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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA,	:
	:
Plaintiff,	:
	:
vs.	: Case No.
	: 06-001591CFAWS
SHANNON STEPHEN,	:
	:
Defendant.	:

PROCEEDINGS:	Deposition of RONALD EVANS
DATE:	March 20, 2008
PLACE:	State Attorney's Office 7530 Little Road New Port Richey, FL 34654
REPORTED BY:	Lisa Mitchell, RPR Notary Public State of Florida at Large

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APPEARANCES:

1 CHRISTOPHER JENSEN, Esquire
 2 Assistant State Attorneys
 3 New Port Richey, FL 34654
 4 Appearing on behalf of
 5 the State of Florida

6 KENNETH FOOTE, Esquire
 7 6643 Ridge Road
 8 Port Richey, FL 34668
 9 Appearing on behalf of
 10 the Defendant

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1 THEREUPON,

2 RONALD EVANS,

3 The deponent herein, being first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FOOTE:

7 Q. Can you please state your name for the record.

8 A. Ronald Joseph Evans, Junior.

9 Q. And how are you employed, sir?

10 A. As a state trooper with the Florida Highway
11 Patrol.

12 Q. How long have you been so employed?

13 A. Been with the highway patrol since 2001 and got
14 certified in law enforcement in 1991.

15 Q. Any prior law enforcement?

16 A. Worked for Hendry County Sheriff's Office.

17 Prior to that, Clewiston Police Department, Seminole
18 Department of Law Enforcement at Bay Cypress, and Kenneth
19 City Police Department, Pinellas.

20 Q. You said Hendry?

21 A. Yes.

22 Q. Next to Lee County?

23 A. Yes, sir.

24 Q. As a deputy down there?

25 A. Yes, sir.

1 Q. Is that regular deputy, road, special?

2 A. Just a road deputy, patrol sergeant, midnight
3 shift.

4 Q. You're in some type of military?

5 A. Yes. I'm in the Florida Army National Guard.

6 Q. So you've been deployed out of the State of
7 Florida?

8 A. Yes.

9 Q. This offense occurred on or about March 26,
10 2006. How soon after that time did you leave for
11 military service?

12 A. I want to say July.

13 Q. Of '06?

14 A. Yes.

15 Q. Have you been back as a Florida Highway
16 patrolman since July 2006?

17 A. Yes.

18 Q. What period was that? Estimate.

19 A. I would say June of -- no. May of 2007 I
20 returned.

21 Q. Until?

22 A. And then I came back to work. And I just
23 recently left again in January. And then I just returned
24 last night on the 19th.

25 Q. And when are you scheduled to return?

1 A. Sometime in May.

2 Q. So there is no definite date?

3 A. No, sir.

4 Q. Will you be working with the highway patrol in
5 the interim as a trooper?

6 A. Until May? Yes, sir.

7 Q. So you don't know if it will be the beginning of
8 May or the end of May?

9 A. No, sir.

10 Q. How much leeway time do they give you to let you
11 know when you have to go back?

12 A. The Florida Highway Patrol?

13 Q. The military. How much leeway do they tell you
14 that you have to go back to active service?

15 A. It's unknown.

16 Q. Just to clarify, that's what I'm talking about
17 that you're saying you would return in May. To the
18 military service or the highway patrol?

19 A. I'm on the highway patrol now until May. And
20 then I go back on military service sometime in May.

21 Q. You don't know when in May?

22 A. No.

23 Q. So my question was: How much leeway do they
24 give you? How much time do they tell you, the military,
25 before you have to leave?

1 A. I believe that I will know mid-April.

2 Q. So they give you enough time to know when your
3 date is out so you can make preparations?

4 A. Correct. Inform, you know, my agency and the
5 State Attorney's Office, etc.

6 Q. How long have you been with the National Guard?

7 A. Since 2004.

8 Q. How long are you supposed to be with them? Do
9 you have a sign-up time?

10 A. I just re-enlisted till 2010. So I have an
11 obligation till then.

12 Q. What do you do for them; as a law enforcement as
13 well?

14 A. No. I work at the service det. for the 20th
15 Special Forces Unit in Camp Blanding as their chemical
16 biological nuclear NCO.

17 Q. Weapons of mass destruction?

18 A. Yes.

19 Q. Haven't found any?

20 A. That's classified.

21 Q. Let's talk about March 26, 2006. You were
22 employed as a trooper of the highway patrol at that
23 point?

24 A. Yes.

25 Q. In what capacity?

1 A. As a state trooper working the midnight shift.

2 Q. On the date in question, were you on routine
3 patrol?

4 A. Yes.

5 Q. Do you have any independent recollection of this
6 incident?

7 A. Yes.

8 Q. And prior to this deposition, you had an
9 opportunity to review documents and talk with the State
10 Attorney?

11 A. Yes.

12 Q. Refresh your memory as to the events of that
13 evening?

14 A. Yes.

15 Q. Did you have an opportunity to review a
16 videotape?

17 A. Yes.

18 Q. How many videotapes did you review?

19 A. I reviewed one videotape that was in my patrol
20 car at the time. And I just seen a short take of another
21 videotape that looked like the vehicle during the day.
22 And I didn't continue watching that. It had nothing to
23 do with me.

24 Q. Vehicle during the day. Where was the vehicle
25 at? Was it at impound or somewhere?

1 A. I believe so, but I don't know for sure.

2 Q. Do you know who the author of that video was?

3 A. No.

4 Q. So a daytime video?

5 A. Yes.

6 MR. FOOTE: Chris, I don't have that.

7 MR. JENSEN: What's that?

8 MR. FOOTE: I don't have that. There is a
9 daytime video?

10 MR. JENSEN: We'll talk about that later. Can I
11 ask him some questions right now about the video?

12 MR. FOOTE: Sure.

13 CROSS EXAMINATION

14 BY MR. JENSEN:

15 Q. How long did you watch that video clip for?

16 A. Three seconds.

17 Q. Right. Are you sure, was it during daytime or
18 was it during nighttime? Are you sure about that? Do
19 you even remember?

20 A. Just off the cuff, I thought it would be like a
21 video of the vehicle in an impound the following day,
22 maybe.

23 Q. But you're not sure what it was?

24 A. No.

25 MR. JENSEN: Can we go off the record for just a

1 second?

2 MR. FOOTE: Why?

3 MR. JENSEN: Because I'm going to tell you what
4 it is.

5 MR. FOOTE: Is it classified?

6 MR. JENSEN: No, it's not classified.

7 MR. FOOTE: Go ahead. Off.

8 OFF THE RECORD DISCUSSION

9 MR. FOOTE: Go back on.

10 Q. (By Mr. Foote) So you reviewed a videotape in
11 this case that you took in your in-dash?

12 A. Yes.

13 Q. Of your cruiser, in-dash of your highway patrol
14 cruiser?

15 A. Yes.

16 Q. You say you do have independent recollection of
17 this particular crash?

18 A. Yes.

19 Q. How were you dispatched to the scene?

20 A. Through Tampa Bay Communications Center called
21 me, dispatched me to a crash that had occurred on Grand
22 Boulevard. And then I got a subsequent call of where the
23 vehicle was stopped on Grand Boulevard by State Road 54.

24 Q. Is that your regular dispatch? Was that how you
25 get calls or was that different because it was a crash?

1 A. No. That's primarily what I get dispatched to
2 is crashes.

3 Q. Along with your regular?

4 A. Assist motorists, call box on the interstate,
5 road obstruction.

6 Q. You still stop people and give them tickets and
7 stuff like that?

8 A. Yes.

9 Q. You weren't called in special to this area
10 because of this?

11 A. I was. As delayed. There is a crash at such
12 and such. Be en route.

13 Q. Just so I understand. Are you assigned to a
14 particular area of Pasco County or you're anywhere you
15 want to be?

16 A. Anywhere I want to be.

17 Q. So you're en route to this location based on
18 dispatch. You're told that it's a crash?

19 A. She told me it was a crash.

20 Q. Were you aware that it involved a fatality at
21 that point?

22 A. Yes.

23 Q. So you arrive on scene. Where do you arrive?

24 A. I initially went to the crash scene location off
25 of Grand.

1 Q. Where the victims were?

2 A. Yes.

3 Q. And tell me what happened when you arrived
4 there.

5 A. There was some witnesses there. I just pretty
6 much got a quick sequence of events of what had
7 happened. And then I was told that the vehicle that had
8 left the scene was on Grand, south of 54. Then went
9 there.

10 Q. For purposes of this deposition, as we have done
11 with other officers and troopers, there were two scenes,
12 where the victims were and where the car came to final
13 rest. Would you agree with that?

14 A. Yes.

15 Q. So where the victims were we call Point A or
16 Scene A. Where the truck ended up would be Point B or
17 Scene B. So we can know what we're referring to. At
18 some point you went to Scene A. That's what you just
19 talked about?

20 A. Yes.

21 Q. All right. So when you get on scene, are there
22 any other law enforcement there?

23 MR. JENSEN: Which scene?

24 Q. (By Mr. Foote) Point A.

25 A. I don't remember.

1 Q. Before we do that, did you generate a narrative
2 report in this case?

3 A. Traffic crash report.

4 Q. Do you have that with you?

5 A. Yes.

6 Q. Did you generate any other written reports or
7 evidence logs or anything else in connection with this
8 case in the form of documents?

9 A. Yes.

10 Q. What else did you author?

11 A. I don't have present with me, but I believe that
12 I have in my possession at the station, but I have to
13 confirm it, an alcohol influence report, standard
14 interview question form. I did have with me through the
15 State Attorney's Office my Miranda form, that I had read
16 him his Miranda and that he had signed it. I know for a
17 fact I asked him alcohol influence report questions at
18 the scene post-Miranda, but I don't have that form.

19 Q. Is that the standard one you would do in a
20 regular DUI that has the field sobriety exercises on it?

21 A. Yes, sir.

22 Q. And as they do the walk-and-turn, the one-leg
23 stand, finger-to-nose, you check off the little boxes
24 while you observe them?

25 A. Yes, sir.

1 Q. And you're saying that you do or do not have
2 that form?

3 A. I do not know. I am hoping that I have that
4 form at the station.

5 Q. Where would it be?

6 A. In my filing cabinet.

7 Q. Under your name?

8 A. Yes. Because I keep copies of all my DUIs
9 because I have to submit the original to the State
10 Attorney, one to the Public Defender -- or one to the --
11 one to the driver's license improvement, one office copy,
12 and then I always keep a copy.

13 Q. Do you know if any of those copies were
14 submitted to any of those appropriate agencies that you
15 just mentioned?

16 A. The State Attorney's Office does have my
17 intoxilyzer form and my Miranda form, which I normally,
18 on a normal DUI, I would submit all of that into one
19 packet. However, I did not make the charges on this case
20 because it was assigned to a traffic homicide
21 investigator. So I believe that I would just -- I put
22 all my copies of the paperwork that I did into Corporal
23 Styers's box. But I don't see it here in the packet that
24 the State Attorney's Office provided for me this
25 morning. So I'm hoping that I have it. If I don't, I

1 don't.

2 Q. I didn't receive that. I did see you writing on
3 something. I assumed that in the video you were writing
4 on the alcohol influence report.

5 A. Me, too.

6 Q. But I haven't received it in two years. So I'm
7 just wondering where it is and if you have it and if it's
8 in evidence under lock and key. Would that be something
9 you'd be able to verify? When did you know you did not
10 have that? Once you got here?

11 A. Once I got here.

12 Q. So that would be something you'd be able to go
13 back to the station and find out if it's there?

14 A. Today, by the call of business.

15 Q. You would be able to let the State Attorney know
16 whether you have it or not?

17 A. Yeah. I would fax it to them.

18 Q. Would that be the original one that you actually
19 wrote on?

20 A. Don't know.

21 Q. What's the normal procedure? You mentioned
22 sending one to the State, sending one to --

23 A. The original would go to the State Attorney's
24 Office. But in this particular case, I didn't make the
25 packets. I just forwarded it to the corporal. So we'll

1 see. Time will tell.

2 Q. You don't know whether or not you submitted one
3 to DMVHS?

4 A. I did not. I didn't submit anything to anybody.

5 Q. Let's go back to Scene A. You arrive on scene.
6 I was asking you whether or not any other law enforcement
7 was present.

8 A. On Scene A?

9 Q. Yes.

10 A. I don't remember.

11 Q. What do you remember about first arriving on
12 Scene A?

13 A. I believe the paramedics were there, but I can't
14 remember if law enforcement was there.

15 Q. You stated that some witnesses or people may
16 have talked to you. Can you recall who you talked to?

17 A. No.

18 Q. Do you recall any statements they would have
19 made?

20 A. No.

21 Q. Would that be something that you would have made
22 either field notes of to give to a homicide investigator
23 later on?

24 A. I can only testify to what my report says at
25 that time.

1 Q. What does your report say?

2 A. I had wrote a diagram of the direction of travel
3 of that vehicle and point of impact and --

4 Q. That document I do remember seeing. You
5 authored that document that has, I guess, the direction
6 of travel with the roadway on there?

7 A. Yes, sir. It's just very simple. A four-page
8 crash report.

9 Q. Do you know how you would have gotten the
10 information to generate that diagram?

11 A. Based on field notes.

12 Q. Do you have field notes?

13 A. Not anymore I don't have them.

14 Q. And where would those field notes have been?

15 A. I don't know. Garbage.

16 Q. And the determinations that you made in that
17 diagram were based on said field notes, but something
18 must have triggered you to write those field notes. How
19 did you base your opinions regarding that diagram? What
20 did you use? I think that's it, Page 4 of 4 of your
21 report. Is that yours?

22 A. Yes.

23 Q. So on Page 4 of 4 of your crash report, there is
24 a street diagram with a direction of travel of a vehicle?

25 A. Yes.

1 Q. It has arrows showing a point of direction.

2 Where would you have gotten that information to develop
3 this diagram?

4 A. I don't remember.

5 Q. Do you recall looking at any skid marks or tire
6 marks or anything like that to give you any indications
7 of how you reached that conclusion with regard to the
8 vehicle in that diagram?

9 A. I don't remember.

10 Q. And would looking at anything else that you have
11 in your possession refresh your recollection about this
12 particular diagram or is that all you have?

13 A. That's what I have.

14 Q. You have customarily as a trooper investigated
15 crash scenes before and generated these types of reports?

16 A. Hundreds.

17 Q. In the normal scenario, how would you get that
18 information with regard to the direction of travel, skid
19 marks?

20 A. Yeah. Based on physical evidence and witness
21 testimony.

22 Q. But in this particular case, you can't say for
23 certain how you would have gotten that information?

24 A. On what name, yeah, I can't tell you specific.
25 I can tell you it was based on physical evidence and

1 witness testimony.

2 Q. There is a narrative in your Florida traffic
3 crash report, which I believe would be Page 3 of 4. I
4 have two pages of 3 of 4. Can you tell me what the
5 difference in these two pages are? This one says 3 of 4
6 in the bottom. The other one says 3 of 4 as well, but it
7 says Exhibit A, Page 53.

8 A. These are the exact same. I think this would
9 have been part of the traffic homicide report. And then
10 this is just a copy of the crash report. So they're the
11 same. They're just submitted separately.

12 Q. One has a signature on it, which is your
13 signature?

14 A. Yes.

15 Q. That's the one that says Exhibit A?

16 A. Okay.

17 Q. The other one has just a typed name on it.

18 A. Then that means that would have just been
19 printed off the server.

20 Q. The one that has your signature also has some
21 additional language in the narrative, THI number.

22 A. Yes. That's mine.

23 Q. What does this mean?

24 A. That's the traffic homicide investigation
25 number, 706, 28 is the county code, and that's the 26th

1 fatality of that year.

2 Q. That's on the --

3 A. The one I'm required to --

4 Q. That's on the one with your signature that says
5 Exhibit A?

6 A. Okay.

7 Q. It doesn't say that on this Page 3 of 4?

8 A. I don't understand why not.

9 Q. According to you, which one would have been
10 created first or would be your original; the one with
11 your signature?

12 A. Yes.

13 Q. So the second one that says 3 of 4 is missing
14 your signature and that traffic homicide investigation
15 number?

16 A. Yes. I think I have an explanation why that
17 would be.

18 Q. Sure.

19 A. When we submit a traffic crash report, it's
20 submitted -- it's done on our laptop computer. And then
21 with that laptop, we print a copy. We would submit that
22 to a supervision or to the traffic homicide
23 investigator. The traffic homicide investigator could
24 then make corrections on the report or your first line
25 supervisor, your sergeant, and send it back to you for

1 corrections. And then you sign it and re-submit it.

2 Q. So the first one --

3 A. The first one may be my initial that
4 I submitted, and then he told me to fix it. And then I
5 signed it and submitted it back.

6 Q. I understand. In the narrative report, it talks
7 about vehicle one, which, I guess, is the suspect
8 vehicle, struck pedestrians one and two, did not stop to
9 render aid, proceeded southbound. Pedestrian one was
10 pronounced deceased at the scene by Pasco County Rescue
11 paramedic, Joseph Laypairdo (phonetic). The information
12 that you have in here also about Bayfront, about Doctor
13 Steven Epstein, that information you would have gathered
14 from where?

15 A. Well, I've been doing it a long time. I'm
16 pretty efficient. So what I would do is I would call
17 Bayfront. I need a doctor's name, etc. But that stuff
18 would be notified by Florida Highway Patrol
19 Communications Center. But I have all of those numbers
20 in my speed dial, my cell phone. So I know what I need
21 for my reports, you know, deceased time, paramedic time,
22 etc.

23 Q. So that information is somewhere. You gather it
24 and put it in your report and then you submit the report?

25 A. Yes.

1 Q. So you don't have any recollection of speaking
2 to anyone at Scene A or you don't have notes as to what
3 those conversations consisted of at Scene A when you
4 first arrived on scene?

5 A. No, no. Of course I talked to the paramedics at
6 the scene. I talked to whoever was in the apartment
7 complex near there. But I don't remember names or
8 anything.

9 Q. When you arrive on Scene A, there is no suspect
10 vehicle there?

11 A. There is not, no. Two victims, a hat, shoes.
12 And being advised about Scene B. So I moved on to there.

13 Q. About how long do you think you would have
14 remained on Scene A roughly?

15 A. Five minutes.

16 Q. During that five minutes, you didn't conduct any
17 investigations in connection to any skid marks or oil
18 slicks or anything like that?

19 A. I don't remember, sir.

20 Q. You didn't take any photographs of those items?

21 A. No.

22 Q. So you move on to Scene B. Can you tell me what
23 you observed when you first arrive on Scene B?

24 A. A Chevrolet pickup truck, disabled, southbound
25 lane, south of State Road 54, front end damage, and a

1 white male standing next to a building on the southwest
2 corner. And there were several people there.

3 Q. Standing next to the building on the southwest
4 corner of?

5 A. State Road 54 at Grand Boulevard.

6 Q. Is that where the old Club 54 is?

7 A. I believe so.

8 Q. So several people out there?

9 A. There were several law enforcement at that
10 scene.

11 Q. So when you say people, you mean law enforcement
12 or lay persons?

13 A. Both.

14 Q. And you state that there was a white male
15 standing next to the building on the southwest corner of
16 54 and Grand. How do you recall that one particular
17 person out of the group?

18 A. Because I want to say a deputy sheriff had told
19 me that -- he initially pointed out, there's your driver,
20 and that the deputy initially spoke to a witness at the
21 scene who said that he had -- well, I had talked to them,
22 too. That he had physically stopped that truck by
23 cutting in front of it and stopping it and told me that
24 he saw that guy get out with a cell phone and run by a
25 telephone box.

1 Q. When?

2 A. After the collision. So what I needed for my
3 crash investigation was a wheel witness.

4 Q. Did you find one?

5 A. Yes.

6 Q. Who was that?

7 A. Mr. Scott, I think his name is.

8 Q. Would this be in any of your reports?

9 A. Not my report.

10 Q. Mr. Scott. How do you recall that?

11 A. By reading my report about an hour ago.

12 Q. That's what I'm asking. Is it in your report?

13 A. It's not in my report. It's in Corporal
14 Styers's report.

15 Q. You read the homicide crash?

16 A. Yes.

17 Q. Had you read that prior to today?

18 A. I read it today.

19 Q. Is that the first time you read it?

20 A. Yes.

21 Q. Are you able to tell whether or not the
22 information in that report is accurate or not based on
23 your observations?

24 A. The traffic homicide investigator is -- he was
25 probably asleep at the time and he was called out. So

1 whatever knowledge that he knows, it's because I provided
2 it for him; witness names, crash location, etc.

3 Q. You're not saying all the information in this?

4 A. Not all of it, but names. Witnesses were
5 gathered at the scene by initial officer on scene, crash
6 location. Witnesses are identified. Time of death is
7 already known. Paramedic time and arrival is already
8 known.

9 Q. So is it your testimony that all the information
10 in this report with regard to witnesses, their
11 statements, their names, identifications came from you?

12 A. Initial, yeah, unless there's follow-up, you
13 know, follow-up witness statements.

14 Q. Are you able to differentiate from this report
15 who you told him about and what was follow-up on your
16 reading the report?

17 A. Possibly, yes.

18 Q. Who would be the initial person that you would
19 have spoken to?

20 A. Persons that were -- that had witnessed that
21 driver being inside the truck and getting out. And the
22 witness who seen the driver get out of the car and go to
23 the cell -- to the telephone box. That was a witness
24 that I had gathered on scene.

25 Q. And after reading the report today, is that

1 what's refreshing your recollection about the events that
2 you observed on that evening?

3 A. No. I have independent mental recollection
4 also.

5 Q. I want to focus specifically on the witnesses
6 that told you what they observed. Do you actually
7 remember that on your own?

8 A. Yes.

9 Q. You may or may not remember the names of those
10 persons. I'm not expecting that. So what was actually
11 told to you by a witness on the scene?

12 A. That I remember one of them had told me that he
13 was going south on Grand and he had front end damage on
14 the car. And the guy for some reason knew that he had
15 hit some pedestrians. So I remember him telling me that
16 he had made contact with that driver, that he was the
17 only one that had got out of the car. And he got out,
18 was on the cell phone, and walked over to the southwest
19 corner of that intersection and was talking on a cell
20 phone by a telephone box. And that person that witnessed
21 it pointed that person out to me.

22 Q. So they observed the driver as a person that got
23 out of the vehicle, was talking on the phone behind
24 the --

25 A. Telephone box.

1 Q. Telephone box. And then what?

2 A. So I made contact with that driver, brought him
3 over to my car.

4 Q. I mean, did that witness tell you anything else
5 about what they observed regarding that individual who
6 was on the phone?

7 A. I don't remember.

8 Q. But you --

9 A. That's what I can remember, my involvement.

10 Q. You stated earlier that this particular witness
11 that told you about the guy on the telephone, was that
12 the witness who stopped this vehicle?

13 A. Yes.

14 Q. He told you he actually stopped the vehicle
15 himself? That's a crazy question. Did he tell you that
16 the vehicle was in motion and he -- and that he was the
17 one that caused this vehicle to stop?

18 A. I don't remember per se exactly whether that guy
19 stopped him or the vehicle got disabled and stopped. I
20 don't remember, but I know that witness was on his tail.

21 Q. What do you mean on his tail?

22 A. Or just on him, knowing that he was currently
23 leaving the scene of an accident. So he was -- as soon
24 as he turned around on him, he knew he was going to stay
25 with him.

1 Q. Did he tell you how he knew that he was involved
2 in an accident?

3 A. No. I don't remember. Now, I had read a
4 statement earlier today that I was not sure of, but --

5 Q. What was that?

6 A. I mean, other people's perception of things.

7 Q. What was that?

8 A. That there was -- it's just an opinion.

9 Q. What is it?

10 A. That one of the witnesses had said that there
11 was leaking transmission fluid, but it was night. And
12 that just seemed kind of farfetched to me as a
13 discredit.

14 Q. Why would that be farfetched?

15 A. Because I have worked midnight shift for 16
16 years, I know what you can see and what you can't see.

17 Q. Can you see leaking transmission fluid at
18 nighttime based on your training and experience?

19 A. Depends.

20 Q. On?

21 A. Lighting.

22 Q. So you didn't lend too much credit to that
23 particular statement based on your training?

24 A. It's a statement. It is what it is.

25 Q. You are trained to do this, as you said, for 16

1 years. The person that's telling you this is not law
2 enforcement. They haven't done it. So based on your
3 training and experience, did you find that to be a little
4 dubious, that particular statement?

5 A. It could have. It could have.

6 Q. You didn't include that in any report of yours?

7 A. No. I didn't know about it. It was after the
8 fact. It was another witness that was identified later.

9 Q. Do you know who that was?

10 A. No.

11 Q. How was that other witness identified?

12 A. I don't know. It's going back to the question
13 of whether the suspect was stopped or the vehicle was
14 disabled.

15 Q. You don't know as you sit here today which one
16 of those actually occurred?

17 A. No.

18 Q. You stated earlier that the person who stopped
19 this vehicle knew that this vehicle was involved in the
20 fatality crash?

21 A. Yes.

22 Q. How is that?

23 A. I don't remember.

24 Q. Would that have been something you would have
25 written down somewhere?

1 A. On my crash report. That's it.

2 Q. Which is what we have here?

3 A. Yes.

4 Q. And is that included in the crash report?

5 A. That driver one was southbound on Grand
6 Boulevard, struck pedestrian one, yes.

7 Q. Not the ultimate facts. I mean, obviously the
8 reason why that got in there is because you're talking to
9 people. You're getting observations. These are
10 witnesses. You're the investigator at that point. And
11 you gathered information, as you testified earlier, which
12 ultimately went into this homicide investigation report;
13 is that correct?

14 A. Yes.

15 Q. So the individual knowing that a particular
16 vehicle was involved in a fatality, where did that
17 information come from?

18 A. I don't know.

19 Q. Do you have any information to support that
20 statement by this witness?

21 A. No.

22 Q. Do you know who the witness was?

23 A. No.

24 Q. Do you know of any person that you spoke to that
25 could identify Shannon Stephen as the driver of this

1 vehicle at the time of the crash?

2 A. I don't know.

3 Q. You don't know if such person exists?

4 A. I don't know that person's name.

5 Q. So there is a person; you don't know their name?

6 A. Correct.

7 Q. So there is a person that can identify Shannon

8 Stephen at the time of the crash at Point A?

9 A. Who witnessed Point A crash?

10 Q. Correct.

11 A. I don't know.

12 Q. So the person that you were referring to in
13 response to my question, was that Point B you're talking
14 about?

15 A. Yes.

16 Q. So to your knowledge, no one can identify
17 Shannon Stephen as the driver of that vehicle at Point A
18 at the time of the crash?

19 A. Not that I know of.

20 Q. You have taken time to review the traffic
21 homicide investigative report prior to your deposition?

22 A. I have, but I can't testify to other troopers'
23 part of their investigation, who they talked to. I can
24 only testify what I know.

25 Q. The bulk of the information, as you testified

1 earlier that's in here came from you, correct?

2 A. The initial witnesses at Point B.

3 Q. Are you aware of any witnesses just in reviewing
4 the report that says that they saw Shannon Stephen
5 driving the vehicle at the point of impact?

6 A. Oh, I don't know.

7 Q. Did you see anybody in there that does that in
8 this report when you reviewed it?

9 A. It's a pretty thorough report. I don't
10 remember. I just got it at one o'clock. So --

11 Q. Would it surprise you that no one in this case
12 identifies Shannon Stephen as the driver at the point of
13 impact at Scene A?

14 A. Are you telling me that's a fact?

15 Q. I'm asking you that question. Would that
16 surprise you that nowhere in any of these reports does
17 anyone identify Shannon Stephen as the driver? Did you
18 know that?

19 A. No.

20 Q. Were you under the impression that there was
21 such a witness?

22 A. I don't know.

23 Q. Well, that's important to me because if you know
24 something -- took me two years to get to you. So I want
25 to know if you know somebody that I don't know about.

1 A. No. I think everything has been disclosed and
2 discovered.

3 Q. Except for the --

4 A. Alcohol influence report.

5 Q. Got it.

6 A. Hopefully. That's still pending.

7 Q. The reason why I'm asking this, as late as a
8 couple of weeks ago a new witness popped up, a new 911
9 tape popped up after two years. So I want to know if you
10 are in custody of any type of physical evidence or any
11 other evidence or any witnesses that may not have been
12 disclosed to the State Attorney.

13 A. I understand. No.

14 Q. Thank you.

15 A. No surprises.

16 Q. All right. So at Point B you see a white male
17 standing at the building and that's because a deputy or
18 said someone, there's your driver?

19 A. Correct.

20 Q. Do you know how the deputy got that information?

21 A. Based on that witness that was at the scene.

22 Q. And are you able to find a name for this
23 particular person in any of the reports?

24 A. Possibly.

25 Q. Do you want to take a moment and do that?

1 Because we're talking about a mysterious person.

2 A. Okay. I'm ready.

3 Q. We're talking about a particular witness --

4 A. All I can do is tell you what I read from
5 Corporal Styers's report, which the investigation
6 starts -- I mean, I'm only reading on Page 7 that says,
7 Trooper Ronald Evans explained the facts of the crash to
8 me. There was three pedestrians walking south. Two got
9 struck. There's one left. So there's the witness at the
10 crash of a vehicle description. And then there was a
11 witness at Point B that said he followed that guy and
12 stopped him there.

13 Q. Is that in this report?

14 A. It is somewhere.

15 Q. Oh, because I thought you were actually pointing
16 that out. I have never seen that language anywhere.
17 So --

18 A. Page 12, Page 12 at the second sentence says
19 something like Mr. Scott indicated that he and James
20 Ramsey, his passenger, drove around the Chevrolet truck
21 and made it stop within the southbound lane of Grand
22 Boulevard. And that's what I have an independent
23 recollection of, but I didn't remember the name of the
24 guy.

25 Q. And the next sentence in that says, Mr. Scott

1 stated during the interview that the person who got out
2 of the truck is the same person he saw previously exit
3 the truck and run behind the traffic controlled box.

4 A. That's what I remember. Yes.

5 Q. So this wasn't a continuous observation? There
6 was a break in the observation of the witnesses according
7 to your recollection because no where does it say that
8 vehicle was followed from Point A? That's what I'm
9 talking about.

10 A. Just my independent recollection is that the guy
11 was going north and he seen the truck go by and thought
12 that truck looks like it was involved in a crash. So
13 that's probable. Whether there was a break, I don't
14 know.

15 Q. Do you know if those witnesses were any relation
16 to the victims? Was there any relation whatsoever to the
17 victims; do you know?

18 A. I know that there was three walking southbound.
19 They were coming from a bar. It was Chasco Festival.

20 Q. Sure. Those are the pedestrians.

21 A. Right.

22 Q. The two gentlemen you just referred to on Page
23 12, they're in a vehicle.

24 A. Yes.

25 Q. Do you know if those two individuals knew those

1 three people at all?

2 A. Don't know.

3 Q. My question is: How would that vehicle know
4 that anybody was -- any pedestrians were hit?

5 A. I don't know.

6 Q. That's okay. If none of that information is in
7 the report, it's fair to say they didn't know?

8 A. I wouldn't know.

9 Q. Because I know it's difficult because you're
10 trying to think back. Facts are very important to me.
11 If there was someone that can say something that's
12 outside of what's in the discovery --

13 A. I understand.

14 Q. All right. So at Point B, so you make contact
15 with this person who is named the driver of the vehicle?

16 A. Yes.

17 Q. Tell me about that.

18 A. I had initially put him in front of my car, and
19 I was getting the videotape ready. And I was going to do
20 the crash investigation on video and change hats to a
21 criminal investigation. And I read him his Miranda on
22 video.

23 Q. Did you actually do the changing of hats?

24 A. Yes. Read him his Miranda. He signed the
25 Miranda form. And I asked him every question on the

1 alcohol influence report. And then I conducted roadside
2 field sobriety. However, on the video, the audio was
3 inoperable. So all we have is visual evidence, no audio
4 evidence.

5 Q. So we have no documentation of those questions
6 that were asked. We have no audio of the questions that
7 were asked. Is that a fair statement?

8 A. That's a very fair statement. The only thing I
9 can provide for you today is the Miranda form that he
10 signed on the scene.

11 Q. I'm going to show you that Miranda form. Have
12 you had a chance to review it beforehand?

13 A. Yes.

14 Q. There are four lines where it says statement of
15 Miranda rights. One says printed name to the left and
16 signature to the left. Who is that?

17 A. That's the driver.

18 Q. And then on the right, it says witness, witness?

19 A. And that's me.

20 Q. That's your signature, Trooper Evans?

21 A. That's the time.

22 Q. Is that the time you had him sign this document? *

23 A. Yes.

24 Q. And after the signing of Miranda is when you
25 went into various questions?

1 A. Yes.

2 Q. As you sit here today, you don't have any
3 independent recollection of what his responses were to
4 those questions or what the questions were? You probably
5 know the questions.

6 A. I know all the questions. But I don't know the
7 responses, no.

8 Q. Can you describe this person?

9 A. Older than me, older gentleman, very relaxed,
10 had his hands in his pockets the whole time, white male,
11 approximately 5'6", a little heavysset.

12 Q. Older than you. How old are you?

13 A. Forty.

14 Q. Did he produce a driver's license?

15 A. Yes.

16 Q. So when you say older, you can actually verify
17 it by looking at his driver's license?

18 A. Well, he's not older than me.

19 Q. He is or is not?

20 A. I don't think so. No. I don't remember. I'd
21 have to look at the report.

22 Q. Which report?

23 A. The crash report.

24 Q. Anything unusual about this individual that you
25 remember; any tattoos, any facial hair, any special

1 haircuts?

2 A. No.

3 Q. What was his appearance to you? You said
4 relaxed. How was his speech to you?

5 A. Slurred.

6 Q. What about his gait?

7 A. His gait? What do you mean?

8 Q. His ability to keep his balance in front of
9 you. I guess I'm going into standard, classic signs of
10 DUI impairment.

11 A. Yeah. He was impaired.

12 Q. Tell me some of the things you observed to give
13 you that opinion.

14 A. Just off the check-off list, slurred speech,
15 glassy eyes, red, bloodshot eyes, odor of alcohol on his
16 breath when he spoke. And my independent recollection of
17 this is when I made contact with him, I don't think he
18 knew that he collided into or killed anybody.

19 Q. What makes you say that?

20 A. Because he didn't seem -- I don't think -- I --
21 I don't know. I just think that he was like didn't --
22 didn't care like most people, I guess, like a normal
23 citizen would. He was just relaxed, like state of --

24 Q. A stupor?

25 A. Like he didn't know.

1 Q. I think they use the word drunken stupor.

2 A. Drunk or stupor?

3 Q. A drunken stupor.

4 MR. JENSEN: Dazed?

5 THE DEPONENT: Dazed. That's a good adjective.

6 It's pretty overwhelming, I'm sure. I'm sure law
7 enforcement was on him and --

8 Q. (By Mr. Foote) Well, different people made
9 contact with him prior to you having contact with him,
10 correct?

11 A. I mean, I know no one volunteered that
12 information. But I just know as a DUI investigator, I
13 want to have a rapport with the driver with a DUI
14 investigation. So I definitely wasn't -- you know, I was
15 very cooperative and friendly. And he seemed comfortable
16 to talk to me about everything. That's all. In my
17 opinion, I think what is very imperative in this case is
18 that alcohol influence report.

19 Q. It is imperative.

20 A. To me, to the case.

21 Q. Probably to me, too.

22 A. It's just unfortunate that the audio was
23 inoperable. It didn't work when it was recording.

24 Q. Had you had problems with that video equipment?

25 A. Yes.

1 Q. Standard FHP problems. Did you put it --

2 A. I'm not testifying --

3 Q. Did you put in a request for any type of
4 repairs?

5 A. After that it was -- I was so disappointed that
6 I was done with it. I turned it in.

7 Q. Prior to this investigation, had you used that
8 video equipment for any other DUIs or crashes?

9 A. Yes.

10 Q. And was the audio operable at that time?

11 A. Yes.

12 Q. Is there any motor pool documentation that would
13 support your request for service on the audio?

14 A. No.

15 Q. Does FHP not keep such documents?

16 A. It's each trooper's individual responsibility to
17 ensure his equipment is working.

18 Q. Do you have specialized training on fixing motor
19 vehicles and --

20 A. No.

21 Q. So how do you fix it?

22 A. You submit it. You turn it back in. I didn't
23 know it was not working until after the tape was reviewed
24 that evening.

25 Q. Is that your personal cruiser?

1 A. It's assigned to me. I take it home.

2 Q. That's your take-home car?

3 A. Yes.

4 Q. And so to your recollection, did that vehicle
5 have audio or video problems prior to this date?

6 A. No.

7 Q. So when I asked you if it had any problems, you
8 kind of made a face. Is that something standard that
9 happens with video equipment? There are problems with
10 audio or video?

11 A. Like any other piece of equipment, I guess.

12 Q. I looked at the video. It's very scratchy
13 with -- what do you call it -- snow, static type, visual
14 static. Is that how that camera normally operated for
15 you?

16 A. I think it would be fair to say that it was an
17 older piece of equipment.

18 Q. Well, let me ask you this: Was March 26, 2006,
19 the first time you had any problems with that audio and
20 visual video equipment?

21 A. Yes.

22 Q. That was the first time you had any problem with
23 it?

24 A. Yes.

25 Q. So there's no request for service or help with

1 regard to that equipment prior?

2 A. I didn't have any problem with it.

3 Q. Do you test that equipment prior to starting an
4 investigation? Testing 1, 2 in a mic or anything like
5 that?

6 A. The piece of equipment is old and outdated.
7 It's not like the ones today with the DVD and rewind and
8 play. It's a VHS. So that tells you right there.

9 Q. All right. Well, my question was: Do you test
10 it before you start your DUI investigation? Like you
11 pull up on the scene, go testing 1, 2, okay, and then you
12 go out and start talking to the suspect? I have seen
13 that troopers and deputies do that. Was that a practice
14 of yours?

15 A. The only way is you could do that to test it and
16 then go back in your car and rewind it and play. And
17 then that video didn't have a speaker. So it would be
18 impossible.

19 Q. The audio, was that through a microphone you
20 wore on your uniform?

21 A. Yes.

22 Q. Is that a wireless microphone?

23 A. Yes.

24 Q. Ever have any problems with that wireless
25 microphone prior to March 26, 2006?

1 A. Yes. Runs off a nine-volt battery.

2 Q. So back to the observations of Shannon Stephen.
3 So you mentioned earlier that -- I mean, that it didn't
4 appear that he knew that two people were killed. Was he
5 making any statements about the victims at all?

6 A. All I can testify to is if I have that alcohol
7 influence report to all of those standard interview
8 questions that he answered, which is a series of at least
9 25 questions.

10 Q. That's the standard DUI, where are you coming
11 from, what are you eating, all that?

12 A. Correct.

13 Q. Do you recall whether or not -- I mean, were
14 people volunteering -- I have read in the report people
15 volunteering information to him, you just killed two
16 people, that type of thing. So what you said is not
17 inconsistent with the rest of the report that he didn't
18 seem to know he killed anybody. That was your
19 observations as well?

20 A. That's my opinion. I just think that I have
21 worked -- I've been to a lot of fatality scenes.

22 Q. What was the difference about his demeanor as to
23 someone else's that's either irregular traffic crash, no
24 alcohol involved, just a tragic accident and people who
25 are impaired? What was the difference with Mr. Shannon

1 Stephen through your years of experience? What raised
2 your attention about his demeanor that --

3 A. He didn't seem to care.

4 Q. When you say care, did he say it was good for
5 those people, they got it coming to them?

6 A. No. He wasn't devastated per se. I think if a
7 normal citizen discovered that he possibly out of
8 negligence or whatever had killed somebody would be
9 devastated to their knees.

10 Q. Did he appear to know that he did that?

11 A. That was just my observation. It didn't seem
12 like he knew.

13 Q. So you began standard field sobriety exercises?

14 A. Yes.

15 Q. You did the standard walk-and-turn, one-leg
16 stand, and finger-to-nose?

17 A. Yes.

18 Q. And you don't have an independent recollection
19 of how he performed?

20 A. I do.

21 Q. Is that because you had an opportunity to view
22 the videotape prior to deposition?

23 A. Yes.

24 Q. Did that refresh your recollection?

25 A. Yes.

1 Q. Can you tell me briefly on each one of the tests
2 how he did?

3 A. On the walk-and-turn test, he didn't do very
4 well. Took too many steps, used his arms for balance,
5 did not walk in a straight line. One-leg stand, could
6 not perform.

7 Q. Do you recall watching the video when you
8 demonstrated the one-leg stand?

9 A. Yes.

10 Q. Anything unusual about how you did the test in
11 the instruction phase?

12 A. I think I know what you're asking. On the
13 one-leg stand, I demonstrate the one-leg stand. I also
14 demonstrated if you put your foot down. I physically put
15 my foot down and put my foot back up and continue
16 counting where I left off. If you had no audio, you can
17 only perceive it the way --

18 Q. That's not what I'm talking about. You were
19 holding a flashlight during the one-leg stand. Is that
20 normal procedure?

21 A. Yes.

22 Q. So for a suspect to do what you did, he would
23 probably have to ask you for your flashlight?

24 A. Maybe.

25 Q. Part of that test is you're supposed to keep

1 your arms down to the side and not use them for balance,
2 correct?

3 A. Correct.

4 Q. So the way you demonstrated with your hand up
5 like this, would you think that's correct in showing
6 someone who has never done it before? Just in your
7 opinion. Not a major point.

8 A. Never thought of it.

9 Q. If he would ask you for your flashlight to
10 start, what would you have done?

11 A. I don't know. I have no testimony.

12 Q. After the field sobriety exercises, what did you
13 do? I saw you put him in handcuffs.

14 A. I did.

15 Q. What was that about?

16 A. What was that about?

17 Q. Why did you do that?

18 A. Because at that time based on the witness
19 testimony, based on my observations, his performance on
20 roadside, I believed that probable cause existed that he
21 was in actual physical control of a motor vehicle under
22 the influence of alcohol.

23 Q. So you placed him under arrest for DUI?

24 A. Yes.

25 Q. In connection with the deaths?

1 A. No.

2 Q. You placed him under arrest for misdemeanor DUI?

3 A. Yes.

4 Q. With property damage, with injury, with death?

5 A. I didn't do any -- I didn't fill out any charges
6 due to our standard operating procedure.

7 Q. Which is what? He was under arrest clearly?

8 A. Based on if there is any fatality that results
9 in criminal charges, the traffic homicide investigator
10 will make the charges, not the trooper.

11 Q. So at minimum you had him arrested for a
12 misdemeanor DUI?

13 A. Correct.

14 Q. Nothing in connection with the vehicle being
15 damaged as far as property damage?

16 A. I mean, all of those are separate offenses.

17 Q. Correct?

18 A. But I didn't make any charges. I don't even
19 know what the charges are.

20 Q. So when you place him under arrest, that was the
21 first time he was placed under arrest. Was he unarrested
22 after you put handcuffs on him, to your knowledge?

23 A. No, definitely not.

24 Q. So at a minimum he had a DUI?

25 A. Yes. And I transported him to the Land O'Lakes

1 detention facility, did the 20-minute observation, did
2 the breath test. Then he was placed in a cell.

3 Q. How long after you put the handcuffs on him was
4 he transported to Land O'Lakes?

5 A. Shortly thereafter, if immediate.

6 Q. Had you spoken to Corporal Styers prior to that?

7 A. Yes. He was there at the scene and --

8 Q. At Scene A or Scene B?

9 A. B. And Sergeant Glenny was there. Trooper
10 Morris. That's all I remember.

11 Q. Did anyone else speak to Shannon Stephen besides
12 yourself?

13 A. I don't know.

14 Q. Did you put him in the back of your cruiser and
15 then continue to speak with your fellow troopers?

16 A. Maybe, yes.

17 Q. And do you recall any other law enforcement
18 going to talk to him while he was in the police car?

19 A. No.

20 Q. When you put handcuffs on him, did he make any
21 statements to you when you were putting handcuffs on him?

22 A. No.

23 Q. From my experience as a prosecutor, police
24 officer, defense attorney, and watching people get
25 arrested for DUI, normally --

1 A. Usually have a lot to say. I understand what
2 you're saying.

3 Q. That's why I just want to put it in context for
4 the record. Did he say, please don't do this, I have a
5 job, my kids, let me call my wife? Any of that happen?

6 A. This goes back to my opinion of his demeanor,
7 just --

8 Q. He just complied?

9 A. Relaxed. Yes.

10 Q. And so you take him and transport him to Land
11 O'Lakes. You ever return back to that scene?

12 A. Just mental recollection, I think I went
13 directly to the Land O'Lakes station after that.

14 Q. From the scene, from Scene B?

15 A. From Scene B to the detention, Florida Highway
16 station.

17 Q. You didn't go back to either Scene A or Scene B?

18 A. No.

19 Q. You didn't take any photographs or
20 measurements?

21 A. No.

22 Q. You didn't conduct any witness interviews after
23 placing Mr. Stephen under arrest?

24 A. No.

25 Q. Did you go back and speak with Corporal Styers

1 and assist him in any way in his homicide investigation?

2 A. I did talk to him at the station. He told me
3 just normal, do your report, submit it in my box. I
4 think that was it.

5 Q. Let's back up to Land O'Lakes. Do you actually
6 conduct the breath test on Mr. Stephen?

7 A. I did.

8 Q. So you get to the station. What's his demeanor
9 at that point?

10 A. Cooperative.

11 Q. Read him implied consent?

12 A. Yes.

13 Q. And he wanted to take the breath test?

14 A. Yes.

15 Q. 20-minute observation?

16 A. Yes.

17 Q. And then he takes the breath test?

18 A. Yes.

19 Q. Any problem with the breath test whatsoever?

20 A. Not the breath test, but the breath test
21 machine. The time was different on it.

22 Q. That was the Intoxilyzer 5,000?

23 A. Yes.

24 Q. Any problems with that?

25 A. The time was wrong, but I crossed it out and

1 wrote my initials and changed the time.

2 Q. Do you have an independent recollection of doing
3 that?

4 A. Yes.

5 Q. When you looked at the -- how many intoxilyzers
6 were at the station?

7 A. This was at the Pasco County detention facility.
8 There's three there.

9 Q. So you fired up one to take his breath test on.
10 Did you notice that did it clear and was ready to take a
11 breath sample?

12 A. Yes.

13 Q. And what happened with the time?

14 A. I didn't notice the time was off until it
15 printed out on the print card.

16 Q. Anything else unusual about that machine's
17 operation and the print card that came out of there?

18 A. No.

19 Q. Sure about that? Show you a copy of the
20 printout of the breath test card. You have had an
21 opportunity to review this prior to the deposition?

22 A. I did.

23 Q. Let me show it to you. Take a peek at it. Tell
24 me anything unusual about the breath test part from the
25 intoxilyzer 5,000 that was used that evening.

1 A. I previously testified about the time.

2 Q. Correct.

3 A. But the date is messed up, too.

4 Q. What does the date say?

5 A. 2545066 or something.

6 Q. So the date and the time are off?

7 A. The date doesn't even look like a date.

8 Q. Looks like the brackets are there for a date,
9 but I don't know what those numbers are.

10 A. Right. There's just random numbers.

11 Q. And the rest of the writing on the bottom,
12 Shannon Stephen's name, the time, your signature,
13 driver's license number, and serial number of the
14 intoxilyzer are handwritten by yourself. That's your
15 handwriting?

16 A. Yes.

17 Q. Did you have an opportunity to review the
18 inspection reports or agency reports for this particular
19 intoxilyzer prior to administering the test?

20 A. No.

21 Q. Did you know whether or not that machine was
22 fully operational or not prior to administering the
23 breath test?

24 A. I have been using that machine for five years in
25 Pasco. I have never had a problem with it.

1 Q. Doesn't mean the machine itself hasn't had a
2 problem. Just your experience with it when you have gone
3 there.

4 A. I have faith in the people that are responsible
5 to do it.

6 Q. Just like the videotape machine and the
7 audiotape machine, sometimes these machines malfunction.
8 Did you take steps to verify that that instrument was
9 operating properly prior to administering the breath
10 test?

11 A. No. Because if you start the intoxilyzer, it
12 does an internal test. But a date and time wouldn't --
13 RF5 would show up or something like that. A date and
14 time is a manual. It's a manual entry on this machine.

15 Q. Something that a human being calibrates?

16 A. Who is certified to do maintenance on that
17 machine, yes, not operator level.

18 Q. Would you agree with me that the date and times
19 are obviously a malfunction that you had to correct by
20 hand?

21 A. Yes.

22 Q. Did you administer another breath test to
23 Shannon Stephen on a different intoxilyzer at the station
24 at Land O'Lakes?

25 A. No.

1 Q. After you complete the breath test, then what
2 did you do?

3 A. Turn him over to detention deputies.

4 Q. Then you went back to the FHP station?

5 A. Yes.

6 Q. Did you meet with Corporal Styers that morning?

7 A. At the station.

8 Q. That same morning?

9 A. I think so. I don't remember.

10 Q. Just to jump back a little bit, you stated the
11 witnesses earlier -- you pointed to Page 12 or something
12 where it stated that the two witnesses in the truck
13 stopped the vehicle south of 54 on Grand?

14 A. Yes.

15 Q. To your recollection, that's what the witnesses
16 told you?

17 A. Yes.

18 Q. And that's what you told Corporal Styers?

19 A. Yes.

20 Q. Did you ever tell Corporal Styers about any
21 other reason that the vehicle stopped besides the two
22 witnesses in the pickup truck stopped it?

23 A. Why it was stopped?

24 Q. How the vehicle was stopped. You talked earlier
25 about it being disabled. Then these guys stopping it.

1 You found in the report where it says the two witnesses
2 say they stopped the vehicle, right?

3 A. Yes.

4 Q. And you stated that you got that information?

5 A. That's what I remember.

6 Q. And you got that information because that's what
7 the witnesses, I guess, relayed to you at the scene?

8 A. At the scene.

9 Q. Did the witnesses or anyone ever tell you that
10 the vehicle was already disabled at 54 and Grand?

11 A. I don't remember specifically.

12 Q. If someone would have told you that the vehicle
13 was already disabled, would that be a conflict then to
14 what you told Corporal Styers with regard to these two
15 witnesses?

16 A. Could be.

17 Q. I mean, if two people said that they stopped the
18 vehicle and then --

19 A. Other people say it was disabled.

20 Q. All right.

21 A. You just have to decipher what's the truth by
22 inspecting the vehicle later.

23 Q. Do you know actually what happened as you sit
24 here today two years later?

25 A. No.

1 Q. Were you ever present at any of the interviews
2 that were conducted by Sergeant Glenny?

3 A. No.

4 Q. Were you present at any interviews conducted by
5 Corporal Styers?

6 A. No.

7 Q. So to this date, do you know whether or not
8 there are conflicts that were told to various members of
9 Florida Highway Patrol?

10 A. Repeat your question please.

11 Q. More specifically, you talked to certain
12 witnesses who gave you information that you gave to
13 Corporal Styers to go into his homicide report; is that
14 correct?

15 A. That's fair.

16 Q. Sergeant Glenny talked to some witnesses and
17 Corporal Styers talked to some witnesses. Are you aware
18 of that?

19 A. Yes.

20 Q. Are you aware of any conflicts in the statements
21 between those witnesses with regard to what you were
22 initially told?

23 A. I think that's always going to happen anyway in
24 any case.

25 Q. How is that?

1 A. How witness's testimony will conflict?

2 Q. Yes.

3 A. I mean, I can only give you an idea. Has
4 nothing that has any relevance to this particular case.

5 Q. Sure. Give me an example.

6 A. Like for interrogation class, there would be 20,
7 30 students in the classroom. Law enforcement personnel
8 that are trained and certified. And in one particular
9 instance, one of the lessons learned was as we were
10 sitting in class a guy came in alleged -- like it was
11 mocked, where he had knocked out the instructor, took his
12 wallet, and walked out of the room.

13 And then at that time 30 students had to write a
14 witness statement on what they had seen. And every
15 statement was pretty much different; height, weight,
16 color, clothes, what had happened, what kind of weapon he
17 had. So different people's perception is different of
18 what they see.

19 So if you're asking me if any witness testimony
20 is conflicting, yes, that's going to happen.

21 Q. What was the point of that class then? How do
22 you actually get an accurate statement as to what really
23 occurred when you have so many different versions? What
24 do you do as an investigator?

25 A. Seeing what statements match to collaborate a

1 possible conclusion. I mean, I can elaborate. Witnesses
2 of even simple traffic crashes. The car rolled three
3 times where normally it doesn't. But people's perception
4 is that if a car overturns, it's rolled three times.
5 Normal, you know.

6 Q. For example, let's say in a hit and run, a car
7 hits a vehicle. And you get to the scene. You see the
8 damaged vehicle in the hit and run.

9 A. There's physical evidence, of course.

10 Q. One guy says it was a red mini van. The other
11 guy says it was a yellow Honda. I mean, that's a big
12 distinction. Would you agree with that?

13 A. Yes.

14 Q. How do you determine which is true then if there
15 is no physical evidence on the road and you have two
16 witnesses? How do you determine what vehicle to look
17 for?

18 A. I think in most cases physical evidence is the
19 key.

20 Q. Does it matter to you when a witness is telling
21 you the identification of a possible suspect, I guess,
22 inconsistencies in the identification of that person, for
23 example, you mentioned earlier, height, weight, hair,
24 clothes? Same scenario with you now. Instead of talking
25 about two cars, someone gives you two descriptions of two

1 people. One says white shirt. One says black shirt.

2 Would this concern you as an investigator with regard to
3 the identification?

4 A. Yes. But I would put out both descriptions.

5 Q. And then again would you say that whatever other
6 evidence supports either one of those that's the one you
7 go with?

8 A. I think if the testimony substantiates the
9 descriptions that were given prior, I think they would be
10 credible. That's the word, credible, credibility of the
11 witnesses, everything.

12 Q. In this particular case, were you aware of any
13 discrepancies with regard to the identification of the
14 driver of this particular truck on the scene?

15 A. No. Like I stated or testified earlier, I got
16 that report approximately an hour prior to this
17 deposition and primarily read through it all. But I
18 don't know the facts of post-interviews, etc.

19 Q. Well, the people that you talked to were the
20 initial people who identify the driver. That's correct,
21 right?

22 A. Yes.

23 Q. You were one of the first, probably the first
24 state trooper, on the scene?

25 A. Yes.

1 Q. So you're the first person from the highway
2 patrol that's actually getting an identification of the
3 driver from lay witnesses, correct?

4 A. Yes.

5 Q. As a law enforcement officer, would it concern
6 you if two different descriptions came up of the
7 particular driver?

8 A. Yes, of course.

9 Q. Because you don't want to misidentify a suspect?

10 A. Correct.

11 Q. To your knowledge, did that happen in this case?

12 A. No.

13 Q. If it did and was contained in any of these
14 reports, would that concern you?

15 A. Of course.

16 Q. Why is that?

17 A. If there was two other law enforcement officers
18 that wrote two different things on two different
19 reports?

20 Q. No. If there were two witnesses that gave a
21 different identification of a driver to law enforcement?

22 A. I think that's common.

23 Q. How do you -- okay. Did you have anything to do
24 with the retrieval of the crash data report from this
25 vehicle?

1 A. No.

2 Q. The black box?

3 A. No.

4 Q. Prior to this deposition, had you spoken to
5 Corporal Styers about this case?

6 A. No.

7 Q. Did you speak to any other troopers regarding
8 this case prior to this deposition, after the accident,
9 of course?

10 A. I'm here to testify to the fact that I didn't
11 know anything about this case till 1300, except I had to
12 be here and it was a fatality.

13 Q. In your traffic crash report, it says that the
14 vehicle was removed by Tatum's Towing. Do you know who
15 Tatum's Towing is? Is that someone that you have dealt
16 with before?

17 A. Yes.

18 Q. But you weren't there when the vehicle was
19 removed?

20 A. No. That's one of the very last things that
21 happen.

22 Q. Was this scene roped off like the familiar
23 yellow tape you see at crime scenes, to your
24 recollection, either at Point A or Point B?

25 A. I don't remember.

1 Q. You guys use that tape?

2 A. Yes, we have it.

3 Q. In reviewing the videotape or even the other
4 quick tape, that videotape, did you see any tape?

5 A. I don't remember.

6 Q. To your recollection, were there deputies that
7 were blocking the streets off or how was that scene
8 secured to your recollection?

9 A. Deputies were all over the scene. So, yeah,
10 State Road 54 was blocked. Northbound on Grand was
11 blocked. Southbound on Grand. It was pretty much
12 blocked off.

13 Q. Are you aware of any contents of Mr. Shannon's
14 vehicle that were stolen out of the vehicle while it was
15 in the custody of Florida Highway Patrol?

16 A. No. That's the first I heard of it.

17 Q. Are you aware there was a GPS in the window
18 that's in the videotape that didn't make it to the
19 evidence yard?

20 A. I didn't know that.

21 Q. Are you aware that credit cards that belonged to
22 Mr. Stephen in his wallet were stolen and used by
23 someone?

24 A. I did not know that.

25 Q. Were you aware that FHP conducted a criminal

1 investigation to individuals at Tatum's Towing?

2 A. I didn't know that either.

3 Q. Sergeant Glenny conducted a criminal
4 investigation of grand theft of items from Shannon
5 Stephen's vehicle directly from the scene?

6 A. I did not know that either.

7 Q. Do you know the vehicle was not stored at
8 Florida Highway Patrol station immediately upon removal
9 from Scene B?

10 A. I didn't know that either.

11 Q. Any of those items concern you as a Florida
12 Highway patrolman investigating this particular crash in
13 general, not in connection with what you did, but as a
14 member of the highway patrol?

15 A. Off the record.

16 Q. No. On the record.

17 A. No comment.

18 Q. On Page 2 of 4 of the narrative, you have a
19 person named Sara Gleason named. Is that the victim?

20 A. Yes.

21 Q. And you have a driver's license number. That's
22 information you gathered afterward from whatever source
23 like the David system?

24 A. Correct.

25 Q. Were you present during the blood draw from

1 Mr. Stephen?

2 A. No.

3 Q. When was that done in connection to your field
4 sobriety exercises and placing him in handcuffs in the
5 back of your car?

6 A. I don't remember. I can only just think, but --

7 Q. Would it have been done before you take him to
8 Land O'Lakes or after?

9 A. I want to think -- I want -- I don't remember.
10 But I want to, I think -- I believe just by mental
11 recollection that it was done at the scene by Trooper
12 Morris in an ambulance.

13 Q. So he's not in handcuffs when that's done?

14 A. No.

15 Q. And I'm just looking. It says chemical test
16 information. It says blood draw at 2:45 a.m. You did
17 your breath test at three or four o'clock in the morning,
18 I believe. So it's fair to say it was done beforehand?

19 A. Yes.

20 Q. So you would release Mr. Stephen to the custody
21 of another trooper to take him for the breath test -- I
22 mean, the blood test? Is that how that normally goes?

23 A. Well, how it normally goes, I think that the
24 blood was done first, even before -- maybe while I was at
25 Scene A. Then when I come back, I think they were doing

1 that because that's normal procedure on a fatality.

2 Q. Well, is it --

3 A. Like the blood withdrawal, I mean, it's -- law
4 enforcement can take it by force. So, I mean, it's just
5 part of the investigative process.

6 Q. But that's done during a criminal investigation;
7 is that correct?

8 A. Not necessarily. Sometimes it's done
9 voluntarily.

10 Q. Well, I'm talking about when you said take it by
11 force.

12 A. Yes. In that investigation, yes.

13 Q. So I understand you go from Scene A to Scene B.
14 You talk to a few witnesses. You make contact with
15 Shannon Stephen. Based on what those witnesses told you,
16 you conduct field sobriety exercises. That prior to
17 that, you switch hats, as you said. Then you conduct
18 your criminal investigation. Is it your testimony that
19 the blood draw was done prior to you switching hats and
20 advising Shannon Stephen of his Miranda rights?

21 A. I believe so.

22 Q. To your knowledge, did any other officer read
23 Shannon Stephen his Miranda rights prior to the blood
24 draw?

25 A. I don't know.

1 Q. Did you see any documents to that effect
2 regarding waiver of Miranda rights besides the one you
3 had him execute on video?

4 A. And the one I had him sign. That's what I can
5 testify what I did. Whether he was given Miranda prior
6 to my arrival, I don't know.

7 Q. To your knowledge, there is no other signed form
8 that you had him sign or executed that exists?

9 A. No, it could. But as far as I know, I don't
10 know.

11 Q. Do you know what the procedure is for the blood,
12 how it's maintained?

13 A. Yes.

14 Q. Where is it maintained?

15 A. Well, sometimes we get the blood at the scene by
16 a paramedic or at the hospital. The trooper takes the
17 blood vials, takes them to the Land O'Lakes station, puts
18 them in evidence, submits them to the Florida Department
19 of Law Enforcement crime laboratory or to the medical
20 examiner's office.

21 Q. When it comes back -- I'm looking at a chain of
22 possession here with regard to the blood. It goes to the
23 medical examiner. Does it end back up at the Florida
24 Highway Patrol station?

25 A. From the medical examiner's office?

1 Q. Correct.

2 A. I don't know. I don't usually go to the Florida
3 Medical Examiner's Office unless they go to Bayfront.
4 That's the Pinellas Florida Highway Patrol station.
5 That's what they do. They take their blood off to the
6 medical examiner's office off of Ulmerton. All I do is I
7 get a piece of paper back with the lab report results.
8 Where that blood goes after analysis, I don't know.

9 Q. To your knowledge, with regard to your actual
10 reports, not anyone else's, but to your reports that you
11 authored and the document that -- documents that you
12 authored, are those documents true and accurate to the
13 best of your recollection?

14 A. Yes.

15 Q. Are there any changes with regard to those
16 documents as we sit here now that need to be made to
17 those documents or that you want to comment on with
18 regard to those documents?

19 A. No.

20 Q. Had you ever spoken to a witness named Marvin
21 Daizell at Scene B, a person who knew Shannon Stephen?

22 A. I don't remember.

23 Q. There were two people he was with earlier that
24 evening at a bar. Do you recall either of those
25 individuals talking to you or speaking to them?

1 A. I don't remember.

2 Q. Do you recall seeing a red custom Ford van on
3 scene, was actually a 911 caller as well?

4 A. No.

5 Q. Were there any other lay vehicles around the
6 scene that you recall that weren't either emergency
7 equipment or law enforcement equipment?

8 A. No, I don't remember.

9 Q. Do you know roughly how many of these traffic
10 fatalities you have been involved in as a Florida Highway
11 Patrol trooper?

12 A. How many would you say that I have been to since
13 this one?

14 Q. No. Just during your career, I guess, as one of
15 the investigators, not directing traffic, but like as a
16 lead investigator.

17 A. At least 25.

18 Q. To your knowledge, any of the troopers that were
19 on scene that night no longer members of the highway
20 patrol?

21 A. I remember Corporal Styers there and Adam
22 Morris. So I know they're still working, I think, but I
23 just got back yesterday. I think that Adam Morris is
24 still working.

25 Q. Just to clarify, on Point A, you didn't speak to

1 any witness that actually identifies Shannon Stephen as
2 the driver at the point of the crash?

3 A. Just the vehicle.

4 Q. That the vehicle was involved?

5 A. (Nodded head.)

6 MR. FOOTE: That's all I have.

7 MR. JENSEN: I have a few questions also.

8 CROSS EXAMINATION

9 BY MR. JENSEN:

10 Q. All right. Trooper Evans, you said you just got
11 back from National Guard duty?

12 A. Yes.

13 Q. And how long did you say you were gone about,
14 since January?

15 A. Yes.

16 Q. And since the time of the accident in March of
17 2006 when you submitted your report and now, did you look
18 at any documents or anything like that? Have you had an
19 opportunity to do anything on this case since you
20 submitted that traffic report?

21 A. No.

22 Q. Today is the first time you have even thought
23 about this case in that period of time?

24 A. Yes.

25 Q. Now, you mentioned earlier that you had seen

1 part of two videos today. And the first video you only
2 caught a few seconds of?

3 A. Yes.

4 Q. You said you weren't -- you don't -- you weren't
5 involved in that part of the video and that's why you
6 stopped watching it?

7 A. Yes. I said that's not mine.

8 Q. And that video, do you remember just those few
9 seconds of what that clip showed?

10 A. Obviously not.

11 Q. So once you saw that it wasn't related to the
12 part of the investigation you did, you just didn't
13 continue watching it?

14 A. Correct.

15 Q. And you did watch a video in which your
16 investigation covered?

17 A. Yes.

18 Q. And that contained the field sobriety exercises?

19 A. Yes.

20 Q. And part of an interview that you conducted with
21 the defendant?

22 A. Yes.

23 Q. Let's see. Now, you talked about the crash
24 report, and Mr. Foote showed you two copies of it. One
25 had your signature on it; one didn't. You said that

1 typically you print one out and you sign it. Could you
2 explain a little bit more about that, how one might have
3 your signature and why one might not have your signature?

4 A. The crash report generated in the computer is
5 printed out, submitted to the traffic homicide
6 investigator for corrections.

7 Q. So you would sign the final version that you
8 submitted to the traffic homicide investigator?

9 A. Correct.

10 Q. But the other copy would just be stored on the
11 computer?

12 A. Correct.

13 Q. At FHP. If someone came along later and printed
14 it out, it wouldn't have your signature on it?

15 A. Correct. You could print it out today, yes.

16 Q. To the night of the crash, did you have an
17 opportunity to learn approximately when the accident
18 happened?

19 A. Yes.

20 Q. And what time was that?

21 A. I have it on my report. 0115 based on the first
22 911 received call through the sheriff's office, based on
23 Pasco Rescue when they got the call.

24 Q. What time did you arrive on the scene? Was it
25 shortly afterwards or --

1 A. I can look on my crash report to tell you the
2 exact.

3 Q. Would it help refresh your recollection to look
4 at it?

5 A. 0.157 a.m. is the time I called it on the radio.

6 Q. So that's when you called it on the radio. Is
7 that when you actually got there?

8 A. Yes.

9 Q. So that was almost 45 minutes after the incident
10 allegedly happened?

11 A. Yes.

12 Q. And were you the first law enforcement officer
13 to arrive on the scene?

14 A. No.

15 Q. So when you got there, there were other law
16 enforcement officers present?

17 A. Yes.

18 Q. And there were some at both Site A and Site B?

19 A. Yes.

20 Q. Do you know if you were the first person to talk
21 to any of the witnesses on the scene?

22 A. I definitely was not.

23 Q. Other law enforcement officers had an
24 opportunity to talk to the other witnesses and the people
25 that were there?

1 A. Yes.

2 Q. Is that correct? And you don't know who talked
3 to who and who said what before you got there?

4 A. Correct.

5 Q. Do you know if Corporal Styers ever had a chance
6 to talk with any of the witnesses you talked to?

7 A. I wouldn't know that.

8 Q. So he may have had the chance to talk to them?

9 A. Afterwards?

10 Q. Before or after?

11 MR. FOOTE: Objection. Calls for speculation.

12 MR. JENSEN: All I asked is do you have the
13 opportunity to know whether or not he talked to anyone
14 before or after you got there.

15 THE DEPONENT: I feel pretty safe to say that I
16 can testify that he did not talk to anybody prior to me
17 talking to them.

18 Q. (By Mr. Jensen) After you talked to these
19 witnesses and compiled this information, do you know if
20 he went back and talked to them with any certainty?

21 A. I hope he did. I gave him a witness list. Yes.

22 Q. Would it be standard procedure for the trooper,
23 homicide investigator, to conduct follow-up interviews
24 based on the information you gather at the scene?

25 A. Sworn taped statements, correct.

1 Q. And is it safe to say those sworn taped
2 statements would be more comprehensive than what you do
3 on the scene?

4 A. Yes, definitely.

5 Q. In addition to Corporal Styers, you said there
6 were also other troopers on the scene; is that correct?

7 A. Yes.

8 Q. And there were Pasco County Sheriff's deputies
9 on the scene also?

10 A. Yes.

11 Q. And they were at both Sites A and B?

12 A. Yes.

13 Q. You talked earlier about transmission fluid that
14 one of the witnesses had told you that they had seen
15 transmission fluid leaking from the truck that was
16 involved in the crash. Some one told you, is that --

17 A. No. I read that on the report prior to the depo
18 and, you know --

19 Q. You would think -- during nighttime you thought
20 it would be hard for somebody to see that happening; is
21 that what you were trying to get at?

22 A. I mean, sometimes I read the report and I -- in
23 my personal opinion, I didn't believe it.

24 Q. Now, if fluid was leaking from the vehicle, is
25 it possible that it would have puddled on the ground or

1 left markings on the ground?

2 MR. FOOTE: Objection; calls for speculation.

3 THE DEPONENT: For a fact I could say I made an
4 arrest based on transmission fluid leaks directly to a
5 person's home after the fact from the point of impact to,
6 you know, a point of arrest or a place to hide the
7 vehicle. But a vehicle in motion and transmission fluid
8 leaking, unless it was, you know, a lot.

9 Q. (By Mr. Jensen) Right. But if the transmission
10 fluid was leaking from the vehicle, it's possible it left
11 a trail there that could be observed later?

12 A. Yes.

13 Q. Or if any fluid was leaking from the vehicle, is
14 that possible that it could have left a trail?

15 A. Yes.

16 Q. Now, you said that you read the defendant
17 questions from the alcohol influence report form. Is
18 there anything that you remember the defendant saying to
19 you?

20 A. I'd rather read it to tell you exactly what he
21 said.

22 Q. So you remember that you did talk with him?

23 A. Yes.

24 Q. You just don't have that to refresh your
25 recollection here today?

1 A. Correct.

2 Q. But you know he did make some statements to you?

3 A. Yes.

4 Q. Are you confident that when you look at that,
5 you can remember? If we're able to find that, you'll be
6 able to remember what was said?

7 A. Yes.

8 Q. You said that the defendant was acting carefree
9 or very relaxed, I think is the exact words you used.
10 How did you come to that opinion of his demeanor?

11 A. Well, to be honest with you, it's because I had
12 one person, attorney, told me earlier that -- he asked me
13 if there was any officers that you remember that had told
14 him that -- who was abrasive toward the guy saying, you
15 just killed two people, you just killed two people. I
16 answered that no. In my mental recollection of being
17 there, I don't think that he was bothered or coerced
18 or -- he was just relaxed, like nobody had spoken to him
19 really prior to me getting there.

20 Q. Why do you think he was acting like he didn't
21 know what had been going on?

22 MR. FOOTE: Objection; calls for speculation.

23 THE DEPONENT: No remorse, what a normal citizen
24 would feel. I mean, I've been to a lot of these cases.
25 He didn't seem that he was distraught.

1 Q. (By Mr. Jensen) Was it because he was impaired?

2 A. Possibly.

3 Q. You also talked a little bit about your video in
4 your car. Do you remember the age of that device?

5 A. My vehicle was a 2001 at the time.

6 Q. What about the video equipment?

7 A. Probably the same year.

8 Q. So it had at least six years of wear and tear on
9 it?

10 A. Yes.

11 Q. You talked earlier a little bit about how you
12 had a flashlight during the field sobriety exercises. So
13 it was dark outside; is that correct?

14 A. Yes.

15 Q. Why did you have the flashlight with you?

16 A. At that time during the one-leg stand, I was
17 illuminating my feet to show six inches off the ground.

18 Q. So you were trying to help the defendant see how
19 to properly perform the exercises?

20 A. Yes.

21 Q. And using that light so he could see what was
22 going on?

23 A. Yes.

24 Q. You also talked a little bit about the
25 intoxilyzer instrument. And are you the person who has

1 responsibility for the maintenance of that instrument?

2 A. No.

3 Q. You mentioned the intoxilyzer instrument did an
4 internal test. Before you administer the sample of the
5 defendant, can you tell us a little bit about what that
6 internal test is?

7 A. As an operator, we're required to push the start
8 button after a 20-minute observation. It does an
9 internal working test.

10 Q. That test, internal test, did it indicate to you
11 anything after you did that test?

12 A. No.

13 Q. If the test were to fail, would it allow you to
14 administer the sample of the defendant?

15 A. No.

16 Q. So the machine does a self diagnostic and then
17 if it's not functioning properly, it will not allow you
18 to submit a sample from a person?

19 A. Correct.

20 Q. And in this case, on this incident, it did allow
21 you to submit the defendant's sample?

22 A. Yes.

23 Q. So what does that tell you about the
24 functionality of the machine?

25 A. That it was good.

1 Q. All right. Mr. Foote talked to you about some
2 allegations that certain things might have been taken
3 from the defendant's vehicle or from his wallet. Do you
4 have any basis to know whether those things might be true
5 or not?

6 A. No. Today was the first time I heard of any
7 investigation or any allegation of theft or anything.

8 Q. So you have no personal knowledge of any --

9 A. No.

10 Q. We also talked a little bit about the blood
11 draw. Did you actually see the blood draw taken from the
12 defendant?

13 A. No.

14 Q. So you didn't see the needle go in his arm?

15 A. No. I have no chain of custody on any of that.

16 Q. So you have no recollection of what happened
17 when the blood draw was taken?

18 A. No.

19 Q. And you can't testify to any of the surrounding
20 circumstances of the blood draw?

21 A. Correct.

22 MR. JENSEN: I think that's it.

23 REDIRECT EXAMINATION

24 BY MR. FOOTE:

25 Q. So your vehicle was about six years old, had a

1 lot of wear and tear on it?

2 A. Yes. I wasn't the first trooper to own it
3 either.

4 Q. So that wasn't the best equipment you could have
5 had during this investigation; is that right?

6 A. You're really making it tough for me. I don't
7 want to testify to Florida Highway state-issued
8 equipment.

9 Q. If you had a 2006 with a digital DVD --

10 A. It would have -- would have been better.

11 Q. We wouldn't be talking about this, correct?

12 A. No.

13 Q. You have no control over what vehicle you drive
14 and when you get a new one?

15 A. Correct.

16 Q. My question is: You would have liked to have
17 had better equipment there that night?

18 A. Yes.

19 Q. You said that he didn't have any remorse.
20 Shannon Stephen didn't have any remorse. You can't say
21 whether or not he knew actually what happened or not to
22 have any remorse?

23 A. Possible.

24 Q. Not to have remorse means you have to know
25 something happened and then choose not to have remorse,

1 right?

2 A. True.

3 Q. I mean --

4 A. Remorse.

5 Q. So you would be assuming that he knew what had
6 happened earlier and he choose not to care? That would
7 be an assumption on your part, right?

8 A. Yes.

9 Q. As part of a breath test operator, part of your
10 function is to make sure that the equipment that you're
11 using, according to the Florida administrative code,
12 Florida statutes, part of your certification as a breath
13 test operator is to make sure the equipment you're going
14 to test someone on is operational, right?

15 A. Yes.

16 Q. Can you sit here today and say that the
17 intoxilyzer 5,000 instrument that you tested Shannon
18 Stephen's breath samples on were a hundred percent
19 operational?

20 MR. JENSEN: Objection; calls for speculation.

21 THE DEPONENT: I can say that as an operator I
22 did the procedures that I was required to do and a
23 self-diagnostic test. And it showed that it was
24 operating successfully.

25 Q. (By Mr. Foote) Well, I don't doubt you did what

1 you were supposed to do. My question is with regard to
2 this instrument. Was it operating at a hundred percent
3 full capacity? Was it operating properly?

4 A. Yes, it was.

5 Q. So normally you don't have dates that you have
6 to hand write in and times you have to hand write in?

7 A. Well, that has nothing to do with how the
8 machine works.

9 Q. That is how the machine works.

10 A. It's like my watch is working, but my date might
11 be wrong on it.

12 Q. Then it's not accurate then, correct? If your
13 watch, which is fully operational right now, brand new,
14 and it says 6:00 in the morning, is that an accurate
15 reading?

16 A. But my date could be wrong.

17 Q. Would that be an accurate reading?

18 A. But it would be 6:00 in the morning.

19 Q. Just answer my question. Would it be an
20 accurate reading on a fully functional watch?

21 A. No.

22 Q. As you testified earlier, a human being actually
23 calibrates all of those different things?

24 A. The date and time, yes.

25 Q. That was wrong that evening?

1 A. Yes.

2 Q. It was wrong because you actually had to
3 hand write it in?

4 A. Yes.

5 Q. Is that a normal practice of yours to hand write
6 into the breath test stuff that's supposed to be printed
7 by the intoxilyzer?

8 A. First time ever.

9 Q. In fact, we have the intoxilyzer 8,000?

10 A. Yes.

11 Q. And eliminates the need for writing any of that
12 stuff down or any type of breath test card?

13 A. Yes.

14 Q. In fact, there is no more breath test card?

15 A. Correct.

16 Q. New improved machine?

17 A. Like the video.

18 Q. The blood test revealed a .238 and .240. Pretty
19 high blood draws in your opinion as a Florida Highway
20 patrolman?

21 A. Those were the results of the blood?

22 Q. Correct.

23 A. In my opinion is whether that was high?

24 Q. Yeah.

25 A. Seen higher, seen lower. That's the norm.

1 Q. A .240 blood is normal?

2 A. I'm saying it's not high.

3 Q. You wouldn't say he was extremely intoxicated?

4 Is that what you're saying?

5 A. I'm saying prima facie beyond a reasonable doubt
6 he was intoxicated in the State of Florida.

7 Q. Oh, I have a little bit of training on Florida
8 law. I would agree with you. However, my question is
9 whether or not you think that's a high blood draw?

10 Okay. Let's talk about your part, breath test, .157 and
11 .162. Is that a high breath test?

12 A. Yes.

13 Q. And blood usually reads a little higher than
14 breath from your training and experience, correct?

15 A. Yes.

16 Q. So then the blood would be high as well based on
17 what you just stated?

18 A. Time has a factor.

19 Q. How so?

20 A. I think that an accurate breath or blood alcohol
21 level would be determined at the time of the -- at the
22 time of -- the time of where he finished drinking his
23 last alcoholic beverage, where the blood, I believe, was
24 taken earlier and then the breath was taken later, which
25 tells me that if the blood was lower than the breath,

1 then he was still going up in impairment.

2 Q. If the blood was lower than the breath, he would
3 be on his way up in impairment?

4 A. Based on -- it's all based on time. Whether
5 blood is more accurate than breath, I'm not able -- I
6 don't have the ability to make that testimony.

7 Q. When you were certified as a breath test
8 operator, did you go over in your training the difference
9 between blood and breath?

10 A. Yes.

11 Q. Not that you would remember that right now, but
12 you did go over that. Are you certain it's not the
13 opposite way around, that the blood usually reads higher
14 than breath?

15 A. Blood would read higher than breath. But that's
16 also a factor of time.

17 Q. Sure. In this case --

18 A. We're both correct in what we're saying.

19 Q. I'm just asking about Mr. Stephen. Now, his
20 blood is reading .238 and .240.

21 A. His blood?

22 Q. His blood. His breath is reading -- you
23 actually took, .157 and .162. Is the breath lower than
24 the blood?

25 A. Yes.

1 Q. I'm going to hand you a document that says
2 Florida Highway Patrol investigation case report. It's
3 about five or six pages. You don't have to read them
4 all. Just skim it, the first and second page. Can you
5 tell me if you identify what the subject matter of that
6 report is?

7 A. This is the first I have seen this.

8 Q. Fair enough. What is it?

9 A. It looks like a report generated by Sergeant
10 Heather Glenny in reference to an investigation she
11 conducted as she was instructed by Lieutenant Eric Madell
12 (phonetic).

13 Q. In reference to the theft of the equipment of
14 the GPS. That looks like an official Florida Highway
15 Patrol document?

16 A. Yes.

17 Q. No one is making this up.

18 MR. JENSEN: He's already said -- I'm objecting
19 here. He already said he has no personal knowledge of
20 this. If you want to -- you have already got that. If
21 you want --

22 MR. FOOTE: What's the objection?

23 MR. JENSEN: No personal knowledge.

24 MR. FOOTE: Fine. That's your objection?

25 MR. JENSEN: Yes.

1 Q. (By Mr. Foote) You have seen this now that it
2 exists, correct?

3 A. Yes.

4 Q. My only point is that I'm not making that
5 question up to trick you. You have actually now seen
6 that there is an actual report.

7 A. That's a standardized FHP report.

8 Q. Correct. Not asking if you know about it, know
9 anything about it.

10 When you had the flashlight, I understand what
11 the State is trying to say you were doing. But when
12 you're trained to do field sobriety exercises,
13 particularly with the one-leg stand, you're supposed to
14 have your hands down by your side and not use them for
15 balance?

16 A. I'm going to change that effective this week
17 during my demonstration. That's a good point. You're
18 right. You demonstrate what you want that particular
19 person to do. But if you're not doing it, it could be
20 confusing.

21 Q. I'm not saying it was daylight out when you did
22 that. It was dark?

23 A. Yes.

24 Q. There was a gas station across on the other
25 corner, BP gas station?

1 A. Yes.

2 Q. Field sobriety exercises could have been done
3 there?

4 A. Correct.

5 Q. They didn't have to be done in front of the
6 crash vehicle?

7 A. True.

8 Q. I mean, your cruiser was operational; you could
9 have moved your camera anywhere you wanted to?

10 A. Yes.

11 Q. There could have been better lighting
12 conditions?

13 A. Yes.

14 Q. The State also asked you about that you weren't
15 the first law enforcement officer to talk to witnesses
16 upon your arrival because you arrived approximately 45 to
17 50 minutes after the initial call?

18 A. Yes.

19 Q. But your earlier testimony is you believe you
20 were the first member of the highway patrol present?

21 A. Yes.

22 Q. Is that still accurate?

23 A. Yes.

24 Q. Deputy sheriffs don't have an authority to
25 conduct these type of crash investigations and death

1 homicide investigations from your knowledge?

2 A. As you can see, do you blame them?

3 Q. That's not their job, right?

4 A. Right.

5 Q. And you also answered the question about the
6 sworn statements given to in this case Corporal now
7 Sergeant Glenny and Corporal Styers would be more
8 accurate or comprehensive was the word because they were
9 recorded. Do you recall that question?

10 A. Yes.

11 Q. Now, if those recorded statements were
12 significantly different from the statements that were
13 told to you or any other member of law enforcement, would
14 that concern you as an investigator, a change in the
15 stories, whether recorded or not?

16 A. My opinion on that is a street cop getting it,
17 getting verbal testimony at the scene, such as a bar
18 fight, I'm going to only get so much. But if you took
19 those people in the next day, if they have not been
20 drinking, if they're not tired, etc., etc., you'd got a
21 more thorough statement.

22 Q. The next day?

23 A. The next day, absolutely. I think that's fair
24 to say.

25 Q. What about an hour or two later? For example,

1 in this case, a couple of witnesses talked to you and
2 then an hour or two later they talk to Sergeant Glenny
3 into a tape recorder?

4 A. Right.

5 Q. Statements shouldn't change that much?

6 A. No, they shouldn't.

~~7~~ 7 Q. If there were changes in the statements, would
8 that concern you as an investigator, as a law enforcement
9 officer as to the accuracy of events?

10 A. Yes. That's why it's important that witnesses
11 are separated because sometimes people are told things
12 and they think it's their own statement.

13 Q. So it's a normal practice that you wouldn't
14 interview two witnesses in the same presence, in the same
15 room, and have them both give you answers? You would
16 separate them if you wanted to get the facts of what they
17 observed?

18 A. Of what they know, not what they've been told,
19 correct.

20 Q. And, finally, about this transmission trail,
21 there is only so much fluid in a vehicle, whether in the
22 transmission or motor oil or antifreeze; would you agree
23 with that?

24 A. Yes.

25 Q. Doesn't run on for infinity?

1 A. Correct.

2 Q. So if someone were to tell you that they had a
3 solid trail of fluid from the point of impact all the way
4 to the point of Point B and follow that trail all the
5 way, would that be a doubtful statement given the time
6 that this occurred, at nighttime down Grand Avenue, from
7 what you know?

8 A. I don't know. I have seen it both ways. I
9 testified to the fact that I have made probable cause
10 arrests based on transmission fluid trails based on after
11 the fact.

12 Q. Nighttime or --

13 A. However, if somebody told me they had seen a car
14 go by and transmission was leaking, it's probable. But I
15 would be speculative about it.

16 Q. You did actually hear that, but that never made
17 it into any of your reports?

18 A. No. I read that on a report after the fact.
19 That was just my opinion.

20 Q. You stated something earlier that I didn't
21 understand. You said something about an attorney said
22 something about something. You went into this long
23 thing. I don't know what you were talking about.

24 A. Good.

25 Q. What were you saying an attorney told you that

1 someone said you killed two people?

2 A. I tried to testify to the fact that in reference
3 to the defendant's demeanor at the time of the roadside,
4 one of the attorneys asked me, Evans, do you remember
5 anybody at the scene telling that individual -- like
6 being rude or coercive, saying, you just killed two
7 people? And I told him no. But then when I think back
8 of when I met with this guy, he didn't seem like he was
9 in any type of fear or coercion or anything.

10 Q. What attorney? Do you mean a State attorney?

11 A. Yes.

12 Q. Oh, okay. I didn't know what you were talking
13 about, if someone else was defending this case.

14 A. So they were asking me if I had witnessed that.

15 Q. Because when you got there, law enforcement from
16 the sheriff's office is already there and lay witnesses
17 are already there, correct?

18 A. Yes.

19 Q. So any alleged statement that may have been made
20 by anybody, that would have occurred long before you got
21 there?

22 A. It didn't occur in my presence. I can testify
23 to that.

24 Q. When you were asking about did you have an
25 opportunity to review any reports since the accident

1 because you're in the National Guard, you testified you
2 were here from May of last year until January of this
3 year, correct?

4 A. I testified that I was here May of last year
5 till when?

6 Q. January of '08?

7 A. Correct.

8 Q. As a highway patrolman?

9 A. Yes.

10 Q. So you had an opportunity if you wanted to get
11 access to any of these materials regarding this case?

12 A. I always have access to materials, yes.

13 Q. So, I mean, you weren't in Afghanistan somewhere
14 where you couldn't get to your highway patrol reports?

15 A. No. I just wanted to articulate that I found
16 out about this deposition yesterday.

17 Q. Sure.

18 A. Around 4:30 p.m. And then I came here to report
19 at 1300, at one o'clock in the afternoon, and looked at
20 the report.

21 Q. My question is: There was nothing being hidden
22 from you for the last two years? There was sometimes you
23 could have had access; you just didn't have the
24 opportunity to look at them?

25 A. Correct. There was no need.

1 Q. As far as the deposition is concerned, the State
2 advised us you were here for 10 days or so and that's
3 it. That's why it was scheduled so quickly after your
4 arrival because we wanted to get you while you were
5 here. So it wasn't a surprise. You know, we were told
6 you were here for a very finite amount of time. So
7 that's the whole thing. I understand things would be
8 possibly a little clouded.

9 A. It was difficult. I know.

10 MR. FOOTE: Appreciate you being here. No other
11 questions.

12 MR. JENSEN: No questions.


13 DEPOSITION CONCLUDED
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STATE OF FLORIDA)
COUNTY OF PASCO)

I, the undersigned authority, certify that
RONALD EVANS, personally appeared before me and was duly
sworn.

WITNESS, my hand and official seal this 24th
day of March, 2008



Lisa Mitchell, RPR
Notary Public, State of Florida

1 STATE OF FLORIDA)
2 COUNTY OF PASCO)

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I, Lisa Mitchell, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing deposition of RONALD EVANS; that a review of the transcript was requested; and that the transcript is a true and complete 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 connection with the action, nor am I financially interested in the action.

DATED this 24 day of March, 2008



Lisa Mitchell, RPR