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2-year negligent homicide case ends in hung jury

By M.B. Dillon Ward
staff writer

A negligent homicide case ending in a hung jury in Oakland County Circuit Court last week has left Charles and Joan Moran of Farmington disgusted with the American judicial system.

Their son, David Moran, died July 16, 1980 of multiple head and internal injuries he had sustained in an auto accident in Farmington Hills about six months before (Nov. 29, 1979). He was 21.

Laura Bierman, Michael Clayton and Moran were traveling at about 11:30 p.m. in a Ford Mustang when they slid off the ice-covered left-hand lane of I-696 near Orchard Lake Road and piled into a snowdrift.

Moran was getting back into the car after pushing it out onto the inside shoulder of the expressway when he was hit by a van driven by Waterford Township's Charles Bovee, 24.

Moran was thrown 110 feet. Bovee and the occupants of his vehicle suffered minor injuries.

Bovee refused to take an alcohol test but was arrested for driving under the influence of liquor. He was later charged with negligent homicide and bound over for trial after a preliminary exam in front of 47th District Court Judge Margaret Schaeffer Feb. 27, 1981.

Oakland County Circuit Court Judge Richard Kuhn heard two weeks of testimony after the trial began last month on March 29. It marked the termination of two years of legal maneuvering by Bovee's attorney, Thomas Raguso, who was able to keep the case out of court.

The jury deliberated for more than eight hours before Kuhn declared a mistrial. In a futile effort, Prosecuting Attorney James McCarthy objected, telling Kuhn he thought the jury could reach a verdict if allowed to continue deliberation.

A source of optimism for the prosecution was Bovee's conflicting testimony regarding the number of alcoholic beverages he consumed the night of the accident.

BOVEE TOLD the court he drank one beer while driving several friends to a concert at the Center Stage in Canton that evening, and that he had three tequila drinks during the performance. The prosecuting attorney then introduced statements made by Bovee to his insurance company in front of a court recorder Dec. 12, 1979 in a deposition. At that time, Bovee admitted to drinking three or four beers on the way to the Center Stage, and four drinks during the concert, McCarthy said.

Bovee testified that although it was snowing lightly on the way home from the concert, he drove approximately 55 mph and "had no problem driving in the left-hand lane." He said he took I-275 to I-696 near Orchard Lake Road, and mistakenly turned south instead of north, intending to return to Waterford Township.

Only after traveling all the way down Orchard Lake Road to Grand River, making the jog over to Merriam, and going south all the way to Ford Road, did he realize he was heading in the wrong direction, Bovee said.

Bovee was heading east down I-696 for the second time, travelling about 55-60 mph when the accident occurred, he testified.

State troopers at the accident scene testified that 25-30 mph was a safe traveling speed considering the poor weather conditions that night. Most said they drove no more than 40 mph enroute to the accident.

"Bovee's inconsistent testimony made him look bad," said McCarthy, "but I think what hung the jury was too much inconsistent testimony about where the car was at the time it was hit, and about whether or not Bovee was intoxicated."

The jury voted 9-3 to acquit Bovee after hearing testimony from Joan Moran, Bierman, Clayton, Bovee, Bovee's companions the night of the accident, and numerous policemen and physicians, according to Raguso.

"I think we should have won it. It should have been a total not-guilty verdict; it was close," Raguso said.

According to Chuck Moran, the jury told Judge Kuhn they could not reach a

verdict after several hours of deliberation.

"The judge told them to go back — that they'd come up with a verdict one way or another," said Moran. "A couple hours later the judge told us the jurors were still voting differently. He said they're adamant and will not change their minds."

MEDICAL TESTIMONY given by Dr. Gary Welsh, who treated Moran at Beaumont Hospital in Royal Oak, also confused the jury, McCarthy said.

For approximately four months following the accident, Moran was hospitalized at Botsford General Hospital. His parents then transferred him to Beaumont where he was treated until his death.

"Dr. Welsh indicated he didn't think the accident was the cause of David's death. He thought it was the medical treatment he had received at Botsford. "He thought David was recoverable," said McCarthy.

The prosecution countered his testi-

mony by showing that Welsh was absent during Moran's treatment at Botsford and that Botsford medical records had never been reviewed by Welsh.

Welsh also was absent during the testimony of Dr. Thomas Peeling, a coroner with the Oakland County Medical Examiners office, who told the court Moran died of injuries sustained in the accident.

The case may be re-tried in June during the next jury term, depending on the number of serious jail cases, ac-

cording to McCarthy.

That does little to appease Joan Moran, the Oakland County organizer of the recently-formed MADD chapter, Mothers Against Drunk Driving.

"The victim has no rights," said Moran.

"He no longer exists. He's dead, so he becomes a number — not your husband, wife, daughter or son. But what the jury sees is a scared little thing up there, all nice and cleaned up, looking like he wouldn't hurt a flea."



RANDY BORST/staff photographer

Workers from the Oakland County Road Commission repair the damage to the guardrail that occurred during a recent accident.

Officials debate

Guardrail: help or hazard?

By Craig Piechura
staff writer

There is a shiny new guardrail at the spot where old Grand River Avenue dead-ends in front of the Grand River Drive-In Theater in Farmington Hills.

The guardrail is shiny because it was just installed last Wednesday by the Oakland County Road Commission, the first time the guardrail had to be replaced in the past 27 months.

Drivers heading toward Detroit on Grand River who fail to bear right where the road goes under the M-102 expressway are slamming into the guardrail and ending up on the median or beyond it — despite six warning signs.

"I must've fixed that sumbitch myself at least a dozen times in the past year and a-half," says Tim Waltz, of Drayton Plains, a county road commission employee who was on the scene last Wednesday. "And there's other crews besides me."

The grassy strip beyond the guardrail is littered with remnants of the accidents.

Rusting in the weeds is license plate number 3922-EX, nestled next to a broken plastic grill once belonging to a late-model Buick Regal.

A short distance away is a splintered piece of caution sign and a thick chunk of wood that held up a former guardrail.

Chrome from a headlight fixture, trim from another car and a license plate holder reading "Bob Saks Toyota" are part of the landscape.

MIRACULOUSLY, no one has been seriously hurt in the past 27 months at the trouble spot, says Sgt. Richard Krueger of the Farmington Hills traffic division, who compiled a breakdown of all the accidents in that spot since Jan. 1, 1980.

Traffic officials seem to be waiting for a fatality before doing anything to solve the problem, says Farmington Hills businessman Elbert Mason, who owns a lab at Purde and Grand River, just east of the guardrail.

Mason keeps a scratch pad near the front door of his business just to jot down the number of times drivers who

haven't hit the guardrail made an illegal right turn and head southeast on the northbound stretch of Grand River. The dates fill both sides.

He's seen two head-on collisions in front of his business and numerous near-misses.

Since Jan. 1, 1980, Sgt. Krueger says Farmington Hills Police have recorded three head-on collisions east of the guardrail caused by drivers turning right instead of left in front of the drive-in dead end. Luckily, again, only of the three accidents resulted in an injury, said Krueger, and in that case the injury was a minor one to the legal driver.

Because Farmington Hills Police have failed to take steps to solve the confusing road configuration, Mason has some suggestions for city, county and state officials.

"WE'VE GOT TWO different problems here," Mason says. "Number one is they're hitting the guardrail. Second, there's the turning-right-the-wrong-way problem."

Mason recommends installing rumble strips on the roadway leading to the guardrail to alert unfamiliar or inebriated drivers of the impending dead-end. He suggests making the curve at the end of the road sharper to point drivers in a westerly direction in a move to curb accidental wrong-way turns.

And he'd install an earth berm behind the guardrail to prevent drivers from ending up on the M-102 entrance as one driver did Tuesday night.

Farmington Hills Police are skeptical that any solution will prevent drivers from making such mistakes.

Of the 31 guardrail accidents, Krueger said, 21 drivers had been drinking alcohol although only one was cited and convicted for drunk driving. And two of the head-on collisions were caused by wrong-way drivers who had been drinking, said Krueger, although none were ticketed for drunk driving.

"The problem is people are just not driving with caution," Krueger says. "I don't know what else we can do. We've got signs flashing, a big stop sign, we tried barrels with yellow and black

marking and they knock those down, too."

"It's the same question about what you do about people who drive the wrong way down a one-way street. It's just the people themselves, not the intersection."

RUMBLE STRIPS on the road surface, Krueger maintains, will only cause drivers to speed up.

"In practice we've found rumble strips encourage drivers to go faster to go over them," said the traffic sergeant. "They do that so they don't get the thump, thump, thump washboard effect."

However, officials of the Michigan Department of Transportation field office in Southfield looked into the guardrail problem after Mason registered a complaint and hope to implement many of the businessman's suggestions.

"That is one project we're trying to get off the ground right now," says Desi Strakovits, MDOT field operations engineer.

Rumble strips are planned, Strakovits said, along with an earth berm covered with shrubs and flowers to be located behind the guardrail. To

discourage accidental right turns, he says, the MDOT wants to "change the geometrics of the curve" and point drivers northwest.

But the biggest help, Strakovits says, would be to widen the grassy median at the point where the road turns, to prevent drivers from heading straight toward the dead-end.

"If you're coming from downtown Farmington on old Grand River, right now," Strakovits says, "right now if you continue straight you end up at the dead-end. By changing the alignment of the road you either would have to go right with the flow of traffic or consciously make a left and then a right to end up at the guardrail in front of the drive-in."

A MEETING between the state highway department, the county road commission and Farmington Hills Police should take place next month, Strakovits says.

A cost-sharing formula will have to be decided, he said.

Krueger says he's willing to listen to suggestions on ways to curb the amount of accidents at the guardrail but remains skeptical that renovations will solve all the problems.



RANDY BORST/staff photographer

Raiders roll

Todd Williams helped lead the North Farmington Raiders to a victory over the Harrison Hawks. To read more about the game please turn to today's sports section.

Pre-school education on safety told in program

A special program focusing on summer safety for pre-schoolers, early elementary-age children and their parents is sponsored by the Farmington Community Library, and Farmington Youth Assistance Pre-school Committee.

The program at 7 p.m. Tuesday, April 27 in the auditorium of the Farmington Hills Library, is to emphasize the importance of pre-school safety education and to provide information about available safety programs in the Farmington Hills area.

David Justus will present slides explaining "Safety Town" which is offered by Farmington Hills Parks and Recreation Department. This is a total safety program for the young child, teaching them how to read traffic signs and signals, how to use crosswalks and playgrounds safely. School bus and fire safety is also included.

Jeff Farinad will discuss other programs that the parks and recreation department will offer in the area of safety.

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