or do I follow him?
- Q1: right
- A1: The truck and I had more concern for the kid
- Q1: sure
- A1: on the street then that truck at that point so
- Q1: sure
- A1: I tried to cause everything went straight through it's like I don't have a plate
number I'm so

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

Q1: right

A1: I'm sorry but I was trying to just take mental images at that point it was definitely a full size truck but

Q1: okay

A1: I just half of me wishes I would of just followed him and got more information on that truck.

Q1: and I heard something about maybe a flat tire did you see something

A1: I did not see

Q1: you didn't see anything that would lead you to believe there was a flat tire?

A1: no

Q1: Okay

A1: and like I was even telling them with this if this happened back there (Ui)

Q1: yeah

A1: and you'd see tire tracks on medium

Q1: sure

A1: but no I didn't see a flat tire if anything the damage on that truck is right on this side the motorcycle was (UI) guess you still have it back there but it's a blue and white Yamaha it was either a R6 or a R1

Q1: okay do you know your cars pretty well it sounds like?

A1: yeah I'm a detailer

Q1: That would explain it that would explain it okay anything else that I didn't ask you that you can think of?

A1: I mean I'm still just you know trying to re-live everything that that's it I mean I just like I said I just wish I would of I wanted to stay with him just in case he was still with us but

**FORT MYERS POLICE DEPARTMENT
TRAFFIC UNIT
REPORT #2016-06161
TAPED SWORN STATEMENT OF: TIMOTHY BERNAL**

Q1: yeah

A1: it's too bad that people are society is the way it is the guy took off.

Q1: yeah okay alright this will conclude the interview it is 12:03 a.m.

END OF STATEMENT

EXHIBIT – D-1

FORT MYERS POLICE DEPARTMENT - TRAFFIC DIVISION
REPORT #: 2016-06161 - SWORN STATEMENT OF:
SHANE ROMERO

TAPED SWORN STATEMENT: SHANE ROMERO
CASE INVESTIGATOR: THI OFFICER LESA BRENEMAN
DATE OF INTERVIEW: 06/20/16
DATE TRANSCRIBED: 06/24/16
TYPIST: HELEN BELLER

Q1: THI OFFICER LESA BENEMAN
A1: SHANE ROMERO

Q1: Okay it is July...20th, 2016; this is Officer Lesa Breneman, Fort Myers Police Department. I'm here with Shane Romero...R O M E R O. Okay? Um uh as a law enforcement officer in the State of Florida I'm authorized to take sworn statements. Do you swear that everything you're going to tell me is the truth, the whole truth, nothing but the truth?

A1: Yes ma'am.

Q1: Okay. Um so we're on uh...Colonial Boulevard right here at Summerlin. Can you tell me what you um observed?

A1: I was going around a truck. Uh because they were swerving just a little bit. And I didn't want to be involved in that. And so I sped up just a little bit. And then he started coming into my lane. But then moved it back over. Hit the motorcycle. Uh I seen the motorcycle try to catch it's balance. And then the body went flying. Uh hit a sign. And the motorcycle just kept going. And then I turned around and went to go help.

Q1: So the motorcycle was in which lane? They were going westbound?

A1: They were going that way.

Q1: Okay.

A1: And they were in the middle lane.

Q1: The motorcycle was in the middle lane?

A1: Yes.

Q1: And then...the, you said there was a truck...

A1: The truck was also in the middle lane. Coming over to the far right.

**FORT MYERS POLICE DEPARTMENT - TRAFFIC DIVISION
REPORT #: 2016-06161 - SWORN STATEMENT OF:
SHANE ROMERO**

- Q1: Okay. And can you describe the truck for me.
- A1: Um I believe it had like...a top on top. Um...white, the top was white. I don't know what the, the rest of the color was. I was just kind of in shock at the moment.
- Q1: Okay. So pickup truck with uh...with a topper on the back?
- A1: Yes.
- Q1: Okay. Okay so you were, were you in the right lane next to 'em?
- A1: Yes.
- Q1: Okay so when the crash happened, it happened kind of next to you. And then you...um continued up, made a U-turn and then went back to help the motorcyclist?
- A1: Yes.
- Q1: Did you see where the truck went?
- A1: Uh it kept going passed the light.
- Q1: Okay do you know if it went over the bridge? Or do you know if it went down McGregor?
- A1: Uh I don't know. I kind of turned around right there and...
- Q1: You turned around at Summerlin?
- A1: The truck, the truck kept going. Yes.
- Q1: Okay. You said something about...um earlier about uh...the, a tire. Did you think that maybe that he had a flat tire?
- A1: He, I believe he did have a flat tire. Um it could have been, I thought it was the front, but it could have been the back too.
- Q1: You think the driver side tire?
- A1: Yes.
- Q1: What do you think the damage would be on the car?

**FORT MYERS POLICE DEPARTMENT - TRAFFIC DIVISION
REPORT #: 2016-06161 - SWORN STATEMENT OF:
SHANE ROMERO**

A1: The front driver side...anywhere between the front of the car to the door.

Q1: The driver's door?

A1: Yes.

Q1: Okay. Did you get a look at the driver at all?

A1: No. Windows were up.

Q1: Okay did it have dark tint on it? Or you're not, you're not sure?

A1: I'm not sure.

Q1: Okay. That's fine. Okay...um...alright is there anything else you can think of...that I didn't ask?

A1: No.

Q1: No? Okay. Alright this will conclude the interview. It is 12:10 a.m.

END OF INTERVIEW

This Traffic Crash Report can be purchased online at www.buycrash.com

FLORIDA TRAFFIC CRASH REPORT

LONG FORM [X] SHORT FORM [] UPDATE []

MAIL TO: DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
TRAFFIC CRASH RECORDS, NEIL KIRKMAN BUILDING
TALLAHASSEE, FL 32399-0537

TOTAL # OF VEHICLE SECTION(S) 2
TOTAL # OF PERSON SECTION(S) 5
TOTAL # OF NARRATIVE SECTION(S) 1

Table with 5 columns: CRASH DATE (08/19/2016), TIME OF CRASH (11:01 PM), DATE OF REPORT (08/20/2016), REPORTING AGENCY CASE NUMBER (2016-08181), HSMV CRASH REPORT NUMBER (88555868)

CRASH IDENTIFIERS table with columns: COUNTY CODE (10), CITY CODE (40), COUNTY OF CRASH (LEE), PLACE OR CITY OF CRASH (FORT MYERS), CHECK IF WITHIN CITY LIMITS [X], TIME REPORTED (11:01 PM), TIME DISPATCHED (11:02 PM), TIME ON SCENE (11:04 PM), TIME CLEARED SCENE (2:00 AM), CHECK IF COMPLETED [], REASON (TRAFFIC HOMICIDE INVESTIGATION), Notified By (1 Motorist, 2 Law Enforcement)

ROADWAY INFORMATION (CHOOSE ONLY 1 OF 4 OPTIONS) table with columns: ROADWAY TYPE (COLONIAL BLVD), AT STREET ADDRESS # (2), AT LATITUDE AND LONGITUDE, ROAD SYSTEM IDENTIFIER (3), TYPE OF SHOULDER (3), TYPE OF INTERSECTION (1)

CRASH INFORMATION (CHECK IF PICTURES TAKEN) [X] table with columns: Light Condition (4), Weather Condition (1), Roadway Surface Condition (1), School Bus Related (1), Manner of Collision/Impact (4)

Table with columns: First Harmful Event (14), Non-Collision (1), Collision Non-Fixed Object (1), Collision with Fixed Object (1), First Harmful Event Location (1)

Table with columns: First Harmful Event Relation to Junction (1), Contributing Circumstances: Road (1), Contributing Circumstances: Environment (1)

Table with columns: Work Zone Related (1), Crash in Work Zone (), Type of Work Zone (), Workers in Work Zone (), Law Enforcement in Work Zone ()

WITNESSES table with columns: NAME, ADDRESS, CITY & STATE, ZIP CODE

NON VEHICLE PROPERTY DAMAGE table with columns: VEH #, PER #, PROPERTY DAMAGE - OTHER THAN VEH, EST. AMT, OWNER'S NAME, ADDRESS, CITY & STATE, ZIP CODE

VEHICLE # 1		Check if Commercial <input type="checkbox"/>		Reporting Agency Case Number 2016-06161	
1 Vehicle In Transport <input type="checkbox"/>		VEHICLE LICENSE NUMBER		STATE	
2 Parked Motor Vehicle <input type="checkbox"/>		REGISTRATION EXPIRES		Check if Permanent Registration <input type="checkbox"/>	
3 Working Vehicle <input type="checkbox"/>		VIN			
Hit and Run 1 No <input type="checkbox"/>		YEAR	MAKE	MODEL	STYLE
2 Yes <input type="checkbox"/>		UK	UNKNOWN	UNKNOWN	UNKNOWN
3 Unknown <input type="checkbox"/>					
INSURANCE COMPANY (DRIVER)		INSURANCE POLICY NUMBER		Towed due to Damage: 1 No 2 Yes <input type="checkbox"/>	
NAME OF VEHICLE OWNER (CHECK IF BUSINESS) <input type="checkbox"/>		CURRENT ADDRESS		VEHICLE REMOVED BY	
UNKNOWN		UNKNOWN		1. Reason 2. Owner Request 3. Driver 4. Other, Explain in Narrative	
VEHICLE LICENSE NUMBER		STATE		REGISTRATION EXPIRES	
VEHICLE LICENSE NUMBER		STATE		REGISTRATION EXPIRES	
VEHICLE TRAVELING		ON STREET, ROAD, HIGHWAY		AT EST. SPEED	
HAZ. MAT. RELEASED		HAZ. MAT. PLACARD		NUMBER	
1 No <input type="checkbox"/>		1 No <input type="checkbox"/>		CLASS	
2 Yes <input type="checkbox"/>		2 Yes <input type="checkbox"/>		Area of Initial Impact	
3 Unknown <input type="checkbox"/>		3 Unknown <input type="checkbox"/>			
MOTOR CARRIER NAME		US DOT NUMBER		Most Damaged Area	
MOTOR CARRIER ADDRESS		CITY			
STATE		ZIP CODE		PHONE NUMBER	
Vehicle Body Type <input type="checkbox"/> 77 1 Passenger Car 2 Passenger Van 3 Pickup 7 Motor Home 8 Bus 11 Motorcycle 12 Moped 13 All Terrain Vehicle (ATV)		Trafficway <input type="checkbox"/> 4 1 Two-Way, Not Divided 2 Two-Way, Not Divided, with a Continuous Left Turn Lane 3 Two-Way, Divided, Unprotected (pointed >4 feet) Median 4 Two-Way, Divided, Positive Median Barrier 5 One-Way Trafficway 88 Unknown		Commercial Motor Vehicle Configuration <input type="checkbox"/> 1 Vehicle 10,000 lbs or less Placarded for Hazardous Materials 2 Single-Unit Truck (2-axle and GVWR more than 10,000 lbs (4,536 kg)) 3 Single-Unit Truck (3 or more axles) 4 Truck Pulling Trailer(s) 6 Truck Tractor (bobtail) 6 Truck Tractor/Semi-Trailer 7 Truck Tractor/Double Truck	
Comm/Non-Commercial <input type="checkbox"/> 1 Interstate Carrier 2 Interstate Carrier 3 Not in Commerce/Government 4 Not in Commerce/Other Truck		Trailer Type <input type="checkbox"/> 1 Single Semi Trailer 2 Tandem Semi Trailer 3 Tank Trailer 4 Saddle Mount/Trailer 5 Boat Trailer 6 Utility Trailer 7 House Trailer		Cargo Body Type <input type="checkbox"/> 1 No Cargo 2 Bus	
Most Harmful Event <input type="checkbox"/> 14 Non-Collision 1 Overturn/Rollover 2 Fire/Explosion 3 Immersion 4 Jackknife 5 Cargo/Equipment Loss or Shift 6 Fell/Jumped From Motor Vehicle 7 Thrown or Falling Object 8 Ran into Water/Canal 9 Other Non-Collision		Collision with Non-Fixed Object 10 Pedestrian 11 Motorcycle 12 Railway Vehicle (train, engine) 13 Animal 14 Motor Vehicle in Transport 16 Parked Motor Vehicle 16 Work Zone/Maintenance Equipment 17 Struck By Falling, Shifting Cargo or Anything Set in Motion by Motor Vehicle 18 Other Non-Fixed Object		Collision Fixed Object 19 Impact Attenuator/Crash Cushion 20 Bridge Overhead Structure 21 Bridge Pier or Support 22 Bridge Rail 23 Culvert 24 Curb 25 Ditch 26 Embankment 27 Guardrail Face 28 Guardrail End	
Sequence of Events 1st <input type="checkbox"/> 14 2nd <input type="checkbox"/> 3rd <input type="checkbox"/> 4th <input type="checkbox"/>		Vehicle Maneuver Action <input type="checkbox"/> 77 1 Straight Ahead 3 Turning Left 4 Backing 6 Turning Right 6 Changing Lanes 8 Parked 10 Making U-Turn 11 Overtaking/Passing		Traffic Control Device For This Vehicle <input type="checkbox"/> 1 1 No Controls 4 School Zone Sign/Device 5 Traffic Control Signal 6 Stop Sign 7 Yield Sign	
Roadway Grade <input type="checkbox"/> 1 1 Level 2 Hillcrest 3 Uphill 4 Downhill 5 Sag (bottom)		Roadway Alignment <input type="checkbox"/> 1 1 Straight 2 Curve Right 3 Curve Left		Emergency Vehicle Use <input type="checkbox"/> 1 1 No 2 Yes 88 Unknown	
Special Function of Motor Vehicle <input type="checkbox"/> 88 1 No Special Function 2 Farm Vehicle 3 Police 7 Taxi 8 Military		9 Ambulance 10 Fire Truck 11 Farm Labor Transport 12 School Bus 13 Transit/Commuter Bus		14 Intercity Bus 15 Charter/Tour Bus 16 Shuttle Bus 17 Farm Labor Bus 88 Unknown	
Vehicle Defects <input type="checkbox"/> 88 1 None 2 Brakes 3 Tires 4 Lights (head, signal, tail) 6 Steering 7 Wipers 9 Exhaust System 10 Body, Doors 11 Power Train 12 Suspension		<input type="checkbox"/> 88 13 Wheels 14 Windows/Windshield 16 Mirrors 18 Truck Coupling 19 Trailer Hitch/Safety Chains 77 Other, Explain in Narrative 88 Unknown			

PERSON #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER

EXHIBIT - E-3

PERSON # 1

Reporting Agency Case Number
2016-06181

88555588

1 Driver 2 Non-Motorist 3 Passenger	1	VEHICLE #	NAME	PHONE NUMBER	Check if Recommended Driver Re-exam <input type="checkbox"/>
CURRENT ADDRESS (Number and Street)			CITY & STATE		ZIP CODE
DATE OF BIRTH	SEX 1 Male 2 Female 88 Unknown	DRIVERS LICENSE NUMBER	STATE	EXPIRES	INJURY SEVERITY (INJ) 1 None 2 Possible 3 Non-Incapacitating
					4 Incapacitating 5 Fatal (Within 30 days) 6 Non-Traffic Fatality

DL Type 1 A 2 B 3 C 4 D/Chauffeur 5 E/Operator 6 E/Oper-Resit 7 None	Required Endorsements 1 Yes 2 No 3 No Req. Endorsement	1st 1 No Contribution Action 2 Operated MV in Careless or Negligent Manner 3 Failed to Yield Right-of-Way 4 Improper Backing 6 Improper Turn	Drivers Actions at Time of Crash 26 Ran off Roadway 27 Disregarded other Traffic Sign 28 Disregarded Other Road Markings 29 Over-Correcting/Over Steering	3rd 80 Swerved or Avoided : Due to Wind, Slippery Surface, MV, Object, Non-Motorist in Roadway, etc. 31 Operated MV in Erratic, Reckless or Aggressive Manner 77 Other Contributing Action	Condition At Time of Crash 88 1 Apparently Normal 3 Aislep or Fatigued 5 D (dick) or Fainted 6 Seizure, Epilepsy, Blackout 7 Physically Impaired 8 Emotional (depression, angry, disturbed, etc.) 9 Under the Influence of Medications/Drugs/Alcohol 77 Other, Explain in Narrative 88 Unknown
Driver Distracted By 1 Not Distracted 2 Electronic Communication Devices (cell phone, etc.) 3 Other Electronic Device (navigation device, DVD player)		4 Other Inside the Vehicle (explain in narrative) 5 External Distraction (outside the vehicle, explain in narrative) 6 Texting 7 Inattentive 88 Unknown		4th 10 Followed too Closely 11 Ran Red Light 12 Drove too Fast for Conditions 13 Ran Stop Sign 15 Improper Passing 17 Exceeded Posted Speed 21 Wrong Side of Wrong Way 25 Failed to Keep in Proper Lane	
DRIVER VISION OBSTRUCTIONS 1 Vision Not Obscured 2 Inclement Weather 3 Parked/Stopped Vehicle 4 Trees/Crops/Bushes		5 Load on Vehicle 6 Building/Fixed Object 7 Signs/Billboards 8 Fog		9 Smoke 10 Glare 77 All Other, Explain in Narrative	

DRIVER OR PASSENGER Motor Vehicle Seating Position: <table style="width: 100%;"> <tr> <th>Seat</th> <th>Row</th> <th>Other</th> </tr> <tr> <td>1 Left 2 Middle 3 Right 77 Other (explain in narrative) 88 Unknown</td> <td>1 Front 2 Second 3 Third 4 Fourth 77 Other Row 88 Unknown</td> <td>1 Not Applicable 2 Sleeper Section of Truck Cab 3 Other Enclosed Cargo Area 4 Unenclosed Cargo Area 5 Trailing Unit 6 Riding on Motor Vehicle Exterior (non-trailing unit) 88 Unknown</td> </tr> </table>	Seat	Row	Other	1 Left 2 Middle 3 Right 77 Other (explain in narrative) 88 Unknown	1 Front 2 Second 3 Third 4 Fourth 77 Other Row 88 Unknown	1 Not Applicable 2 Sleeper Section of Truck Cab 3 Other Enclosed Cargo Area 4 Unenclosed Cargo Area 5 Trailing Unit 6 Riding on Motor Vehicle Exterior (non-trailing unit) 88 Unknown	LOCATION: SEAT ROW OTHER (LOC) 1 1	Helmet Use (HU) <input type="checkbox"/> 1 DOT-Compliant Motorcycle Helmet <input type="checkbox"/> 2 Other Helmet <input type="checkbox"/> 3 No Helmet	Eye Protection (EP) <input type="checkbox"/> 1 Yes <input type="checkbox"/> 2 No <input type="checkbox"/> 3 Not Applicable	Restraint Systems (RS) <input type="checkbox"/> 1 Not Applicable (non-motorist) <input type="checkbox"/> 2 None Used - Motor Vehicle Occupant <input type="checkbox"/> 3 Shoulder and Lap Belt Used <input type="checkbox"/> 4 Shoulder Belt Only Used <input type="checkbox"/> 5 Lap Belt Only Used <input type="checkbox"/> 6 Restraint Used - Type Unknown <input type="checkbox"/> 7 Child Restraint System - Forward Facing <input type="checkbox"/> 8 Child Restraint System - Rear Facing <input type="checkbox"/> 9 Booster Seat <input type="checkbox"/> 10 Child Restraint Type Unknown <input type="checkbox"/> 77 Other, Explain in Narrative	Ejection (EJECT) <input type="checkbox"/> 1 Not Ejected <input type="checkbox"/> 2 Ejected, Totally <input type="checkbox"/> 3 Ejected, Partially <input type="checkbox"/> 4 Not Applicable <input type="checkbox"/> 88 Unknown	Air Bag Deployed <input type="checkbox"/> 1 Not Applicable <input type="checkbox"/> 2 Not Deployed <input type="checkbox"/> 3 Deployed-Front <input type="checkbox"/> 4 Deployed-Side <input type="checkbox"/> 5 Deployed-Other (knee, air bell, etc.) <input type="checkbox"/> 6 Deployed-Combination <input type="checkbox"/> 7 Deployed-Curtain <input type="checkbox"/> 88 Deployment Unknown
Seat	Row	Other										
1 Left 2 Middle 3 Right 77 Other (explain in narrative) 88 Unknown	1 Front 2 Second 3 Third 4 Fourth 77 Other Row 88 Unknown	1 Not Applicable 2 Sleeper Section of Truck Cab 3 Other Enclosed Cargo Area 4 Unenclosed Cargo Area 5 Trailing Unit 6 Riding on Motor Vehicle Exterior (non-trailing unit) 88 Unknown										

Non-Motorist Description <input type="checkbox"/> 1 Pedestrian <input type="checkbox"/> 2 Other Pedestrian (wheelchair, person in a building, skater, pedestrian conveyance, etc.) <input type="checkbox"/> 3 Bicyclist <input type="checkbox"/> 4 Other Cyclist <input type="checkbox"/> 5 Occupant of Motor Vehicle Not in Transport (parked, etc.) <input type="checkbox"/> 6 Occupant of a Non-Motor Vehicle Transportation Device <input type="checkbox"/> 7 Unknown Type of Non-Motorist	Non-Motorist Location At Time of Crash <input type="checkbox"/> 1 Intersection - Marked Crosswalk <input type="checkbox"/> 2 Intersection - Unmarked Crosswalk <input type="checkbox"/> 3 Intersection - Other Midblock - Marked Crosswalk <input type="checkbox"/> 4 Midblock - Marked Crosswalk <input type="checkbox"/> 5 Travel Lane - Other Location <input type="checkbox"/> 6 Bicycle Lane <input type="checkbox"/> 7 Shoulder/Roadside	Non-Motorist Action/Circumstances <input type="checkbox"/> 1 No Improper Action <input type="checkbox"/> 2 Derr/Dash <input type="checkbox"/> 3 Failure to Yield Right-of-Way <input type="checkbox"/> 4 Failure to Obey Traffic Signs, Signals, or Officer <input type="checkbox"/> 5 In Roadway Improperly (standing, lying, working, playing) <input type="checkbox"/> 6 Disabled Vehicle Related (working on, pushing, leaving/approaching)	Action Prior to Crash <input type="checkbox"/> 8 Sidewalk <input type="checkbox"/> 9 Median/Crossing Island <input type="checkbox"/> 10 Driveway Access <input type="checkbox"/> 11 Shared-Use Path or Trail <input type="checkbox"/> 12 Non-Trafficway Area <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown
Safety Equipment <input type="checkbox"/> 1 None <input type="checkbox"/> 2 Helmet <input type="checkbox"/> 3 Protective Pads Used (elbows, knees, shins, etc.) <input type="checkbox"/> 4 Reflective Clothing (jacket, backpack, etc.)	Lighting <input type="checkbox"/> 5 Lighting <input type="checkbox"/> 6 Not Applicable <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown	Non-Motorist Action/Circumstances <input type="checkbox"/> 7 Entering/Exiting Parked/Standing Vehicle <input type="checkbox"/> 8 Inattentive (talking, eating, etc.) <input type="checkbox"/> 9 Not Visible (dark clothing, no lighting, etc.)	Action Prior to Crash <input type="checkbox"/> 1 Crossing Roadway <input type="checkbox"/> 2 Waiting to Cross Roadway <input type="checkbox"/> 3 Walking/Cycling Along Roadway with Traffic (in or adjacent to travel lane) <input type="checkbox"/> 4 Walking/Cycling Along Roadway Against Traffic (in or adjacent to travel lane)
Safety Equipment <input type="checkbox"/> 5 Walking/Cycling on Sidewalk <input type="checkbox"/> 6 In Roadway - Other (working, playing, etc.) <input type="checkbox"/> 7 Adjacent to Roadway (e.g. shoulder, median) <input type="checkbox"/> 8 Going to or from School (K-12) <input type="checkbox"/> 9 Working in Trafficway (incident response) <input type="checkbox"/> 10 None <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown	Safety Equipment <input type="checkbox"/> 10 Improper Turn/Merge <input type="checkbox"/> 11 Improper Passing <input type="checkbox"/> 12 Wrong-Way Riding or Walking <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown		

SUSPECTED ALCOHOL USE: <input type="checkbox"/> 1 No <input type="checkbox"/> 2 Yes <input type="checkbox"/> 88 Unknown	ALCOHOL TESTED: <input type="checkbox"/> 1 Test Not Given <input type="checkbox"/> 2 Test Refused <input type="checkbox"/> 3 Test Given <input type="checkbox"/> 88 Unknown, if Tested	ALCOHOL TEST TYPE: <input type="checkbox"/> 1 Blood <input type="checkbox"/> 2 Breath <input type="checkbox"/> 3 Urine <input type="checkbox"/> 77 Other, Explain in Narrative	ALCOHOL TEST RESULT: <input type="checkbox"/> 1 PENDING <input type="checkbox"/> 2 COMPLETED <input type="checkbox"/> 88 UNKNOWN	BAC <input type="checkbox"/> 1 No <input type="checkbox"/> 2 Yes <input type="checkbox"/> 88 Unknown	SUSPECTED DRUG USE: <input type="checkbox"/> 1 No <input type="checkbox"/> 2 Yes <input type="checkbox"/> 88 Unknown	DRUG TESTED: <input type="checkbox"/> 1 Test Not Given <input type="checkbox"/> 2 Test Refused <input type="checkbox"/> 3 Test Given <input type="checkbox"/> 88 Unknown, if Tested	DRUG TEST TYPE: <input type="checkbox"/> 1 Blood <input type="checkbox"/> 3 Urine <input type="checkbox"/> 77 Other, Explain in Narrative	DRUG TEST RESULT: <input type="checkbox"/> 1 Positive <input type="checkbox"/> 2 Negative <input type="checkbox"/> 3 Pending <input type="checkbox"/> 88 Unknown
--	--	--	---	---	---	---	--	--

SOURCE OF TRANSPORT TO MEDICAL FACILITY <input type="checkbox"/> 1 Not Transported <input type="checkbox"/> 2 EMS <input type="checkbox"/> 3 Law Enforcement <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown	EMS AGENCY NAME OR ID <input type="checkbox"/> 88	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO NONE
---	--	----------------	---

PERSON #	VEHICLE #	NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	-----------	------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY <input type="checkbox"/> 1 Not Transported <input type="checkbox"/> 2 EMS <input type="checkbox"/> 3 Law Enforcement <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown	EMS AGENCY NAME OR ID <input type="checkbox"/> 88	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO NONE
---	--	----------------	---

PERSON #	VEHICLE #	NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	-----------	------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY <input type="checkbox"/> 1 Not Transported <input type="checkbox"/> 2 EMS <input type="checkbox"/> 3 Law Enforcement <input type="checkbox"/> 77 Other, Explain in Narrative <input type="checkbox"/> 88 Unknown	EMS AGENCY NAME OR ID <input type="checkbox"/> 88	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO NONE
---	--	----------------	---

EXHIBIT - E-4

NARRATIVE

Reporting Agency Case Number
2016-06161

00000000

((VEH-#1), AND (VEH-#2), WERE BOTH TRAVELING (WESTBOUND) ON (COLONIAL BLVD) APPROACHING (SUMMERLIN RD.). (VEH-#2) OCCUPIED THE INSIDE LANE OF TRAVEL AND (VEH-#1) OCCUPIED THE MIDDLE LANE OF TRAVEL.

ACCORDING TO WITNESSES LOCATED ON SCENE, (VEH-#1) SUBSEQUENTLY ENCROACHED (VEH-#2)'S LANE OF TRAVEL AND IMPACTED (VEH-#2), (SIDE-SWIPE) IMPACT. THE FORCE OF THE IMPACT CAUSED (VEH-#2)'S DRIVER TO DRIVE OFF THE ROADWAY TO AN ADJACENT MEDIAN, WHERE (VEH-#2) IMPACTED A TRAFFIC CONTROL DEVICE (SIGN).

((VEH-#2)'S DRIVER WAS EJECTED FROM HIS MOTORCYCLE AND IMPACTED A (PALM TREE). (VEH-#2)'S DRIVER SUCCUMBED TO HIS INJURIES AND WAS PRONOUNCED DECEASED ON SCENE AT 2310 HRS BY (LEE COUNTY-EMS).

((VEH-#1)'S DRIVER FLED THE SCENE UPON IMPACTING (VEH-#2).

BOTH THE SCENE AND THE INVESTIGATION WERE TURNED OVER TO THE (FMPD) TRAFFIC HOMICIDE INVESTIGATION DIVISION.

ADDITIONAL PASSENGERS

PERSON #	VEHICLE # NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	----------------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY <small>1 Not Transported 2 EMS 3 Law Enforcement 77 Other, Explain in Remarks 88 Unknown</small>	EMS AGENCY NAME OR ID	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO
---	-----------------------	----------------	---------------------------------

PERSON #	VEHICLE # NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	----------------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY <small>1 Not Transported 2 EMS 3 Law Enforcement 77 Other, Explain in Remarks 88 Unknown</small>	EMS AGENCY NAME OR ID	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO
---	-----------------------	----------------	---------------------------------

ADDITIONAL VIOLATIONS

PERSON #	NAME OF VIOLATOR	FL. STATUTE NUMBER	CHARGE	CITATION NUMBER

REPORTING OFFICER

ID/BADGE #	RANK	OFFICER NAME	DEPARTMENT	TYPE OF DEPT.
760	P.O.	MIKE PERRY	FORT MYERS POLICE DEPARTME	POLICE DEPARTMENT (PD)

EXHIBIT - E-5

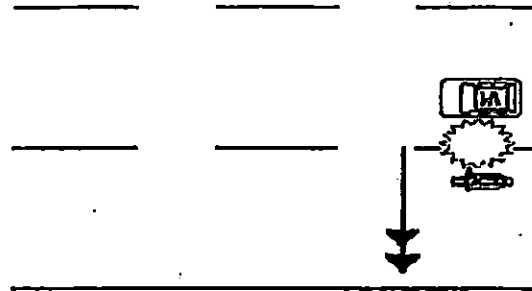
DIAGRAM

REPORTING AGENCY CASE NUMBER
2016-08161

HSMV CRASH REPORT NUMBER
8855669

NOT TO SCALE

1600 BLK / COLONIAL BLVD



FINAL REST MOTORCYCLE



FINAL REST-VEH #2'S DRIVER



EXHIBIT - E-6

VEHICLE # 2 **Check if Commercial** **Reporting Agency Case Number** 2016-06161
1 Vehicle In Transport **VEHICLE LICENSE NUMBER** 14BNK **STATE** FL **REGISTRATION EXPIRES** 07/21/2016 **Check if Permanent Registration** **VIN** JYARJ14E88A008947
2 Parked Motor Vehicle **YEAR** 2008 **MAKE** YAM **MODEL** MOTOR CYCLE **STYLE** MOTORCYCLE **COLOR** BLUE - BLU **DAMAGE:**
3 Working Vehicle **1 No** **2 Yes** **88 Unknown** **4 Minor** **88 Unknown** **1** **EST. AMOUNT** \$5,000.00

INSURANCE COMPANY (DRIVER) UNKNOWN **INSURANCE POLICY NUMBER** UNKNOWN **Towed due to Damage:** 1 No 2 Yes **2** **VEHICLE REMOVED BY** ALLIGATOR TOWING **1. Rotation** **2. Owner Request** **3. Driver** **4. Other, Explain in Narrative** **1**

NAME OF VEHICLE OWNER (CHECK IF BUSINESS) ADAM ROGER KING **CURRENT ADDRESS** 1411 WHISKEY CREEK DR **CITY & STATE** FORT MYERS FL **ZIP** 33910

HAZ. MAT. RELEASED 1 No 2 Yes 88 Unknown **HAZ. MAT. PLACARD** 1 No 2 Yes 88 Unknown **NUMBER** **CLASS** **Area of Initial Impact** **12** **Most Damaged Area** **12**

VEHICLE TRAVELING N S E W Off-Road Unknown **ON STREET, ROAD, HIGHWAY** COLONIAL BLVD **AT EST. SPEED** 45 **POSTED SPEED** 45 **TOTAL LANES** 6

Vehicle Body Type **11**
 1 Passenger Car
 2 Passenger Van
 3 Pickup
 7 Motor Home
 8 Bus
 11 Motorcycle
 12 Moped
 13 All Terrain Vehicle (ATV)

Trailer Type **4**
 1 Two-Way, Not Divided
 2 Two-Way, Not Divided, with a Continuous Left Turn Lane
 3 Two-Way, Divided, Unprotected (painted >4 feet) Median
 4 Two-Way, Divided, Positive Median Barrier
 5 One-Way Trafficway
 88 Unknown

Commercial Motor Vehicle Configuration
 1 Vehicle 10,000 lbs or less Priced for Hazardous Materials
 2 Single-Unit Truck (2-axle and GVWR more than 10,000 lbs (4,536 kg))
 3 Single-Unit Truck (3 or more axles)
 4 Truck Pulling Trailer(s)
 5 Truck Tractor (cabless)
 6 Truck Tractor/Semi-Trailer
 7 Truck Tractor/Double Truck

Trailer 1 **Trailer 2** **Trailer Type**
 1 Single Semi Trailer 8 Pole Trailer
 2 Tandem Semi Trailer 9 Towed Vehicle
 3 Tank Trailer 10 Auto Transport
 4 Saddle Mount/Trailer 77 Other, Explain in Narrative
 5 Boat Trailer 88 Unknown
 6 Utility Trailer 7 House Trailer

Comm/Non-Commercial
 1 Interstate Carrier
 2 Interstate Carrier
 3 Not in Commerce/Government
 4 Not in Commerce/Other Truck

Cargo Body Type
 1 No Cargo
 2 Bus
 3 Van/Enclosed Box
 4 Hopper
 6 Pole-Trailer
 8 Cargo Tank
 7 Flatbed
 9 Dump
 10 Concrete Mixer
 10 Auto Transport
 11 Garbage/Refuse
 12 Log

13 Intermodal Container Chassis
14 Vehicle Towing Another Vehicle
15 Not Applicable (vehicle 10,000 lbs (4,536 kg) or less not displaying HM placard)
77 Other, Explain in Narrative
88 Unknown

Most Harmful Event **14**
 Non-Collision
 1 Overturn/Rollover
 2 Fire/Explosion
 3 Immersion
 4 Jackknife
 5 Cargo/Equipment Loss or Shift
 6 Fell/Jumped From Motor Vehicle
 7 Thrown or Falling Object
 8 Ran into Water/Canal
 9 Other Non-Collision

Collision with Non-Fixed Object
 10 Pedestrian
 11 Bicycle
 12 Railway Vehicle (train, engine)
 13 Animal
 14 Motor Vehicle in Transport
 15 Parked Motor Vehicle
 16 Work Zone/Maintenance Equipment
 17 Struck By Falling, Shifting Cargo or Anything Not in Motion by Motor Vehicle
 18 Other Non-Fixed Object

Collision Fixed Object
 19 Impact Attenuator/Crash Cushion
 20 Bridge Overhead Structure
 21 Bridge Pier or Support
 22 Bridge Rail
 23 Culvert
 24 Curb
 25 Ditch
 26 Embankment
 27 Guardrail Face
 28 Guardrail End

Emergency Vehicle Use **1**
 1 No
 2 Yes
 88 Unknown

Sequence of Events
 1st **14** 2nd 3rd 4th

[40-48 Sequence of Events only]
 40 equipment Failure (blown tire, brake failure, etc.)
 41 Separation of Units
 42 Ran Off Roadway, Right
 43 Ran Off Roadway, Left
 44 Cross Median
 45 Cross Centerline
 48 Downhill Runaway

Roadway Grade **1**
 1 Level
 2 Hillcrest
 3 Uphill
 4 Downhill
 5 Sag (bottom)

Roadway Alignment **1**
 1 Straight
 2 Curve Right
 3 Curve Left

Vehicle Maneuver Action **1**
 1 Straight Ahead 13 Stopped in Traffic
 3 Turning Left 14 Slowing
 4 Backing 15 Negotiating a Curve
 5 Turning Right 16 Leaving Traffic Lane
 6 Changing Lanes 17 Entering Traffic Lane
 8 Parked 77 Other, Explain in Narrative
 10 Making U-Turn 88 Unknown
 11 Overtaking/Passing

Traffic Control Device For This Vehicle **1**
 1 No Controls
 4 School Zone Sign/Device
 5 Traffic Control Signal
 6 Stop Sign
 7 Yield Sign

6 Flashing Signal
 9 Railway Crossing Device
 10 Person (Including Fireman, Officer, Guard, etc.)
 77 Other, Explain in Narrative
 88 Unknown

Vehicle Defects **1**
 1 None 13 Wheels
 2 Brakes 14 Windows/Windshield
 3 Tires 15 Mirrors
 4 Lights (head, signal, tail)
 6 Steering 16 Truck Coupling
 7 Wipers Trailer Hitch/Safety Chains
 8 Exhaust System 77 Other, Explain in Narrative
 10 Body, Doors 88 Unknown
 11 Power Train
 12 Suspension

Special Function of Motor Vehicle **1**
 1 No Special Function 9 Ambulance 14 Intercity Bus
 2 Farm Vehicle 10 Fire Truck 15 Charter/Tour Bus
 3 Police 11 Farm Labor Transport 16 Shuttle Bus
 7 Taxi 12 School Bus 17 Farm Labor Bus
 8 Military 13 Transit/Commuter Bus 88 Unknown

PERSON #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
PERSON #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
PERSON #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER

EXHIBIT - E-7

PERSON # **2**

Reporting Agency Case Number
2016-08161

1 Driver 2 Non-Motorist 3 Passenger	1	VEHICLE # 2	NAME ADAM ROGER KING	PHONE NUMBER	Check if Recommended Driver Re-exam <input type="checkbox"/>
CURRENT ADDRESS (Number and Street) 1411 WHISKEY CREEK DR			CITY & STATE FORT MYERS FL		ZIP CODE 33819
DATE OF BIRTH 07/21/1987	SEX: 1 Male 2 Female 88 Unknown	DRIVERS LICENSE NUMBER K-520-016-97-261-0	STATE FL	EXPIRES 07/21/2021	INJURY SEVERITY (IU) 1 None 2 Possible 3 Non-Incapacitating 4 Incapacitating 5 Fatal (within 30 days) 6 Non-Traffic Fatality

DL Type 1 A 2 B 3 C 4 D/Churnour 5 E/Operator 6 E/Oper-Res 7 None	Required Endorsements 1 Yes 2 No 3 No Req. Endorsement	1st 1 1 No Contribution Action 2 Operated MV in Careless or Negligent Manner 3 Failed to Yield Right-of-Way 4 Improper Backing 6 Improper Turn	Drivers Actions at Time of Crash 28 Ran off Roadway 27 Disregarded other Traffic Sign 28 Disregarded Other Road Markings 29 Over-Correcting/Over Steering 30 Swerved or Avoided : Due to Wind, Slippery Surface, MV, Object, Non-Motorist in Roadway, etc. 31 Operated MV in Erratic, Reckless or Aggressive Manner 77 Other Contributing Action	3rd <input type="checkbox"/>	Condition At Time of Crash 1 Apparently Normal 3 Astoop or Fatigued 5 II (tick) or Fainted 6 Seizure, Epilepsy, Blackout 7 Physically Impaired 8 Emotional (depression, angry, disturbed, etc.) 9 Under the Influence of Medications/Drugs/Alcohol 77 Other, Explain in Narrative 88 Unknown
Driver Distracted By 1 Not Distracted 2 Electronic Communication Devices (cell phone, etc.) 3 Other Electronic Device (navigation device, DVD player) 4 Other Inside the Vehicle (explain in narrative) 5 External Distraction (outside the vehicle, explain in narrative) 6 Texting 7 Inattentive 88 Unknown		2nd <input type="checkbox"/>	4th <input type="checkbox"/>		

DRIVER VISION OBSTRUCTIONS 1 Vision Not Obscured 2 Inclement Weather 3 Parked/Stopped Vehicle 4 Trees/Crops/Bushes	5 Load on Vehicle 6 Building/Fixed Object 7 Signs/Billboards 8 Fog	8 Smoke 10 Glare 77 All Other, Explain in Narrative	DRIVER OR PASSENGER 1 Yes 2 No 3 Not Applicable	Eye Protection (EP) 1 Yes 2 No 3 Not Applicable	77 Restraint Systems (RS) 1 Not Applicable (non-motorist) 2 None Used - Motor Vehicle Occupant 3 Shoulder and Lap Belt Used 4 Shoulder Belt Only Used 5 Lap Belt Only Used 6 Restraint Used - Type Unknown 7 Child Restraint System - Forward Facing 8 Child Restraint System - Rear Facing 9 Booster Seat 10 Child Restraint Type Unknown 77 Other, Explain in Narrative
DRIVER OR PASSENGER Motor Vehicle Seating Position: Seat Row Other 1 Left 1 Front 1 Not Applicable 2 Middle 2 Second 2 Sleeper Section of Truck Cab 3 Right 3 Third 3 Other Enclosed Cargo Area 77 Other (explain in narrative) 4 Fourth 4 Unenclosed Cargo Area 88 Unknown 77 Other Row 6 Riding on Motor Vehicle Exterior (non-trailing unit) 88 Unknown			1st 1 1 DOT-Compliant Motorcycle Helmet 2 Other Helmet 3 No Helmet		
Ejection (EJECT) 1 Not Ejected 2 Ejected, Totally 3 Ejected, Partially 4 Not Applicable 88 Unknown			2nd 2 1 Not Applicable 2 Not Deployed 3 Deployed-Front 4 Deployed-Side 88 Unknown		

Non-Motorist Description 1 Pedestrian 2 Other Pedestrian (wheelchair, person in a building, skater, pedestrian conveyance, etc.) 3 Bicyclist 4 Other Cyclist 5 Occupant of Motor Vehicle Not in Transport (parked, etc.) 6 Occupant of a Non-Motor Vehicle Transportation Device 7 Unknown Type of Non-Motorist	Non-Motorist Location At Time of Crash 1 Intersection - Marked Crosswalk 2 Intersection - Unmarked Crosswalk 3 Intersection - Other/ Midblock - Marked Crosswalk 4 Midblock - Marked Crosswalk 5 Travel Lane - Other Location 6 Bicycle Lane 7 Shoulder/Roadside	Non-Motorist Actions/Circumstances 1 No Improper Action 2 Dart/Dash 3 Failure to Yield Right-of-Way 4 Failure to Obey Traffic Signs, Signals, or Officer 5 In Roadway Improperly (standing, lying, working, playing) 6 Disabled Vehicle Related (working on, pushing, leaving/approaching)	8 Sidewalk 9 Median/Crossing Island 10 Driveway Access 11 Shared-Use Path or Trail 12 Non-Trafficway Area 77 Other, Explain in Narrative 88 Unknown	Action Prior to Crash 1 Crossing Roadway 2 Waiting to Cross Roadway 3 Walking/Cycling Along Roadway with Traffic (in or adjacent to travel lane) 4 Walking/Cycling Along Roadway Against Traffic (in or adjacent to travel lane) 5 Walking/Cycling on Sidewalk 6 In Roadway - Other (working, playing, etc.) 7 Adjacent to Roadway (e.g., shoulder, median) 8 Going to or from School (K-12) 9 Working in Trafficway (incident response) 10 None 77 Other, Explain in Narrative 88 Unknown
1 None 2 Helmet 3 Protective Pads Used (elbows, knees, shins, etc.) 4 Reflective Clothing (jacket, backpack, etc.)	5 Lighting 6 Not Applicable 77 Other, Explain in Narrative 88 Unknown	1st <input type="checkbox"/>	2nd <input type="checkbox"/>	10 Improper Turn/Merge 11 Improper Passing 12 Wrong-Way Riding or Walking 77 Other, Explain in Narrative 88 Unknown

SUSPECTED ALCOHOL USE: 1 No 2 Yes 88 Unknown	ALCOHOL TESTED: 1 Test Not Given 2 Test Refused 3 Test Given 88 Unknown, if Tested	ALCOHOL TEST TYPE: 1 Blood 2 Breath 3 Urine 77 Other, Explain in Narrative	ALCOHOL TEST RESULT: 1 PENDING 2 COMPLETED 88 UNKNOWN	BAC 1 No 2 Yes 88 Unknown	SUSPECTED DRUG USE: 1 No 2 Yes 88 Unknown	DRUG TESTED: 1 Test Not Given 2 Test Refused 3 Test Given 88 Unknown, if Tested	DRUG TEST TYPE: 1 Blood 3 Urine 77 Other, Explain in Narrative 88 Unknown	DRUG TEST RESULT: 1 Positive 2 Negative 3 Pending 88 Unknown
---	--	---	--	------------------------------------	--	---	---	--

SOURCE OF TRANSPORT TO MEDICAL FACILITY 1 Not Transported 2 EMS 3 Law Enforcement 77 Other, Explain in Narrative	EMS AGENCY NAME OR ID LEE COUNTY EMS	EMS RUN NUMBER MEDIC 40	MEDICAL FACILITY TRANSPORTED TO NONE
---	--	-----------------------------------	--

PERSON #	VEHICLE #	NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	-----------	------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY 1 Not Transported 2 EMS 3 Law Enforcement 77 Other, Explain in Narrative	EMS AGENCY NAME OR ID	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO
---	-----------------------	----------------	---------------------------------

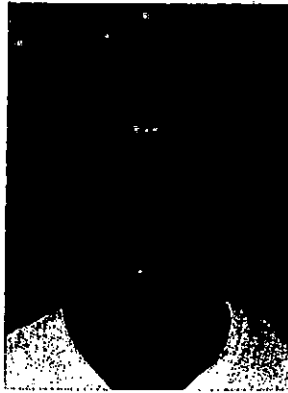
PERSON #	VEHICLE #	NAME	DATE OF BIRTH	INJ	SEX	LOC: S	R	O	EJECT	HU	EP	ABD	RS
----------	-----------	------	---------------	-----	-----	--------	---	---	-------	----	----	-----	----

CURRENT ADDRESS (Number and Street)	CITY	STATE	ZIP CODE
-------------------------------------	------	-------	----------

SOURCE OF TRANSPORT TO MEDICAL FACILITY 1 Not Transported 2 EMS 3 Law Enforcement 77 Other, Explain in Narrative	EMS AGENCY NAME OR ID	EMS RUN NUMBER	MEDICAL FACILITY TRANSPORTED TO
---	-----------------------	----------------	---------------------------------

**STATE OF FLORIDA
VS
ADAM MURRAY COSTELLO**

**IN THE COUNTY COURT
LEE COUNTY
STATE OF FLORIDA**



DOB: [REDACTED]

Last Known Address: 1900 Virginia Ave #602, Fort Myers, FL 33901

Social Security Number: [REDACTED]

FL DL Number: [REDACTED]

On June 19, 2016 at approximately 11:01 pm, Adam Murray Costello, did knowingly commit the following offenses:

1. **Leaving the Scene of a Traffic Crash Involving Death, in violation of Florida State Statute 316.027(2)(c)**
2. **Tampering with Evidence, in violation of Florida State Statute 918.13(1)(a)**

There is probable cause to believe this in that Traffic homicide Investigator Lesa Breneman conducted an investigation and determined the following: On June 19, 2016, Adam Murray Costello was the driver of a motor vehicle and did hit and kill a human being, Adam Roger King. Costello then tampered/concealed/destroyed evidence relating to the crime, knowing that a police investigation had commenced and with the intent to impair the availability of the evidence in the investigation.

The investigation was as follows:

On June 19, 2016 at approximately 2301 hours, the Fort Myers Police Department received a 911 call in reference to a traffic crash that had just occurred on Colonial Blvd near the intersection of Summerlin Rd. The 911 caller was Timothy Bernal.

Officer Michael Perry was the first officer on scene and observed a motorcycle, Florida tag 14BNK, lying the eastbound lane 1 of Colonial Blvd. Officer Perry also observed the motorcycle operator lying on the grass median adjacent to a tree. The motorcycle operator was still wearing a helmet and was lifeless. Lee County Emergency Medical Services arrived on scene and pronounced the motorcyclist deceased at 2310

hours. Officer Perry noted that there were no other vehicles at the scene of the crash except the one belonging to the witness Bernal.

Traffic Homicide Investigators Lesa Breneman and Gustavo Goncalves were contacted and responded to the scene. The deceased motorcyclist was identified as Adam Roger King (07/21/1997).

Officer Goncalves photographed and measured the crash scene and Officer Breneman spoke with Bernal. Officer Breneman got a sworn taped statement from Bernal. Bernal advised the following: He was westbound on Colonial Blvd from Cleveland Ave. Bernal was travelling behind King on his motorcycle. Bernal observed a white pickup truck turn onto Colonial Blvd in front of him, possibly from the light at Deleon St. Bernal then observed the white pickup truck change from lane 2 suddenly into lane 1 and strike King. Bernal watched King drive up onto the median and strike the tree. Bernal noted the white pickup truck continued westbound after striking King, without stopping at any point to render aid or provide driver's information. Bernal stopped his vehicle near where King came to final rest and prepared to provide medical aid to King. Bernal noted the pickup truck continued toward the Midpoint Bridge/McGregor Blvd area but he could not confirm which direction the truck went from there. Bernal described the pickup truck which struck King and fled as white in color, newer model, with a topper on the bed of the truck. Bernal stated that damage to the truck would be to the front driver's door and fender.

Officer Breneman then spoke with Shame Romero. Romero provided a taped sworn statement. Romero was another witness to the crash. Romero stated that he was westbound on Colonial Blvd next to a white pickup truck. The pickup truck swerved into Romero's lane. Romero then watched the pickup truck change lanes into lane 1, where the motorcyclist was, and strike the motorcyclist. Romero observed the white pickup truck continue westbound on Colonial Blvd towards the Midpoint Bridge/McGregor Blvd intersection. Romero made a U-turn right after the crash and returned to where King lay at final rest to provide medical aid. Romero passed the white pickup truck going in the opposite direction. Romero believed the pickup truck had a flat front driver's side tire. Romero advised that damage to the white pickup truck would be to the driver's door area. Romero also believed that he observed a topped on the bed of the pickup truck.

Officer Breneman and Officer Goncalves surveyed the scene of the crash and located a left front tire mud flap. The part number on the mud flap belonged to a Toyota. Officer Breneman then located a driver's side heated outside glass mirror and a black plastic shell of the driver's side mirror amidst the crash debris. The part numbers on the glass and the shell of the outside mirror were consistent with a Toyota. Officer Breneman collected the mud flap and mirror and plastic shell piece as evidence.

Adam King was transferred to the Medical Examiner's Office. Pam Strassel was the Medical Examiner Investigator.

On June 21, 2016 at 0717 hours, attorney Scott Moorey contacted the Fort Myers Police Department to advise that he represents Adam Costello, later identified as Adam Murray Costello (11/12/1974). Moorey further advised that the white pickup truck involved in the fatal car crash on June 19, 2016 is registered to Adam Costello and Moorey stated that the pickup truck was located at 3912 Arlington St, Fort Myers, FL. Moorey additionally notified the call taker that Costello has invoked his right to an attorney and advised law enforcement to not speak to Costello without him present.

EXHIBIT – F-3

Officer David Gaide responded to 3912 Arlington St and observed a white 2015 Toyota Tundra, bearing Florida tag 006RDK, in the front yard of the residence. The registered owner of the 2015 Toyota Tundra was Adam Costello. Officer Goncalves responded to Arlington St and observed the Toyota had extensive driver's side door and fender damage and was missing the driver's side outside mirror, consistent with the outside driver's side mirror parts located at the crash scene. The Toyota also had blue paint transfer on the driver's side, consistent with striking King's motorcycle which is royal blue in color. The Toyota was backed into the front yard of 3912 Arlington St adjacent to the wooden fence gate. A boat was on the other side of the fence in the back yard.

Moorey and Costello met with Officer Goncalves at 3912 Arlington St. Costello signed a Consent to Search Form for the Toyota Tundra. Moorey signed the consent form as a witness. The consent form granted Officer Goncalves permission to remove the Toyota from the front yard of the residence and search the exterior and interior of the Toyota. The house at 3912 Arlington St is owned by Susan Costello, whom Moorey identified as Costello's mother. Officer Breneman confirmed via Lee County Property Appraisals website that the parcel, 3912 Arlington St, is in fact owned by Susan Costello. The Toyota was towed to the Fort Myers Police Impound lot.

The Fort Myers Police Department did not receive any stolen vehicle reports for a white pickup truck from June 18, 2016-June 21, 2016 and more specifically did not receive a stolen vehicle report from Adam Costello for his white 2015 Toyota Tundra.

On June 22, 2016, Detective Charles Newell completed a CLEAR report on Adam Costello which identified Costello's cellular phone number as 239-218-4928. Additionally, The CLEAR report identified Costello's home and business address as 3912 Arlington St.

On June 22, 2016, Officer Breneman authored and received a search warrant from Judge Josephine Gagliardi for Costello's Verizon cellular phone data and records (239-218-4928). Officer Breneman electronically sent the warrant to Verizon Wireless.

On June 22, 2016, Officer Breneman interviewed Gordon Durant via telephone. Durant advised that he has known Costello and Daniel Sinclair, aka James Daniel Sinclair, since he was younger and grew up with them. Durant was raised in the Fort Myers area. Durant advised that on June 19, 2016, Daniel Sinclair posted on his Facebook page that he was at Twin Peaks, a restaurant and bar in Fort Myers, with Adam Costello drinking beer. The Facebook post was at 1423 hours on June 19, 2016. Durant saw the Facebook post himself on his cellular phone. Durant stated that the post was then altered to remove Costello's name from the post as Costello had deleted his Facebook page. Durant further advised that Costello is a heavy alcohol drinker. He also advised that Costello is always on his cellular phone and has it with him at all times. Durant works in air conditioning and knows that Costello lives on Arlington St and has for at least three years. Durant has done work at Costello's Arlington St house before. Durant is also familiar with Costello's white Toyota Tundra which he stated Costello has owned for one and a half to two years. Durant advised that he has never seen anyone else drive Costello's vehicles as long as he has known him. Durant has not spoken with Costello since January 2016. Durant believes that Costello was driving the Toyota the night of the crash and was likely drinking alcohol and believes that Sinclair will not cooperate with the police and will cover for Costello. Durant provided Sinclair's cellular phone number as 239-634-7877.

Deputy Sommers, with the assistance of Officer Breneman, seized the items relating to the search warrant as evidence. Deputy Sommers transferred custody of the evidentiary items to Officer Breneman. A copy of the search warrant and return was left with Sinclair by Deputy Sommers.

On July 18, 2016, Officer Breneman met with Jacquelyn Levine. Levine provided a sworn taped statement. Levine advised that she spoke with Sinclair via telephone on June 23, 2016 around 1730 hours. The phone conversation was prompted by Levine asking Sinclair about the news story that Levine had seen with Sinclair mentioned. Sinclair then called Levine and told her that he could not tell her who was driving the vehicle that killed Adam King because "it would be incriminating". Levine has not spoken to Sinclair since that date.

On July 18, 2016, Officer Breneman interviewed David Levin again. Levin advised that he spoke with Sinclair via telephone on July 14, 2016 at approximately 0957 hours. Sinclair called Levin. Sinclair again told Levin that he gave the 'DVR' for the home surveillance footage to Costello. Sinclair stated "I gave it to him". Sinclair also advised Levin that he had already told his attorney about the 'DVR' and he didn't do anything wrong so the 'DVR' isn't worth mentioning. Sinclair also told Levin not to cooperate with the police; cooperation doesn't help because it didn't help in Levin's case. This phone call took place several hours before the search warrant was served on Sinclair's house where it was determined that the 'DVR' for his home surveillance system was missing.

On July 21, 2016, Officer Breneman met with Kelly Andriano and Andrew Kempel of the Florida Department of Law Enforcement, FDLE. Andriano is an analyst who specializes in phone record GPS/RTT data. Andriano analyzed Costello's Verizon phone records, 239-218-4928. Andriano observed that Costello made a phone call at 2253 hours on June 19, 2016 to 239-707-5561 which lasted 482 seconds. Andriano was able to track the starting cell tower for that call which placed Costello's phone near Plantation Rd travelling in a northern direction. The phone call ended on a cell tower placing the phone on the east side of the tower near Colonial Blvd and Summerlin Rd. The next two cell towers which Costello's phone ping off of are consistent with him travelling to Arlington St. The most direct route from Sinclair's house on Dabney St to Costello's house on Arlington St is via Plantation Rd north to Colonial Blvd then west to McGregor Blvd then north towards Arlington St. The cell phone analysis performed by Andriano is consistent with Costello's phone travelling that route. Andriano completed a report on her findings as they pertain to Costello's cellular phone.

On July 22, 2016, Officer Breneman met with Joshua Jackson. Jackson is the subscriber of cell phone number 239-707-5561. Jackson confirmed that he spoke with Costello on June 19, 2016 at 2253 hours. Jackson had a copy of his phone records. Jackson could not remember the exact content of the conversation that he had with Costello at that time but he was certain that he had spoken with Costello at phone number 239-218-4928 at that time which puts Costello in possession of his cell phone on June 19, 2016 from 2253-2301 hours. Jackson stated that he has personally never seen anyone but Costello drive Costello's Toyota Tundra.

On July 21, 2016, Officer Breneman met with Maria Michelle Newhard. Newhard advised that she had been casually dating Costello recently. Newhard stated that she spoke with Costello on June 19 and 20, 2016 but the calls were relating to her dying father. Newhard showed Officer Breneman the text messages on her phone between her and Costello which confirmed that the majority of the conversation was in reference to Newhard's father or just casual conversation. Costello did send one message to Newhard on



Florida Department of Law Enforcement

Richard L. Swearingen
Commissioner

Orlando Regional Operations Center
500 W. Robinson St.
Orlando, Florida 32801-1771
1-800-226-8521
www.fdle.state.fl.us

Rick Scott, Governor
Pam Bondi, Attorney General
Jeff Atwater, Chief Financial Officer
Adam Putnam, Commissioner of Agriculture

LABORATORY REPORT
June 22, 2017

TO: Chief Derrick Diggs
Fort Myers Police Department
2210 Widman Way
Fort Myers, FL 33901-3631

FDLE NUMBER: 20160603581
SUBMISSION: 1
AGENCY NUMBER: 201606161

ATTN: Breneman, Lesa

SUBPOENAS PERTAINING TO THIS CASE
SHOULD REFER TO THE FDLE NUMBER.

VICTIM(S): Adam King

SUBJECT(S): Adam Costello
James Daniel Sinclair

OFFENSE(S): Death Investigation
Lee County
6/19/2016

Laura P. Marano
Senior Crime Laboratory Analyst
Trace Evidence Section

REFERENCE:

This report references evidence submitted to the Florida Department of Law Enforcement on July 08, 2016 by Latanya Allen. This report contains conclusions, opinions, and/or interpretations made by the author.

EVIDENCE:

FDLE Item#	Agency Exhibit#	Description
2	29	Blue transfer represented as having been collected from the front driver's side of a 2015 Toyota Tundra pickup truck bearing VIN 5TFRY5F14FX180774
3	31	Paint standard represented as having been collected from a 2008 Yamaha YZF-R6 motorcycle bearing VIN JYARJ16E88A009947

RESULTS:

Agency Exhibit 31, the paint standard collected from the motorcycle, consists of two (2) paint scrapings that have the following layer structure or variations thereof:

1. Clear nonmetallic topcoat



EXHIBIT - G-2

FDLE NUMBER: 20160603581 Submission: 1

UMA

2. Clear nonmetallic finishcoat
3. Dark blue finishcoat with decorative flake

These scrapings exhibit characteristics consistent with an automotive paint layer system.

Agency Exhibit 29 consists of white multilayered paint scrapings that, upon examination, have what initially appeared to be a blue transfer material on their surface. However, further microscopical examinations revealed that the blue areas on these scrapings are not transferred paint, but rather what appears to be blue pigment that is embedded inside the clear topcoat layer of the scrapings. Also observed on the clear topcoat layer of one of these scrapings is *smearred grey plastic*. Since no transferred automotive paint was found on any of the scrapings collected from the Toyota Tundra pickup truck, no comparative examinations were performed.

REMARKS:

These exhibits are being returned to your agency.

Questions regarding this report should be addressed to: lauramarano@fdle.state.fl.us.

STATE OF FLORIDA vs ADAM COSTELLO
LAURA MARANO on 08/30/2017

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT, IN AND
FOR LEE COUNTY, FLORIDA
CRIMINAL ACTION

CASE NO. : 16-CF-371

STATE OF FLORIDA,

Plaintiff,

vs.

ADAM COSTELLO,

Defendant.

DEPOSITION OF: LAURA MARANO
DATE TAKEN: AUGUST 30, 2017
TIME: 11:30 A.M. - 11:54 A.M.
LOCATION: 121 SOUTH ORANGE AVENUE
SUITE 800
ORLANDO, FLORIDA 32801
REPORTED BY: BEVERLY O. BENNETT, COURT
REPORTER AND NOTARY PUBLIC

1 Marta Strawser is at as it relates to those fracture
2 matches?

3 A I don't -- I don't know exactly at what stage
4 of the examination she is. I know she's started the
5 examination already.

6 Q Okay. So is she also with the trace evidence
7 section?

8 A Yes.

9 Q So, at this time, do you know of any other --
10 because, again, these last two things I've never heard
11 of. Do you know of any other trace analysis that are
12 going on at FDLE in this case?

13 A I don't think there's anything else, that I'm
14 aware of, any other examinations being done on this
15 case.

16 Q Okay. Thank you.

17 All right. So I guess the only thing we can
18 discuss, then, at this point, is what you would have
19 done with respect to this June 22nd date. I think we
20 got to the point that you had requested it out of the
21 vault.

22 A Right.

23 Q What happens next?

24 A I received the items, and in this case it was
25 sealed manila envelopes. I usually start -- routinely

1 start with the examination of the question sample. In
2 this case, that's the sample, the origin of which is
3 unknown.

4 So in this situation, the question sample is
5 scrapings from the Tundra that were collected that had
6 what was -- what was described as blue transfers on
7 their surface, so I examined those. And by "examined,"
8 I opened the container; I retrieved the scrapings. And
9 scrapings are basically peels that are collected of the
10 paint from a damaged area.

11 Paint from automobiles is applied in layers,
12 so you have a paint-layer system. In this case, for the
13 Tundra, there's clear coat; base coat, which is white,
14 because the vehicle is white; and then a primer.

15 Q And are these set forth -- are these standard?
16 Do you go back and look -- you know, what does Tundra
17 indicate their vehicles -- how are they painted? Or is
18 that something that you --

19 A No.

20 Q -- in each case you evaluate?

21 A Yeah. I evaluate each sample on its own
22 and -- again, because not all Tundras are going to have
23 the same paint-layer system applied to them. There may
24 be variations in the paint-layer systems for the
25 vehicles. Refinishes affect that as well. You know, if

1 a vehicle has been refinished, there's going to be paint
2 applied on top of the paint that was there already.

3 Q Okay.

4 A So I examined the scrapings. And they were
5 described as having blue transfers on their surface.
6 When I examined them under the microscope, I realized
7 that -- the term "transfer" usually refers to paint that
8 is not indigenous to the vehicle that the paint is
9 collected from. It's paint that has come from somewhere
10 else. And so "transfer" would be paint that's basically
11 smeared or fused to the surface.

12 Q Right.

13 A And in this situation, when I examined those
14 scrapings, they weren't actually transfers on the
15 surface. There was blue pigmentation that was actually
16 in the clear coat; the origin of which I can't
17 determine. I can speculate that it might be a defect in
18 that area of the clear coat, but it certainly was not a
19 transfer on the surface.

20 Q And you're certain of that in your training
21 and experience?

22 A Yes.

23 Q And so what happens then?

24 A So, at that point, I'm documenting --
25 documenting the fact that these scrapings don't really

1 have any transfers on their surface. I document it
2 through notes and photographs. I'm basically -- the
3 comparative examination is done at that point.

4 So I then opened the paint standard from the
5 motorcycle, which is a paint-layer system consisting of
6 clear coats and a blue -- dark blue base coat that had a
7 lot of decorative flake in it. And I simply opened that
8 to describe it, to describe it in my notes, document it
9 through notes and photographs, and then describe it in
10 the report. And at that point the comparative
11 examination is over because there is nothing to compare
12 to the standard from the motorcycle. There's no
13 transfer there.

14 Q All right. In many of my cases that I've
15 dealt with, with submissions to FDLE, law enforcement
16 will put a notation as to what occurred, or what their
17 theory is that occurred, for the analyst to review.

18 Did they give you any sort of description of
19 what they believed occurred that you were evaluating?

20 A Let me reference the submission form so I
21 can --

22 Q Thank you.

23 A Okay. So the note -- the comment on the
24 submission form says, "Victim was riding motorcycle and
25 was hit by another vehicle. Victim was killed. The

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF ORANGE)

I, BEVERLY O. BENNETT, Court Reporter and a
Notary Public for the State of Florida, certify that the
witness, LAURA MARANO, personally appeared before me on
the 30th day of August, 2017, and was duly sworn.

WITNESS my hand and official seal this 13th
day of September, 2017.

Identification: Florida driver's license

Beverly O. Bennett

BEVERLY O. BENNETT
Notary Public - State of Florida
Commission No. GG 123587

My commission expires: 8/4/2021



BEVERLY O BENNETT
Commission # GG 123587
Expires August 4, 2021
Bonded Thru Budget Notary Services



OFFICE OF THE DISTRICT MEI

DISTRICT 21, STATE OF FLORIDA
LEE-HENDRY-GLADES COUNTIES

70 SOUTH DANLEY DRIVE
FORT MYERS, FLORIDA 33907-2437

Phone: (239) 277-5020

Fax: (239) 277-5017



www.flame21.com
me21@leegov.com

Rebecca A. Hamilton, M.D.
District Medical Examiner

NAME

KING, ADAM ROGER

CASE NUMBER	00566-2016
COUNTY	Lee
AGE	18 year old, White Male
DATE OF DEATH	Sunday, June 19, 2016, 11:10 PM
DATE OF EXAMINATION	Monday, June 20, 2016, 9:35 AM
PLACE OF EXAMINATION	District 21 Medical Examiner's Office
EXAMINER	REBECCA A. HAMILTON, M.D.
FUNERAL HOME	Fort Myers Memorial Gardens

MANNER OF DEATH: Accident

CAUSE OF DEATH:

- a. Multiple blunt trauma
DUE TO (OR AS A CONSEQUENCE OF) _____
- b. Motorcyclist versus. Vehicle
DUE TO (OR AS A CONSEQUENCE OF) _____
- c. _____
DUE TO (OR AS A CONSEQUENCE OF) _____
- d. _____

OTHER SIGNIFICANT CONDITIONS:

DATE & TIME OF INJURY: 6/19/2016 11:02:00 PM

INJURY AT WORK?: NO **PLACE OF INJURY:** Roadway

LOCATION: Colonial Boulevard and Bowling Green Boulevard

HOW INJURY OCCURRED: Struck by unknown vehicle

REBECCA A. HAMILTON, M.D.

DISTRICT MEDICAL EXAMINER

Date Signed

9/6/16

MR#: 00566-16

KING, ADAM

Page: 1

LEE COUNTY

NAME: KING, ADAM
AGE: 18-year-old white man
DATE OF DEATH: Sunday, June 19, 2016; 11:10 PM
DATE OF EXAM: Monday, June 20, 2016; 9:35 AM
SCENE INVESTIGATION: Yes
SCENE INVESTIGATOR: Pam Strassel
PLACE OF EXAM: District 21 Medical Examiner's Office
PROSECTOR: Rebecca A. Hamilton, M.D.
PRIMARY ASSISTANT: Brian Lucas
SECONDARY ASSISTANT: Cody Garrow
WITNESS: None

YES TOXICOLOGY; NO HISTOLOGY

EXTERNAL EXAMINATION:

The body is that of a lean, well-developed, well-kempt, 72-inch, 173-pound, white man whose appearance is consistent with the recorded age of 18 years. The decedent is clad in the following items of clothing:

1. A damaged black helmet
2. A black "Icon" brand, Stryker protective vest
3. A pair of black "Icon" gloves
4. A pair of black athletic ankle socks
5. A "Swiss Gear" brand brown-black leather belt received in two separate pieces
6. A pair of "Wrangler" denim jeans, size 34 x 32
7. A long-sleeved, black "Under Armour" brand shirt.

Retrieved from the right front pocket of the jeans is a "Samsung" cellular telephone with an overlying "Otter" cover. Retrieved from the right rear pocket of the jeans is a trifold, black wallet. Identified within the wallet is a Florida driver's license, class "E", of Adam Roger King with a license number of K520-016-97-261-0. Retrieved from the right front pocket of the jeans is a set of white earbuds and remnants of an electronic cigarette with multiple pieces of broken glass. Encircling the left wrist is a green rubber bracelet.

Examination of the shirt reveals multiple defects in the material identified on both the left back side of the shirt as well as the right sleeve of the shirt. Examination of the jeans reveals multiple tears of the denim material over the right knee area as well as over the left anterolateral thigh area.

Rigor mortis is present. Lividity is posterior, patchy, pink-purple, non-blanching, and spares areas exposed to pressure. The scalp is covered with coarse, wavy, light brown to red hair measuring approximately 1 1/2 inches in length on top. The irides are blue-gray. The conjunctivae are clear and free of petechiae. The sclerae are not congested or edematous. The nares are patent. The nose has no palpable fractures. Curly red to light brown hair is present on the lateral sides of the face, superior to the upper lip, and over the central chin area. The oral cavity is patent and has upper and lower natural dentition in fair repair. The frenula are grossly free of injuries. No lingual mucosal lacerations are identified. The neck is grossly straight. Identified on the central thorax and abdomen is light brown hair. The pubic hair is light brown. The penis is circumcised and the testes are descended, bilaterally. The external genitalia is grossly free of trauma. The back is straight. The left buttock, superior to the inferior gluteal fold, has two well-healed, vertically oriented linear scars. The lower extremities have no identifiable scars or tattoos. There is no palpable pretibial edema of either lower extremity. Examination of the antecubital fossae, bilaterally, reveals no identifiable recreational intravenous puncture sites or appreciable track marks. The dorsal surface of the right forearm has a monochromatic, professional tattoo of an eagle. The ventral aspect of the right forearm has a

monochromatic, professional tattoo of a rose and an adjacent sword. The fingernails of both hands are focally unkempt. The lateral aspect of the left hand, adjacent to the 5th digit, has a discontinuous area of dark black to dark blue discoloration which extends onto the left 5th digit. (This coloration may be due to the overlying glove at the time of the injury.) There is no evidence of acute traumatic penetrating or sharp force injury.

IDENTIFICATION:

The decedent is identified by visual comparison to driver's license by Investigator Pam Strassel on scene.

EVIDENCE OF MEDICAL THERAPY:

None.

EVIDENCE OF ACUTE BLUNT TRAUMA:

Identified on the anterolateral aspect of the left side of the head, within the parietal area, is a 3.1-cm laceration. Multiple small red abrasions are identified on the bridge of the nose. Present on the nose are multiple small confluent abrasions and lacerations. Reflection of the scalp reveals focally dense subscalp and subgaleal hemorrhages at the vertex of the head and over the left temporoparietal areas. Examination of the cranium reveals multiple contiguous, focally depressed fractures of the left parietal bone with continuation of fractures into the left temporal bone. Within the cranial cavity, there is an estimated 4 cc of clotted, dark red subdural blood present at the base of the brain. The brain is extremely edematous with flattening of the gyri and narrowing of the sulci. Multiple thin subarachnoid hemorrhages are present on the cerebral convexities, bilaterally. Examination of the base of the skull reveals multiple fractures of the bilateral anterior cranial fossae, the bilateral middle cranial fossae, and the posterior cranial fossa.

Externally, the anterior aspect of the neck and undersurface of the chin have multiple small irregular abrasions.

Externally, the right lateral thorax has a cluster of multiple slightly parallel, linear, horizontally oriented abrasions which extend from the right axilla to the right upper abdomen. These abrasions measure up to 15 cm in total dimension. Present over the central anterior abdomen are multiple irregular small abrasions. Identified on the left anterolateral thorax, inferior to the axilla, are two irregular abrasions measuring up to 2.1 cm in greatest dimension. Internally, within the thoracic cavity, the anterior aspect of rib 2 on the right side has a displaced rib fracture. The lateral aspects of ribs 1 and 5 on the right side and the posterior aspects of ribs 1, 3, 4, and 5-12 on the right side have displaced and nondisplaced rib fractures with focal surrounding intercostal muscular hemorrhages. Multiple fractured ribs protrude into the right pleural cavity. The anterior aspects of ribs 2 and 3 on the left side have displaced rib fractures. The lateral aspects of 1 and 5-8 on the left side have displaced and nondisplaced rib fractures

associated with protrusion of rib fragments into the left pleural cavity. The posterior aspects of ribs 2, 3, 5, and 6-12 have displaced rib fractures associated with surrounding intercostal muscular hemorrhages. The pericardial sac is lacerated. Identified on the anterior aspect of the right ventricle is a diagonally oriented 4.2-cm laceration. The right atrium and right atrial appendage are also lacerated. The thoracic aorta, near the origin, has an irregular linear laceration. Both lungs have prominent contusions and lacerations. The hilar aspects of both lungs have prominent confluent, larger lacerations. The right pleural cavity contains a measured 100 cc of clotted and unclotted, dark red blood. The left pleural cavity has an estimated 60 cc of clotted and unclotted, dark red blood. The thoracic vertebral column has multiple fractures of the 5th-8th vertebral bodies with traumatic dislocation of the vertebral structures in this area. Exposed is a lacerated, focally macerated thoracic spinal cord.

Externally, the abdomen has multiple irregular abrasions and small punctate abrasions. Identified on the anterolateral aspect of the abdomen is a cluster of large coalescing abrasions which measure up to 16 cm in total dimension. Identified on the central lower back, superior to the midline of the buttocks, is an irregular 2.2-cm abrasion. Identified within the abdominal cavity is a lacerated left hemidiaphragm. This defect is associated with a traumatic herniation of the stomach into the left pleural cavity. The right hemidiaphragm has multiple contusions and lacerations. The spleen has multiple capsular and parenchymal lacerations and is associated with an estimated 100 cc of clotted, dark red blood around that organ. The posterior aspect of the right lobe of the liver has a 7.2-cm laceration adjacent to surrounding hemorrhage of the porta hepatis. The right adrenal gland is lacerated. The right kidney is completely bi-valved and has a jagged appearance. The left kidney is pale tan, and the hilar aspects have multiple confluent lacerations which involve the renal artery and renal vein. Multiple mesenteric hemorrhages are identified throughout the large and small intestines. Examination of the serosal aspect of the cecum reveals multifocal hemorrhages without underlying defects of the intestine. The psoas major muscles, bilaterally, are completely avulsed from the normal anatomic location and overlie displaced bilateral sacroiliac fractures. Multiple fractures of the ilium, ischium, and pubic symphysis are appreciated. The tissues adjacent to the abdominal aorta are hemorrhagic.

Externally, the anterior aspect of the left thigh has a large, pale blue, subtle ecchymosis associated with multiple small abrasions and ecchymosis and lacerations. Present over the right knee is an ovoid, 2.2-cm red-pink laceration without associated underlying palpable skeletal deformity. Adjacent to this laceration are multiple small dried red-brown abrasions measuring up to 2.5 cm. Both pretibial regions have irregular pink-purple to purple-brown ecchymoses measuring up to 3.6 cm in total dimension.

Externally, the dorsal surface of the left forearm has multiple small, dried red-brown abrasions measuring up to 0.5 cm in greatest dimension. Similar abrasions are identified on the dorsal surface of the left hand. The dorsal surface of the left 3rd digit has two small irregular lacerations. The dorsal surface of the right forearm has multiple confluent, linear abrasions measuring up to 11.1 cm in total dimension.

EVIDENCE OF RECENT, HEALING BLUNT TRAUMATIC INJURY:

Identified on the anterior aspect of the left thigh, superior to the knee, are two small, circular, yellow-orange ecchymoses measuring up to 0.7 cm in total dimension. Inferior and medial to the left knee are two separate, green-yellow, healing ecchymoses measuring up to 2.9 cm. Identified on the right lower extremity, over the calf and pretibial region, are three healing, green-yellow ecchymoses measuring up to 3.2 cm in greatest dimension.

INTERNAL EXAMINATION:

The tissues underlying the scalp have the previously described injuries, as does the cranium. The right temporoparietalis muscles are grossly free of trauma. The right side of the cranium is grossly free of fractures. Internally, within the cranial cavity, the 1480-gram brain has the previously described injuries. No epidural blood accumulations are identified. The cerebral hemispheres are edematous with flattened gyri and narrowed sulci. The cerebellar lobes are symmetrical and edematous. The vessels at the base of the brain are grossly unremarkable and have no appreciable aneurysms, atherosclerotic disease, or identifiable injuries. Internal examination of the brain matter reveals no identifiable infarcts, masses, hemorrhages, or evidence of diffuse axonal injury. Examination of the basilar skull reveals the previously described fractures. The pituitary gland is intact and free of trauma.

The tongue has no evidence of hemorrhages. The hyoid bone, thyroid gland, thyroid cartilage, larynx, and muscles of the anterior neck have no evidence of disease or injury. The laryngeal cavity is patent and free of foreign matter.

Remnants of the thymus gland are identified and tan-pink.

The serosal cavities have no unusual odors. The clavicles, sternum, cervical and lumbar vertebral column have no identifiable fractures. The ribs are not osteoporotic. The exposed bone marrow is grossly unremarkable.

The pericardial sac and heart have the previously described injuries. The 320-gram heart has a smooth, glistening epicardial surface in uninjured areas. The heart is associated with a normal amount of subepicardial fat. The coronary arteries appear to be right-dominant, but the majority of the right coronary artery is destroyed except for the posterior ventricular branch. The atria and ventricles are grossly unremarkable except for the previously described traumatic injuries. No septal defects are identified. The cardiac valves are grossly free of vegetations, malformations, or injuries. The myocardium is red-brown throughout. The root of the aorta is grossly without trauma. The ostia are patent.

The 340-gram right lung and 310-gram left lung have the previously described injuries. Both lungs have a pink-red appearance. No interlobar or parietal pleural adhesions are identified. The lymph nodes of the hilar areas are not appreciated. Bloody fluid is identified within the airways of both lungs. The pulmonary vessels are patent and free of atherosclerotic plaques. The lower

lobes of both lungs have a patchy, hemorrhagic pattern of hemorrhage with a harlequin-type pattern (consistent with hemoaspiration). There is no gross evidence of antemortem mucous plugging, tumor, consolidation, or identifiable granulomatous disease.

The abdominal panniculus measures approximately 1/2 inch in thickness. The hemidiaphragms have the previously described injuries. The 1380-gram liver has a smooth, glistening, intact capsule in uninjured areas. The gallbladder is present and contains an estimated 7 cc of thin, orange bile and is free of gallstones. The cut hepatic surfaces are minimally congested, red-brown, and firm. No intrahepatic masses are identified.

The 170-gram spleen has the previously described injuries. The intact remnants of the capsule are gray and smooth. The left adrenal gland is grossly unremarkable. The pancreas is lobular and pink-tan throughout its course and has no gross evidence of antemortem hemorrhage or fat necrosis.

The 110-gram right kidney and 120-gram left kidney have the previously described injuries. The left kidney is pale in comparison to the right kidney. The corticomedullary demarcations appear normal in uninjured areas. The urinary bladder contains an estimated 75 cc of clear, yellow urine. The urinary bladder is grossly free of trauma. The prostate gland is small and has no evidence of injury. The testicles and seminal vesicles are grossly free of trauma.

The stomach contains an estimated 200 cc of partially masticated blueberries, intact blueberries, and fragments of pink-tan, firm material. No intact pill matter is identified within the gastric contents. The esophagus is unremarkable. The mucosa of the stomach has normal rugae with a pink-purple discoloration of the mucosa. No ulcers are identified. The appendix is present. The large and small intestines have the previously described injuries and are otherwise unremarkable along their serosal surfaces.

The central cardiovascular tree is devoid of blood. The thoracic and lumbar aortae have the previously described injury.

TOXICOLOGY: See Attached Report

AUTOPSY FINDINGS

1. Blunt impacts to head
 - a. Abrasions and lacerations
 - b. Subscalp and subgaleal hemorrhages
 - c. Fractures of cranium
 - d. Focal subdural hemorrhage
 - e. Multifocal thin subarachnoid hemorrhages
 - f. Cerebral and cerebellar edema
 - g. Multiple basilar fractures of skull

- h. Hemoaspiration into lungs
- 2. Blunt impacts to thorax
 - a. Abrasions, contusions, and lacerations
 - b. Lacerations of pericardial sac
 - c. Lacerations of heart
 - d. Bilateral hemothoraces
 - e. Bilateral fractures of ribs
 - f. Bilateral pulmonary contusions and lacerations
 - g. Multiple fractures of thoracic vertebral column associated with transected thoracic spinal cord
 - h. Laceration of thoracic aorta
- 3. Blunt impacts to abdomen and pelvis
 - a. Contusions and lacerations of right hemidiaphragm
 - b. Lacerations of left hemidiaphragm associated with traumatic herniation of stomach into left pleural cavity
 - c. Lacerations of spleen associated with surrounding hemorrhage
 - d. Lacerations of liver
 - e. Lacerations of right adrenal gland
 - f. Bi-valved, lacerated right kidney
 - g. Lacerations of hilum of left kidney
 - h. Multifocal mesenteric hemorrhages
 - i. Hemorrhagic cecal serosa
 - j. Bilateral lacerations of psoas major muscles with underlying displaced fractures of sacroiliac joints
 - k. Fractures of ilium, ischium, and pubic symphysis
- 4. Blunt impacts to extremities
 - a. Contusions, abrasions, and lacerations

CAUSE OF DEATH: Multiple blunt trauma

DUE TO: Motorcyclist versus vehicle

MANNER OF DEATH: Accident

RAH:dl/jem

cc: Fort Myers Police Department

F.A.C. Ch. 33-501.301(4)(f) Inmates shall be limited to possession of no more than 15 research items from the law library. Research items shall be loaned for a maximum of 21 days. Inmates who fail to return research items within 21 days shall be subject to disciplinary action as provided in Rules 33-601.301-314, F.A.C. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation, or security hazard.

COSTELLO C-3

ADAM MURRAY COSTELLO, Appellant, v.
 STATE OF FLORIDA, Appellee.
 COURT OF APPEAL OF FLORIDA, SECOND
 DISTRICT
 330 So. 3d 1052; 2021 Fla. App. LEXIS 16030; 47
 Fla. L. Weekly D 3
 No. 2D21-1384
 December 22, 2021, Decided
 Editorial Information: Prior History

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from
 the Circuit Court for Lee County; Margaret O.
 Steinbeck, Judge. State v. Costello, 2021 Fla. Cir.
 LEXIS 8887 (Fla. Cir. Ct., Apr. 19, 2021)

Counsel Christopher E. Cosden, Fort Myers, for
 Appellant.

Ashley Moody, Attorney General, Tallahassee,
 and Katherine Coombs Cline, Assistant Attorney
 General, Tampa, for Appellee.

Judges: SILBERMAN, Judge. SLEET and
 ROTHSTEIN-YOUAKIM, JJ., Concur.

Opinion

Opinion by: SILBERMAN

Opinion

{330 So. 3d 1053} SILBERMAN, Judge.

Adam Murray Costello appeals the order summarily
 denying his motion for postconviction relief filed
 pursuant to Florida Rule of Criminal Procedure
3.850. We reverse with instructions for the
 postconviction court to strike the motion with leave
 for Mr. Costello to amend.

Mr. Costello was charged with leaving the scene of
 a crash resulting in death (count one), a first-degree
 felony punishable by thirty years' imprisonment,
 and tampering with physical evidence (count two), a
 third-degree felony punishable by five years'
 imprisonment. He pleaded nolo contendere pursuant
 to a negotiated plea agreement and was sentenced to
 concurrent sentences of ten and a half years'
 imprisonment with a four-year minimum mandatory

term on count one and five years' imprisonment on
 count two.

Mr. Costello claimed that his trial counsel provided
 ineffective assistance by failing to note that victim
 injury points had been improperly included in his
 Criminal Punishment Code scoresheet and by
 affirmatively misadvising him as to the lowest
 permissible sentence he could receive if found
 guilty at trial. He asserted that counsel misadvised
 him that the lowest permissible sentence was 126.3
 months' imprisonment when it should have been
 36.3 months. He argued that victim injury points are
 only proper when the underlying offense caused the
 victim injury and that his scoresheet improperly
 assessed 120 victim injury points when there was no
 evidence that the victim died because he fled the
 scene of the accident. He asked the court to vacate
 his sentence.

The postconviction court summarily denied the
 claim on the merits, finding that the claim was
 conclusively refuted by the record because victim
 injury points were appropriate. See Fla. R. Crim. P.
3.704(d)(9) (stating that victim injury points are
 scored when there is "physical injury or death
 suffered by a person as a direct result of any offense
 pending before the court for sentencing"); *Sims v.*
State, 998 So. 2d 494, 506-07 (Fla. 2008) (holding
 that victim injury points are properly assessed when
 the evidence indicates that the victim's death was a
 direct result of the underlying offense of fleeing the
 scene of a crash resulting in death).

An error in the scoresheet could render a plea
 involuntary where the defendant shows that the
 sentence pled to was based on the minimum
 permissible sentence according to the erroneous
 scoresheet calculation and that the defendant would
 not have entered into the plea if he or she would
 have been aware of the correct sentencing
 range. *Wright v. State*, 174 So. 3d 400, 402 (Fla. 4th
 DCA2015) (emphasis added) (citing *Towery v.*
State, 977 So. 2d 774, 775-76 (Fla. 2d DCA2008)).

Mr. Costello's claim as to the improper inclusion of
 victim injury points is not conclusively refuted by
 the record or the postconviction court's order. The
 court did not include any attachments refuting the
 claim, and the record does not include any
 information regarding the victim's cause of
 death.¹ See *Harrell v. State*, 79 So. 3d 231, 232
 (Fla. 2d DCA2012).

However, Mr. Costello's claim is facially
 insufficient because it does not include a request to
 withdraw his plea. See *Agent v. State*, 19 So. 3d
1114, 1115 (Fla. 2d DCA2009) ("[O]ur review of

F.A.C. Ci. 33-501.301(4)(f) Inmates shall be limited to possession of no more than shall be loaned for a maximum of 21 days. Inmates who fail to return research items within 21 days shall be subject to disciplinary action as provided in Rules 33-601.301-.314, F.A.C. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation, or security hazard.

the record also indicates that Agent's rule 3.850 motion {330 So. 3d 1054} was facially insufficient because it does not include an affirmative request to withdraw the plea."). Rather, Mr. Costello merely requested that the postconviction court vacate his sentence and resentence him using a corrected scoresheet. That is impermissible. *See Johnson v. State*, 60 So. 3d 1045, 1052 (Fla. 2011) ("[A] defendant who establishes that his plea was entered involuntarily is entitled to withdraw the plea but not to unilaterally rewrite the plea agreement to his advantage.").

Accordingly, we reverse the summary denial of Mr. Costello's rule 3.850 motion and remand the case to the postconviction court with instructions to strike the motion with leave to amend. *See Fla. R. Crim. P. 3.850(f)(2)*. On remand, if Mr. Costello chooses to amend his motion and seeks to withdraw his plea, the postconviction court shall either attach those portions of the record that conclusively refute Mr. Costello's claim or conduct an evidentiary hearing.

Reversed and remanded.

SLEET and ROTHSTEIN-YOUAKIM, JJ., Concur.

Footnotes

1

For this same reason, we are unable to determine whether assessment of victim injury points would have been appropriate pursuant to section 921.0021(7)(c), Florida Statutes (2016), which permits victim injury points if "the court finds that offender caused victim injury."

GENE ROBERT SIMS, Petitioner, vs. STATE OF FLORIDA, Respondent.
 SUPREME COURT OF FLORIDA
 998 So. 2d 494; 2008 Fla. LEXIS 1628; 33 Fla. L. Weekly S 698
 No. SC05-400
 September 25, 2008, Decided
 Editorial Information: Subsequent History

Released for Publication December 22, 2008.
 Rehearing denied by *Sims v. State*, 2008 Fla. LEXIS 2479 (Fla., Dec. 22, 2008)

Editorial Information: Prior History

Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions. Fifth District - Case No. 5D02-2401 and 5D02-2448. (St. Johns County). *Sims v. State*, 869 So. 2d 45, 2004 Fla. App. LEXIS 2943 (Fla. Dist. Ct. App. 5th Dist., 2004)

Counsel Christopher M. Jones and Kristen Cooley Lentz, Gainesville, Florida, for Petitioner.
 Bill McCollum, Attorney General, Tallahassee, Florida, and Wesley Harold Heidt and Kellie A. Nielan, Assistant Attorneys General, Daytona Beach, Florida, for Respondent.

Judges: LEWIS, J. QUINCE, C.J., and ANSTEAD and PARIENTE, JJ., concur. CANTERO, Senior Justice, dissents with an opinion, in which WELLS and BELL, JJ., concur. CANTERO, J., dissenting.

CASE SUMMARY

PROCEDURAL POSTURE: The Fifth District Court of Appeal (Florida) entered a judgment that affirmed the trial court's imposition of victim-injury points in a case where defendant was convicted of leaving the scene of an accident resulting in death in violation of 316.027(1)(b), Fla. Stat. (2001). After the state supreme court denied defendant's motion to invoke discretionary review, it granted his motion for reinstatement to review the appellate court's decision. Victim-injury points were not properly imposed where defendant was convicted of leaving scene of an accident resulting in death in violation of 316.027(1)(b), Fla. Stat.; under 921.0021(7)(a), Fla. Stat., injury had to be "direct result" of offense for such points to be imposed and victim's death was not direct result of defendant's offense.

OVERVIEW: Defendant was driving a vehicle that struck the victim, who was intoxicated and lying in the road. Defendant then drove away. He was charged with violating 316.027(1)(b), Fla. Stat. (2001), leaving the scene of an accident resulting in death. A medical examiner testified that the victim's death was "instantaneous" upon impact. Defendant was convicted. At sentencing, the State successfully argued for adding victim-injury points, which increased his sentence. The appellate court affirmed. Defendant was not informed by his state-appointed appellate counsel about the appellate court's decision until it was too late to file a notice to invoke jurisdiction under Fla. R. App. 9.120(b). The state supreme court then granted defendant's motion for reinstatement. It found that it could treat his belated notice as timely filed because his

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA)	
)	
vs.)	CASE NO. 16CF000371
)	
ADAM MURRAY COSTELLO,)	
)	
Defendant.)	
<hr/>		

Transcript of proceedings held before the Honorable Margaret Steinbeck, Circuit Court Judge, Lee County Justice Center, Courtroom 7A, Fort Myers, Florida, on February 14, 2023.

TAMMY S. HOFFMANN, RMR FPR
MIKULICE REPORTING SERVICES
2069 First Street, Suite 201
Fort Myers, Florida, 33901
(239) 334-6545
FAX (239) 332-2913

COPY

1 traffic cases such as with fatalities?

2 A. Yes.

3 Q. Now, this particular charge, leaving the scene of a
4 crash with death, carries its own points and then there can be
5 injury, victim injury points added?

6 A. Correct.

7 Q. Correct?

8 A. Correct.

9 Q. Under what circumstances can victim injury points be
10 added?

11 A. Well, for a large portion of my life in defense you
12 couldn't add victim injury points to a leaving the scene with a
13 death because the way the statute read at the time prior to 2007
14 was that it had to be a direct result of the offense for which
15 the person pled or was found guilty. That changed in 2007. The
16 statute changed to then indicate that you could get those death
17 points on a leaving the scene with a death if the Court makes a
18 finding that you caused the death or the injury under those
19 circumstances. So he was arrested in 2016. That had been the
20 law for approximately nine years subsequent to that -- or prior
21 to that, I'm sorry.

22 Q. And you knew that, correct?

23 A. Correct.

24 Q. So as part of your discussions with Mr. Costello did
25 you talk to him about the potential for victim injury points in

1 this case?

2 A. Absolutely. I mean, that was a very big part of our
3 case. Ultimately, when the day is done the State actually had
4 their first score sheet that they submitted was incorrect. They
5 did not include those death points and when I saw that I'm
6 thinking, okay, this is -- this is good. Maybe they aren't
7 going to go with, you know, the approach that Adam didn't cause
8 the death. That obviously was an error on their part. They
9 recognized that. I actually had multiple conversations with
10 others about this issue including one of their family friends
11 was Joe D'Alessandro who used to be the elected --

12 MR. COSDEN: Objection, Your Honor. Hearsay.

13 THE COURT: Sustained.

14 BY MS. WORCESTER:

15 Q. But you had conversations with other people in regards
16 to the victim injury points?

17 A. Absolutely.

18 Q. Okay, and there was some -- were there some that said,
19 no, they don't go on?

20 MR. COSDEN: Objection, Your Honor, calls for hearsay.

21 THE COURT: Sustained.

22 BY MS. WORCESTER

23 Q. Was there conflicting testimony among your peers?

24 MR. COSDEN: Again, Your Honor, objection, calls for
25 hearsay.

1 A. Yes.

2 Q. Did you, in fact, take depositions of the eyewitnesses
3 to see if there was a cause?

4 A. We did. There was at least two that I recall, a
5 Mr. Burnell and Mr. Ramiro. One was a youth at the time of the
6 accident. The other was an adult. And we -- in the deposition
7 in the discovery that I determined -- looked at, they were going
8 to indicate who was at fault.

9 MR. COSDEN: Objection, Your Honor, hearsay.

10 THE COURT: Overruled. It is not being offered for
11 the truth but rather what was a factor in the plea. It
12 seems obvious to me from the record and, therefore, I
13 overrule the hearsay objection.

14 BY MS. WORCESTER:

15 Q. So after you took those two people's deposition did
16 you discuss with the defendant that issue once again?

17 A. Not specifically after I did their deposition. There
18 were 40 -- I think 48 witnesses in the case. I did all of the
19 depositions in our total evaluation of the case. That was one
20 of the factors we were considering. Frankly, the eyewitnesses
21 gave very inconsistent testimony as to the type of vehicle and
22 such, so that was going to be one of our approaches in trial
23 that they don't really know who caused what. That would have
24 been an issue but where it came up in our discussions was if we
25 go to trial and if we lose the testimony will have been that he

1 resulting in death is a determination of when this
2 particular criminal offense began. Sims was not charged
3 with vehicular homicide or any other offense in which the
4 crime actually involved the impact that caused the death.
5 Instead, Sims was only charged with the offense of leaving
6 the scene of an accident resulting in death.

7 Well, exactly the same is true here. There was no
8 charge involving causation of the death of anybody.
9 Mr. Costello was charged with leaving the scene of an
10 accident involving a death. That's what he pled to. Now,
11 there is before this Court absolutely nothing, no evidence,
12 no testimony, no nothing upon which this Court may find
13 that Mr. Costello caused the death of anybody.

14 Mr. Costello did not ever admit to causing the death of
15 anybody. Nothing in the charge against Mr. Costello
16 requires a finding that he caused the death of anybody. He
17 is simply charged with leaving the scene of an accident
18 involving a death. We do not know because there is no
19 evidence before this Court how the death of the victim in
20 this case was caused. We simply do not know.

21 Now, in this case, therefore, in order to add
22 120 points to the score sheet the State would have to prove
23 that Mr. Costello caused the death of a victim. And there
24 is no evidence, no admission, no nothing upon which the
25 Court -- upon which this Court might now make that finding.*

1 testify that they did talk about this extensively. He pled
2 to the information which I will need to hand this to the
3 clerk and which was testified or was questioned by Ms.
4 Marzano during his sentencing that he was the driver of a
5 motor vehicle involved in a crash resulting in death to
6 Adam Roger King. That was what he -- that is what he pled
7 to on that particular day. A crash, a death. The Court --

8 THE COURT: That charge does not take the next step
9 which is for the defendant have caused the death, so that
10 charge is -- that charge supports leaving the scene of a
11 crash involving the death but there is two parts to
12 Subsection E of 921.002(7). If the conviction is for an
13 offense described in Section 316.027 and the Court finds
14 that the offender caused victim injury then sentence points
15 are included.

16 MS. WORCESTER: And at the time of the defendant's
17 plea during his plea colloquy this Court did find that he
18 caused the death.

19 MR. COSDEN: Objection, Your Honor, facts not in
20 evidence.

21 THE COURT: Show me where I made that finding and how
22 did I make it? I mean, what evidence would I have had to
23 make it?

24 MS. WORCESTER: I found it when I was going through
25 it.

1 judicial notice of the court file, the affidavit which
2 contained the statements --

3 MR. COSDEN: Whoa. Wait a minute. Where does the
4 Court say that?

5 MS. WORCESTER: All right. Just give me a minute. It
6 is on page 22 of the one that I handed the Court at the
7 very bottom of the page.

8 THE COURT: That's a long way from me saying I made
9 any finding that Mr. Costello caused the death of the
10 victim.

11 MS. WORCESTER: Well, Your Honor --

12 THE COURT: I do find a factual basis and venue based
13 on the stipulation of the probable cause affidavit in the
14 court file as well as evidence taken by the Court at
15 various evidentiary hearings throughout the pendency of
16 this action. That's where you think I am making a finding
17 of fact with regard to causation? Is that what you are
18 reciting to me?

19 MS. WORCESTER: Yes, ma'am. Yes, ma'am.

20 THE COURT: I don't read it that way.

21 MS. WORCESTER: I still say that we are here because
22 he is claiming to be misadvised, not that it wasn't found.
23 Misadvised about it. Clearly Judge McFee advised him ad
24 nauseam about the 120 victim injury points. That's what we
25 are here for, not whether he gets them or not but that he

1 was misadvised.

2 THE COURT: Right. It was a plea and I'll ask
3 Mr. Cosden these questions. So, of course, it was a plea.
4 There was no evidence with regard to the actual accident
5 itself. The Court was in a position to determine whether
6 there was a factual basis and venue which I did determine
7 but the testimony today was that the depositions of
8 witnesses would have testified at trial that the defendant
9 caused the death of the victim and let's imagine that we
10 had a trial instead of a plea and as Mr. -- then Mr. McFee,
11 now Judge McFee testified, the Judge, whoever was
12 presiding, based on the evidence found presented at trial
13 the Judge found that there was a conviction, the jury would
14 have found that and the Judge found that the defendant, in
15 this case Mr. Costello, caused victim injury, then sentence
16 points for victim injury would be properly assessed
17 pursuant to Section 7-E. Do you agree?

18 MR. COSDEN: Your Honor, I'm not sure I understand the
19 question.

20 THE COURT: Well, what do you think --

21 MR. COSDEN: Maybe I can respond to that and make
22 sense of what you are -- what the Court is asking me. Had
23 the case gone to trial I do not know what the witnesses
24 would have testified about. Certainly, had the case gone
25 to trial and had some witness testified --

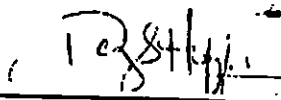
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)

COUNTY OF LEE)

I, Tammy S. Hoffmann, do certify that I did
stenographically report the foregoing proceedings and that the
typewritten transcript, consisting of pages numbered 3 through
58, is a true record.

Dated this 27th day of March, 2023.



Tammy S. Hoffmann, RMR FPR

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CRIMINAL ACTION**

STATE OF FLORIDA,

Plaintiff,

vs.

Case No. 16-CF-371

ADAM COSTELLO,

Defendant.

**ORDER DENYING DEFENDANT'S RULE 3.850 AMENDED MOTION
AFTER EVIDENTIARY HEARING**

THIS CAUSE came before the Court for hearing on February 14, 2023, on Defendant's amended motion titled "Motion To Withdraw Plea Based Upon Ineffective Assistance Of Counsel," pursuant to Fla. R. Crim. P. 3.850, filed by counsel March 3, 2022. Having reviewed the motion, the State's response, Defendant's reply, the case file, the applicable law, and considered evidence and argument presented at the hearing, the Court makes the following findings of fact and reaches the following conclusions of law:

Procedural History

1. Defendant was arrested on September 2, 2016, pursuant to an Amended Warrant to Arrest charging him with Leaving the Scene of a Traffic Crash Involving Death and Tampering with Evidence, crimes arising from a traffic crash that occurred in Fort Myers, Lee County, Florida, on June 19, 2016. See Arrest Warrant and supporting affidavit, attached hereto as Court Exhibit A. Defendant was subsequently formally charged with those crimes. See 4th Amended Information attached hereto as Court Exhibit B.
2. Defendant pled "no contest" pursuant to a negotiated plea agreement with the State, which was formally accepted by the Court at a hearing on March 12, 2018. The plea agreement specified that the maximum sentence for count one was 30 years in prison and for count two was

affidavit in the court file, as well as evidence taken by the Court at various evidentiary hearings throughout the pendency of the action. *Id.* at pp. 22-23.

26. Defendant testified that if he'd known the lowest permissible guidelines sentence was less than 10.5 years he never would have entered a plea.⁶ Defendant agreed to the deal because he understood he likely could not do better at sentencing after a conviction at trial.

Analysis and Conclusions

27. In addition to arguing that the holding in *Sims* precluded assessment of victim injury points in this case, Defendant's postconviction counsel argues that the sentencing scoresheet was in error because there was no record evidence to support the inclusion of those points. Counsel is correct that there was no record evidence regarding causation presented at the sentencing hearing (and, of course, no jury finding based on this evidence). However, the Defendant agreed to inclusion of the points as part of the plea bargain in this case. As Mr. McFee credibly testified, the victim injury points were an issue throughout the case and Mr. McFee tried, but failed, to negotiate a sentence based on a scoresheet that did not include those points.

28. Mr. McFee's unrebutted credible testimony at the February 14, 2023, hearing is that, if the Defendant went to trial and was convicted, the evidence would support a finding that the Defendant caused injury or death to the victim. Therefore, Mr. McFee told the Defendant that the 120 points for victim injury were properly included on the scoresheet. The Defendant has not shown that this advice was erroneous. Accordingly, the Defendant has failed to show that his plea was based on misadvice of counsel.

⁶ This testimony assumes that victim injury points should not have been included on the scoresheet to increase the lowest permissible guidelines sentence, as argued by Defendant's postconviction counsel erroneously believing that *Sims* controlled.

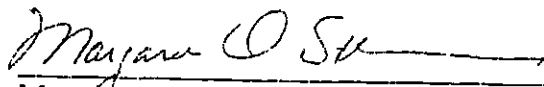
29. Defendant has also failed to show that he would not have entered into the plea agreement if he had understood that the victim injury points were not *required* by law to be included by the judge at sentencing after a conviction at trial. Mr. McFee thoroughly discussed the victim injury points with the Defendant. Defendant testified that he agreed to the 10.5 year plea offer because he understood he likely could not do better at sentencing after a conviction at trial. He has not shown that this was a misunderstanding.

Accordingly, it is

ORDERED and **ADJUDGED** that the Defendant's amended 3.850 motion filed March 3, 2022, is **DENIED**. This is a final order. The Defendant has the right to appeal within 30 days of the rendition of this order.


If Defendant remains in the Lee County jail pursuant to the order for transport for the February 14, 2023, hearing, he shall be returned to the custody of the Department of Corrections forthwith.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, this 14th day of March, 2023.


Margaret O. Steinbeck
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service to: **Office of the State Attorney** at ServiceSAO-LEE@sao20.org, **Christopher E. Cosden, Esq.** at cosdenlaw@att.net, and **Court Administration (31)** at StaffAttorney-Lee@CA.CJIS20.ORG; this 16 day of March, 2022.

By: 
Deputy Clerk/Judicial Assistant

10-43 TO THE CAPE	23:08:14	SMD
NEXT UNIT COLONIAL DELEON AND DIVERT TRAFFIC	23:06:34	JHALL
** CORRECTION POSS SIGNAL 7 **	23:08:46	JHALL
* NO GUN INVOLVED - DISREGARD NOTES *	23:07:13	JHALL
D51 assigned to 2016-0089209 with a status of Dispatched	23:07:16	JHALL
Last contacted location changed from HENDERSON to null for D51	23:07:16	JHALL
D51 status changed to En Route	23:07:17	JHALL
D51 timer set to 10.0 minutes	23:07:17	JHALL
D51 PS timer set to Sunday, Jun 19, 2016 23:17 (10 minutes)	23:07:21	JHALL
DGAR viewed Incident	23:07:24	DGAR
DR22 status changed to On Scene	23:07:25	JHALL
DR22 timer set to 5.0 minutes	23:07:25	JHALL
DR22 AT COLONIAL AND DELEON	23:07:32	JHALL
LCSD IS GOING TO BOLO	23:07:34	SNG
CCPD BOLOING	23:07:50	JHALL
EMS ONSCENE	23:07:54	JHALL
D12 AT COLONIAL AND DELEON	23:08:18	JHALL
* PER D4 CONTACT THI	23:08:23	JHALL
T1 AWARE	23:09:47	JHALL
D72 status changed to On Scene	23:10:25	JHALL
D72 timer set to 5.0 minutes	23:10:25	JHALL
* PERP VEH 2014-2015 WHITE DODGE RAM WITH A CAMPER SHELL	23:11:23	JHALL
CCPD IS AWARE	23:11:27	JHALL
BLOCK THE BIKE ON COLONIAL	23:11:49	JHALL
D62 assigned to 2016-0089209 with a status of Dispatched	23:12:01	JHALL
D62 status changed to En Route	23:12:03	JHALL
D62 timer set to 10.0 minutes	23:12:03	JHALL
D62 status changed to Open Report	23:12:40	JHALL
D62 timer removed	23:12:40	JHALL
D1 status changed to On Scene	23:13:06	JHALL
D1 timer set to 5.0 minutes	23:13:06	JHALL
D51 status changed to On Scene	23:13:08	JHALL
D51 timer set to 5.0 minutes	23:13:08	JHALL
D12 status changed to On Scene	23:13:10	JHALL
D12 timer set to 5.0 minutes	23:13:10	JHALL
D31 status changed to On Scene	23:13:11	JHALL
D31 timer set to 5.0 minutes	23:13:11	JHALL
D4 status changed to On Scene	23:13:15	JHALL
D4 timer set to 5.0 minutes	23:13:15	JHALL
D42 U timer reset to Sunday, Jun 19, 2016 23:18 (5 minutes)	23:13:25	JHALL
Tag number 14BNK, FL added	23:16:36	JHALL
Vehicle 14BNK, FL Description changed to BLU.	23:16:44	JHALL
Vehicle 14BNK, FL Description changed to BLU YAM.	23:18:11	JHALL
VEH HAS A FLAT TIRE	23:18:22	JHALL
* ON CH 3	23:18:46	JHALL
Unit DR22 changed to Backup	23:20:31	JHALL
Unit D12 changed to Primary	23:20:31	JHALL
DR22 status changed to Available	23:20:33	JHALL
D1 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:02	JHALL
D4 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:02	JHALL
D31 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:03	JHALL
D42 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:03	JHALL
D51 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:03	JHALL
D72 U timer reset to Sunday, Jun 19, 2016 23:26 (5 minutes)	23:21:04	JHALL
D62 status changed to Available	23:22:58	JHALL
WITNESS-TIM BERNAL-W/M-12-15-78 1410 SE 19TH LN CAPE CORAL FL 33990	23:26:57	MPERO1
1410 SE 19TH LN CAPE CORAL FL 33990 **WITNESSED ENTIRE INCIDENT	23:26:57	MPERO1
WITNESS:JOSHUA SWARTWOUT-W/M-04-14-97 1625 NEWPORT CT FORT MYERS-FL-33907	23:30:34	MPERO1
VEH POSS HEADED SB ON MCGREGOR	23:30:34	MPERO1
T1 assigned to 2016-0089209 with a status of On Scene	23:32:46	SNG
T1 PS timer set to Sunday, Jun 19, 2016 23:38 (5 minutes)	23:33:21	SNG
T5 assigned to 2016-0089209 with a status of On Scene	23:33:29	SNG
T5 PS timer set to Sunday, Jun 19, 2016 23:39 (5 minutes)	23:34:09	SNG
PERP VEH POSS MISSING DRIVER SIDE MIRROR AND MUD FLAP - ITEMS LEFT ONSCENE	23:34:13	SNG
D1 ADV LOCATED POSS PERP VEH PARKED IN THE WALGREENS PK LOT	23:36:03	JHALL
DRIVER SIDE WINDOW BROKEN AND ON A JEEP GRAND CHEROKEE	23:36:03	JHALL
Tag number L24QV, FL added	23:36:43	SNG
Vehicle L24QV, FL Description changed to JEEP GRAND CHEROKEE.	23:37:01	SNG
THAT VEH HAS SEVERAL OVER DAMAGES	23:37:15	SNG
T1 U timer reset to Monday, Jun 20, 2016 00:46 (65 minutes)	23:37:21	SNG
T5 U timer reset to Monday, Jun 20, 2016 00:46 (65 minutes)	23:37:30	SNG
D1 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:38:26	SNG
D4 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:41:54	JHALL
D12 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:41:54	JHALL
D31 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:41	JHALL
D42 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:42	JHALL
D51 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:43	JHALL
D72 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:44	JHALL
D12 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:44	JHALL
D31 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:45	JHALL
D42 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:42:46	JHALL
D51 U timer reset to Monday, Jun 20, 2016 00:17 (35 minutes)	23:43:00	SNG
D72 U timer reset to Monday, Jun 20, 2016 00:28 (45 minutes)	23:43:01	SNG
D1 U timer reset to Monday, Jun 20, 2016 00:28 (45 minutes)	23:43:02	SNG
D4 U timer reset to Monday, Jun 20, 2016 00:28 (45 minutes)	23:43:03	SNG
D51 U timer reset to Monday, Jun 20, 2016 00:28 (45 minutes)	23:43:04	SNG
D72 U timer reset to Monday, Jun 20, 2016 00:28 (45 minutes)	23:43:04	SNG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

V.

CASE NO.: 16-CF-371

ADAM MURRAY COSTELLO,
Defendant.

TRANSCRIPT OF DEPOSITION

WITNESS: Michael Perry
DATE TAKEN: February 28, 2017
TIME: 3:16 p.m. through 3:39 p.m.
PLACE TAKEN: Martina Reporting Services, Inc.
Suntrust Building, 8th Floor
2000 Main Street
Fort Myers, Florida 33901
REPORTER: Karen Landis, Reporter and
Notary Public, State of
Florida at Large

MARTINA REPORTING SERVICES, INC.
Courtney Building, Suite 201
2069 First Street
Fort Myers, Florida 33901
(239) 334-4572

COPY

1 A. They're dispatch. This is the actual call.

2 Q. Did you find anything?

3 A. Yeah. I'm pulling it up.

4 Q. All right.

5 A. There's a lot of notes in this.

6 Q. I would just be looking for the notes you were
7 given by --

8 A. Right. That's why I'm just going to the
9 beginning. I can tell you right now. Going to this
10 call, it was told there it was a white pickup truck. But
11 they did have in the note they said the vehicle was a
12 white Dodge Ram 1500.

13 Q. That's what would have been communicated to
14 you?

15 A. Yeah. She read the notes, but yeah.

16 Q. But you recall it just was saying a white
17 pickup truck?

18 A. Yeah. I asked them. We got in our notes it's
19 a white pickup truck and he couldn't tell me exactly what
20 brand it was. I know that for a fact.

21 Q. Okay. Say that again. What do you know for a
22 fact?

23 A. I know when I got there I asked the witnesses
24 what kind of vehicle. They said it was a white pickup
25 truck. That's all they knew.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF LEE

I, Karen Landis, Shorthand Reporter and Notary Public, State of Florida, CERTIFY that I was authorized to and did stenographically report the deposition of MICHAEL PERRY; that a review of the transcript was requested; and the foregoing transcript, Page 1 through Page 21, is a true and accurate record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of March, 2017.

Karen H. Landis

Karen Landis, Court Reporter

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA)	
)	
vs.)	CASE NO. 16CF371
)	
ADAM MURRAY COSTELLO,)	
)	
Defendant.)	
)	

DEPOSITION OF SHANE ROMERO

DATE TAKEN: March 1, 2017.

TIME: 3:45 p.m. to 4:20 p.m.

PLACE TAKEN: Lee County Justice Center Annex,
Fort Myers, Florida

BEHALF OF: The Defendant.

REPORTER: John F. Martina, RPR
Notary Public,
State of Florida at Large.

MARTINA REPORTING SERVICES
2069 First Street, Suite 201
Fort Myers, Florida, 33901
(239) 334-6545
FAX (239) 332-2913

COPY

1 A. Alex.

2 Q. King?

3 A. Yes.

4 Q. Did Alex King reach out to you and request
5 the friend, the friend request on Facebook or did you
6 reach out to him?

7 A. I believe I reached out to him.

8 Q. Why?

9 A. I just felt I needed to talk to them.

10 Q. Did they -- have they advised you or talked
11 to you about the case at all?

12 A. No. The only one I did talk to was Alex.

13 Q. About the case?

14 A. Not even about the case, just like what I
15 seen and everything.

16 Q. If you talked to him about what you saw,
17 that's about the case, right?

18 A. I guess so.

19 Q. So you have talked to the family member
20 since this incident about the case?

21 A. Yes.

22 Q. And he talked back to you and told you what
23 he knew about the case?

24 A. Not that I remember.

25 Q. When did you speak to him?

1 A. About a week after.

2 Q. You spoke in person or just through
3 Facebook?

4 A. In person.

5 Q. Did you set up a meeting to meet with him?

6 A. Yes.

7 Q. Where did you meet?

8 A. At a Starbucks.

9 Q. Can you tell me what the discussion was? I
10 mean, it is a little unusual to hear that a key
11 witness is meeting with a family member. So what was
12 the particular discussions? How did it start, did you
13 call him?

14 A. No.

15 Q. He called you?

16 A. We never like spoke on the phone. We just
17 messaged once or twice and then he wanted to meet up
18 and I was like, okay, well, I feel like I kind of need
19 to go talk to him, tell him what happened so he
20 actually seen someone from there, the accident,
21 knowing what happened. He said that if I ever needed
22 anything to let him know because, obviously, I was by
23 myself through this whole thing.

24 Q. When you say you were by yourself, you had
25 your family and stuff, right?

1 A. But they kind of don't understand what is
2 going on.

3 Q. Have you seen a counselor or anything about
4 it?

5 A. No.

6 Q. Other than Alex King and that meeting that
7 you had at Starbucks and you said that was about a
8 week after the incident?

9 A. Uh-huh.

10 Q. I'm sorry, yes?

11 A. Yes.

12 Q. And you had messaged him a couple of times
13 on Facebook?

14 A. Yes.

15 Q. Did he invite you to join the Justice for
16 Adam King Facebook page?

17 A. I don't believe so.

18 Q. Did you sign up for that, did you join that
19 group?

20 A. Not that I recall.

21 Q. How about any other Facebook pages relating
22 to this accident or this crash?

23 A. I don't know.

24 Q. You don't know?

25 A. I don't remember. The only really group I'm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

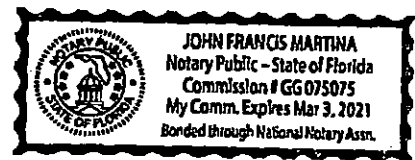
CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEE)

I, John F. Martina, Jr., Contract Reporter,
20th Judicial Circuit of Florida certify that Shane
Romero appeared before me and was duly sworn.

WITNESS my hand and official seal this 14th
day of March, 2017.


John F. Martina, Jr.



IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA)	
)	
vs.)	CASE NO. 16CF371
)	
ADAM MURRAY COSTELLO,)	
)	
Defendant.)	

DEPOSITION OF TIMOTHY BERNAL

DATE TAKEN: March 1, 2017

TIME: Starting at 10:10 a.m.

PLACE TAKEN: Lee County Justice Center Annex
2000 South Main Street
Fort Myers, Florida

PURSUANT TO: Notice by the Defense

REPORTER: Tammy S. Hoffmann, RMR FPR
Notary Public,
State of Florida at Large

MARTINA REPORTING SERVICES
2069 First Street, Suite 201
Fort Myers, Florida, 33901
(239) 334-6545
FAX (239) 332-2913

COPY

1 My question is, did you see his right
2 hand on the throttle at the time of the impact?

3 A It had to be, yes. Yes.

4 Q Not it had to be, yes. Did you see it?

5 A I'll say yes.

6 Q So you were close enough that you could see a
7 man's arm on the throttle on the motorcycle at the time
8 of the impact?

9 A He was riding his motorcycle, that's all I
10 could tell you.

11 Q Sir.

12 A Yes.

13 Q Okay. Thank you. Once you saw impact, what
14 happened at that point?

15 A Once I saw the impact I saw, you know, parts
16 flying everywhere. I saw the motorcycle go up in the
17 air, and then I pulled off to the side of the road. I
18 stopped.

19 Q Were you at this point focused on the
20 motorcycle or on the truck?

21 A I was more on the motorcyclist, okay because
22 he had departed his motorcycle.

23 Q You saw him fly off the motorcycle?

24 A I saw him fly off, yeah. The motorcycle was
25 down the road and he was here. So I did see -- when I

1 Q What lane of travel did this vehicle stop in?

2 A He was right in the middle of the road.

3 Q So the center lane --

4 A Yeah.

5 Q (Continuing) -- is where he stopped?

6 A He had to -- yeah. Yes.

7 Q Okay. And you saw the vehicle. Did it have
8 all four tires?

9 A The way the vehicle was positioned he was at
10 an angle in the center of the road, I did not see the
11 damaged side of the vehicle.

12 Q When the motorcycle you said went up in the
13 air and Mr. King came off the motorcycle, was the road
14 lit up in such a way that you could see the motorcycle
15 from the roadway in advance of it? In other words,
16 where did the motorcycle land?

17 A The motorcycle landed on the other side of the
18 median. Yeah, the motorcycle landed on the other side
19 of the median in I believe it's a turn lane like to get
20 into the cemetery.

21 Q Are there any trees or anything?

22 A There were trees, there was a road sign.

23 Q Would that have blocked --

24 A The road sign was completely -- I don't mean
25 to interrupt. The road sign was completely torn out of

1 the ground that he had hit.

2 Q Would that have blocked the view of an
3 individual to see where that motorcycle went, or where
4 Mr. King went based on, you know, the nature of the
5 accident?

6 A Well, I would say -- I would have to say yes.
7 Only because when I got out of the vehicle, I vaguely
8 remember going up and there were a couple of kids
9 standing near Mr. King, or in the road there. I asked
10 them where is the motorcycle? And they pointed to it,
11 and I looked at the motorcycle. Then I said where is
12 he? And they pointed to him, and he was just feet away
13 from them. That's when I was like enough with the
14 motorcycle, let's take care of him.

15 So we went over and that's -- and that
16 was around the same time that I made the call to 911,
17 and I mean everything was just moving so fast.

18 Q So you didn't see any damage to the vehicle
19 that had stopped up ahead?

20 A No.

21 Q You called 911, correct?

22 A I did.

23 Q And you gave 911 your version of what you saw,
24 correct?

25 A Yes.

1 sitting in the Walgreen's parking lot with a flat front
2 left tire and damage to that side of the vehicle, and
3 they thought well maybe, maybe that was it. But with
4 everything as fast as it happened, you know, we were
5 talking about how I -- I don't know. She pulled up and
6 she was assessing that vehicle, and then she asked me
7 all my questions. She took my statement then.

8 Q Did you in particular see as the accident
9 occurred -- as the crash occurred, did you in particular
10 see any particular parts of the other vehicle, the non
11 motorcycle? Did you see any particular parts coming off
12 of that vehicle?

13 A I saw parts, I didn't see -- I couldn't have
14 told you as everything was flying around what were car
15 parts and what were motorcycle parts, I'll be completely
16 honest with you. All I seen were parts. There were
17 shoes flying, there were parts flying everywhere. So...

18 Q Okay. But you saw -- in a general location of
19 where the vehicle had stopped, you saw a white vehicle
20 Jeep Cherokee, correct with front end damage?

21 A No. I didn't see that vehicle until one of
22 the officers put me in the back of his car and took me
23 down to that vehicle.

24 Q But I'm saying you saw the white vehicle stop
25 in the roadway before leaving?

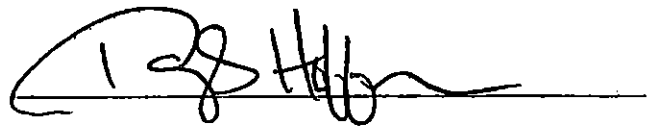
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEE)

I, Tammy S. Hoffmann, Registered Merit Reporter and Notary Public, State of Florida, certify that Timothy Bernal personally appeared before me on March 1, 2017, and was duly sworn.

WITNESS my hand and official seal, this 13th day of March, 2017.



Tammy S. Hoffmann
Notary Public, State of Florida
My Commission #FF243112
Expires: August 2, 2019

