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Judge rules jury can hear Paniccia's roadside statement

GLENN GRIFFITH, Community News

BALLSTON SPA -- A jury will be allowed to hear the initial statement taken at the scene of a car and bike collision last June that killed 32-year-old physicist David Ryan of Niskayuna.

Saratoga County Court Judge Jerry Scarano postponed making a ruling Jan. 20 on a separate motion from the prosecution that will allow the jury to see a list of the driver's prior traffic infractions.

Scarano denied defense attorney Charles Wilcox's request to exclude the statement given by 18-year-old Joshua Paniccia to police shortly after the June 29 incident.

A trial date was set for 1 p.m. March 7.

Paniccia, of 2201 Lynnwood Drive, Niskayuna, is charged with one count of manslaughter and one count of criminally negligent homicide in Ryan's death. Ryan was killed while riding his bike on Riverview Road in Clifton Park around 7 p.m.

What was said and when

Wilcox was questioning the legality of a statement Paniccia gave to state police Investigator Henry J. Abeel shortly after the collision. The Troy attorney told Scarano that Abeel was required to read Paniccia his rights before taking the statement and had not done so.

'There are substantial credibility issues with Investigator Abeel's statements,' Wilcox told the judge. 'For all intents and purposes, Josh was under arrest and not free to leave when he spoke to the investigator.'

Wilcox said Abeel had questioned Paniccia as a suspect and should have first warned him of his rights.

Scarano disagreed with the defense attorney's interpretation. The judge concluded Abeel was still conducting the initial investigation at the scene when he spoke with Paniccia. Scarano said that when Abeel took Paniccia's statement, he was unsure if a crime had been committed. In such a case, Scarano said, reading someone their rights is not required.

'Roadside confessions have been found to be accepted,' Scarano told Wilcox.

Prior driving offenses

In a separate issue, the judge withheld ruling on whether the prosecution will be allowed to show the jury a series of traffic tickets Paniccia had collected prior to the June collision with Ryan.

Assistant District Attorney Jim Davis said he would like to have the traffic violations given to the jury so it can get a wider perspective on the case.

'It's a question of the appropriative value of the information versus the prejudicial impact on a jury,' he said.

Davis said Paniccia's prior traffic tickets point to the collision being something other than an accident. The tickets will give the jury a context in which to view the case, Davis said. It will remove his defense that this was a mistake.

The assistant DA feels he has a strong case beyond the question of the tickets.

Usually at these rural crashes there are no witnesses, Davis said, but people saw the defendant in the car before the collision, saw the car strike the bike and saw what happened after.



Thursday's court testimony gave the most detailed look to date at the car-bike crash.

Details emerge

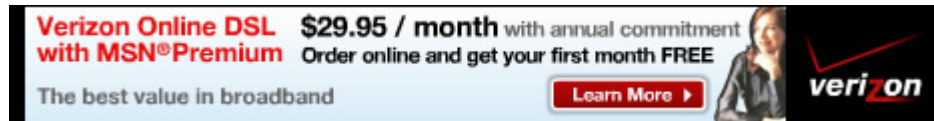
According to testimony from the first police officer on the scene, Paniccia's red 2002 Nissan Sentra was found on its hood in one lane of Riverview Road with Ryan in another. Two men had been in the car, and Paniccia identified himself to Trooper Kevin McMahon as the driver.

McMahon said he was the first law enforcement officer to arrive on the scene. Paniccia told him he estimated he was going 60 to 65 mph in the 45 mph zone. McMahon said Paniccia told him he was chasing a friend's car and having fun, hit a bump on some wet pavement, crossed into the other lane and hit Ryan.

Paniccia was seated in the back of a Vischer Ferry fire truck when he was later interviewed by Abeel. Then he was taken to Ellis Hospital, where he later spoke with state Investigator Robert Carter. He told basically the same story after first being read his rights with his parents present.


Davis produced the statement taken by Carter in the hospital in court and entered it into evidence.

Three of Ryan's bike-riding friends who have followed the case closely were in the court room. They said they intend to attend the trial in March.



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