

DIRECT EXAMINATION

1  
2 BY MS. RICH:

3 Q. Tell us your full name please, sir.

4 A. James Allen Estes.

5 Q. I need you to speak clearly and loudly so we can  
6 hear, okay, and all the ladies and gentlemen of the  
7 jury can hear. You're obviously employed with the  
8 Mobile Police Department?

9 A. Yes, ma'am.

10 Q. And how long have you been a Mobile Police  
11 Department officer?

12 A. This July will be 19 years.

13 Q. Tell us a little bit about your career with the  
14 Mobile Police Department.

15 A. I spent five years working down here in the  
16 entertainment district and three years over in  
17 Third Precinct, and the rest of my career has been  
18 out in the 4th.

19 Q. Okay. Those 19 years, have most of them been as a  
20 patrol officer, patrol supervisor?

21 A. Yes, I've been in patrol.

22 Q. Were you on duty on the evening of July 31st of  
23 2020 in the early morning hours of August 1st of  
24 2020?

25 A. Yes, I was.

1 Q. As part of your duties, were you working patrol at  
2 that time?

3 A. Yes.

4 Q. As part of your duties, were you called on to go to  
5 a scene of an automobile crash that occurred on the  
6 I-65 Service Road westbound or West I-65 Service  
7 Road between Dauphin Street and Airport Boulevard?

8 A. I was.

9 Q. At the time that you were called there, was there  
10 anything told to you about what you were responding  
11 to?

12 A. Just a single vehicle crash.

13 Q. And when you arrived on-scene, was anyone else  
14 there law enforcement-wise or paramedics or Mobile  
15 Fire Department or anything like that?

16 A. No, I was the first one on-scene.

17 Q. So as part of your duties on patrol with the Mobile  
18 Police Department, do you wear body cam, a body  
19 camera?

20 A. Yes.

21 Q. And what is the policy regarding body cameras with  
22 the Mobile Police Department with patrol officers?

23 A. We initiate any body cam any time we have basically  
24 an interaction with the general public.

25 Q. Okay. And when does the body cam come on? Does it

1 automatically come on? Tell us about that.

2 A. You can turn it on by pressing it when you first  
3 get out of your car if you don't have your lights  
4 and sirens on. If you initiated your blue lights,  
5 it'll automatically come on. And it'll start  
6 recording 30 seconds prior to when you first  
7 initiated the turn, the lights on. So you got that  
8 30-second backlog on video, just don't have any  
9 audio. And it will also initiate with -- or if a  
10 taser is out, it will come on.

11 Q. In this particular case, was your body cam  
12 initiated by your blue lights running to the scene?

13 A. I believe once I got on -- well, my lights on, it  
14 was initiated from there, so.

15 Q. Okay. So once your body cam is turned on, the  
16 first 30 seconds there is no sound, and that's  
17 standard in the industry with all officers,  
18 correct?

19 A. As far as I know.

20 Q. So when you finish your shift, how does your body  
21 cam get turned in to the department?

22 A. We go back to the precinct. We have a charging  
23 dock and we swap out the body cams.

24 Q. Okay. And what do you mean when you say swap out  
25 the body cams?

1 A. Well, this right here is my body camera. We will  
2 take this off. We will take the other one out of  
3 the charging dock, stick this one in the charging  
4 dock to recharge and download the video from that  
5 shift.

6 Q. And that's every day?

7 A. Yes.

8 Q. All right. So your body cam footage in this  
9 particular case was standard operating procedure as  
10 in any case, correct?

11 A. Yes.

12 Q. All right. And that body cam video, have you had  
13 an opportunity to view it before your testimony  
14 here today?

15 A. Yes.

16 MS. RICH: I'll move to admit State's Exhibit  
17 Number 138 subject to Your Honor's rulings at this  
18 time.

19 MR. KNIZLEY: No objection.

20 THE COURT: No objection subject to the  
21 Court's ruling, right?

22 MR. KNIZLEY: Yes, sir, subject to our prior  
23 objection.

24 THE COURT: It's admitted. It's in subject to  
25 the Court's ruling, the Court's rulings that we've

1 already made.

2 MS. RICH: Prior to playing that, did you  
3 want to explain to the ladies and gentlemen of the  
4 jury about that?

5 THE COURT: I don't --

6 MS. RICH: Okay. That's fine, Judge.

7 Q. Officer Estes, when you first arrived on this  
8 scene, what did you observe?

9 A. When I first arrived on-scene, the car was upside  
10 down. The Defendant was there in the ditch. He had  
11 some blood on his face and he was saying that we  
12 needed to -- needed some help, needed to help her.  
13 And I told him Mobile Fire was on the way because  
14 there was a chain-link fence in between me and him,  
15 so I couldn't get really close to him.

16 And you could tell he was upset, and then he  
17 pulled out his badge showing me that he was, you  
18 know, a police surgeon saying that we needed to  
19 help in the car. I didn't realize that there was  
20 another person in the car at that point in time  
21 because I was dealing with him to try and calm him  
22 down until Mobile Fire could arrive on scene to cut  
23 the fence and get him out of the ditch.

24 Q. And all of this is on body cam?

25 A. Yes.

1 Q. What is your primary function at that point as an  
2 officer?

3 A. Trying to make sure that he gets the help he needs,  
4 secure the scene and basically determine -- try to  
5 determine what's going on and get what we needed on  
6 the scene.

7 Q. Okay. And so once the -- there were two  
8 individuals that night, correct, that were behind  
9 the fence?

10 A. Yes.

11 Q. Did you have an opportunity to observe the victim?

12 A. Yes.

13 Q. And when did you determine, or how was it  
14 determined that the victim was deceased?

15 A. Once I made my way down with my flashlight, because  
16 it was dark, I was looking to see exactly where she  
17 was at. And then once I saw her and I saw that  
18 part of her head was missing, I went ahead and  
19 notified my sergeant to go ahead and notify our THI  
20 unit and my sergeant said he was en route.

21 And then I believe I walked back to my car  
22 and I called him and went ahead and told him, I  
23 said, let's go ahead and start them.

24 Q. And THI stands for?

25 A. Traffic Homicide Investigation.

1 Q. And why is a Traffic Homicide investigator called  
2 out to a scene like this where one person is  
3 deceased?

4 A. That's basically what they specialize in.

5 Q. They have specialized training?

6 A. Yes.

7 Q. So as a patrol officer when an officer with  
8 specialized training and a member of the traffic  
9 homicide division is called out, what is your job  
10 at that point?

11 A. Basically, just to secure the area and make sure  
12 that any witnesses don't leave and nothing walks  
13 off, that everything stays up there. We get  
14 information to try to help them out they're going  
15 to need, tag numbers, witness statements and so  
16 forth.

17 Q. Okay. But even before we get to that part, once  
18 you determine that the victim was deceased, what do  
19 you do with regards to the other individual there?

20 A. We secure them.

21 Q. But not secure them, I mean, he's got to get from  
22 behind the fence?

23 A. Yes, get him out from the fence, get him in the  
24 ambulance, see if he needs any medical attention.  
25 And if he does, then we get him treated.

1 Q. Okay. And that's what happened in this case,  
2 correct?

3 A. Yes.

4 Q. Then after he left the scene in the ambulance to be  
5 treated, what did you do as part of the scene?

6 A. After he left the scene, I walked down to see to  
7 determine if he was actually on the interstate or  
8 on the service road.

9 Q. Let's talk about that for a minute. So when you  
10 first responded and you saw the car upside down in  
11 the ditch, right?

12 A. Yes.

13 Q. Did you know what happened?

14 A. No, I wasn't sure if he was on the interstate or on  
15 the service road.

16 Q. So you said you walked down where?

17 A. I walked down the service road.

18 Q. And what did you observe and which direction were  
19 you walking down the service road --

20 A. I was walking northbound on the service road.

21 Q. What did you observe when you were walking  
22 northbound on the West I-65 service road?

23 A. After a little short walk, we saw where a fence was  
24 broken into where you could tell where a car had  
25 went through the fence and into the ditch, and I



1 believe there are some skid marks on the roadway  
2 also.

3 Q. Could you tell where the vehicle left the roadway?

4 A. Yes. It was -- I believe it was down there by the  
5 golf center on the service road.

6 Q. And how could you tell that, your physical  
7 observation?

8 A. Well, the fence was broke. There were some skid  
9 marks, and grass there, you could tell where the  
10 car went off in the ditch.

11 Q. So based on that, did you form an opinion based on  
12 the evidence that you saw at the scene where the  
13 vehicle was at the time of the crash?

14 A. Yes.

15 Q. What was that opinion?

16 A. That he had told us that he was doing, I believe,  
17 50 or 55. And I mean, I don't know the math on how  
18 the formula, what they do on how fast he was going,  
19 but in my opinion, I didn't believe he was doing 50  
20 or 55 from where he left the road to where the car  
21 stopped.

22 Q. Do you have an opinion as to how fast he was going?

23 MR. KNIZLEY: Objection. No foundation, Your  
24 Honor.

25 THE COURT: Basis. Wait a minute, Officer.

1 MR. KNIZLEY: Objection. No proper foundation  
2 to render such opinion on the evidence that's been  
3 elicited.

4 THE COURT: Ms. Rich.

5 MS. RICH: I'll move on, Judge.

6 THE COURT: All right. What's the question?

7 Q. So based on what you observed at the scene and your  
8 observations of the skid marks and the vehicle  
9 leaving the roadway, the fence being down, the  
10 damage in the embankment -- and was there a debris  
11 field?

12 A. I don't remember if there was actually a lot of  
13 debris. I know that part of her scalp was on one  
14 of the guard posts on the interstate.

15 Q. And was one of your jobs to preserve that or keep  
16 it in --

17 A. Well, we had another officer go over on the  
18 interstate and stand by that and Mobile Fire put a  
19 blanket over it to cover it up.

20 Q. Okay. So when you went down the road, did you make  
21 a determination as to where the vehicle was?

22 A. Yes, it was on the service road.

23 Q. When it left the roadway?

24 A. Yes.

25 Q. But up until that point, there was some confusion

1           about that, wasn't there?

2   A.    Yes, we weren't sure exactly if he was on the  
3       service road or on the interstate.

4           MS. RICH: At this time, Your Honor, we'll  
5       play the body cam video and move to admit --

6           THE COURT: It's going to be Exhibit 138?

7           MS. RICH: Yes, Your Honor.

8           THE COURT: The officer needs to see it,  
9       right?

10          MS. RICH: Yes.

11          THE COURT: Okay. We're going to set this  
12       monitor up. Due to the size of this, we'll have to  
13       install and take down the time so that the jury can  
14       see you when necessary.

15                               (PLAYING VIDEO)

16   BY MS. RICH:

17   Q.    And what was that?

18   A.    That was his badge that he showed us, a Police  
19       Surgeon badge.

20   Q.    Okay. And was that the first thing that he had  
21       said to you?

22   A.    I believe so.

23   Q.    I'm showing you now what's been marked and admitted  
24       as State's Exhibit Number 128; do you recognize  
25       that?

1 A. Yes.

2 Q. Is that the badge that he showed you?

3 A. Yes.

4 Q. And that was the first communications you had with  
5 him, correct?

6 A. Yes, ma'am.

7 Q. And the person that you're speaking to at this  
8 point in the video, do you see him in the courtroom  
9 today?

10 A. Yes.

11 Q. And can you identify him, please?

12 A. Yes, he's sitting right there. (Indicating)

13 Q. The Defendant?

14 A. Yes, ma'am.

15 Q. Go ahead.

16 (PLAYING VIDEO)

17 Q. What is going on at this point?

18 A. They are cutting the fence so they can get to him  
19 and get him out from over there.

20 Q. They are doing what?

21 A. Cutting the fence.

22 Q. Okay.

23 (PLAYING VIDEO)

24 Q. What was the purpose of your explanation?

25 A. I just saw her in the ditch for the first time, and

1           then I was trying to get on the radio to advise my  
2           supervisor what we had, to go ahead and notify  
3           traffic homicide.

4                               (PLAYING VIDEO)

5   Q.    Do you know who that was right there with the mask?

6   A.    No idea.

7                               (PLAYING VIDEO)

8   Q.    So what is going on here?

9   A.    At this point I wanted to walk down the scene to  
10        see if he was on the interstate or if he was on the  
11        service road.

12   Q.    So what is that right there, more fence, right?

13   A.    Yes.

14   Q.    What are we seeing here?

15   A.    There's a hole in the fence right here.

16   Q.    And what are you seeing here?

17   A.    On the part right there, you can see the indentions  
18        in the grass from where he left the roadway and  
19        went through the fence.

20   Q.    What are you looking for in the roadway?

21   A.    Skid marks, anything to --

22   Q.    And again, you're still looking at evidence of the  
23        scene further down the scene?

24   A.    Yes.

25   Q.    Now, you're walking back to where the vehicle was?

1 A. Yes, ma'am.

2 Q. Who is that with you?

3 A. Officer Percy.

4 Q. Okay. So Officer, your primary concern was what?

5 A. Once we got him the treatment he needed, I wanted  
6 to go back and see exactly where he left the  
7 roadway to see if we needed to secure that area on  
8 further down.

9 Q. During the time that you were with the Defendant  
10 and the time that we observed the Defendant come  
11 out of the ditch and go into the ambulance, he was  
12 with EMTs, right?

13 A. Yes.

14 Q. So did you get close enough to the Defendant to  
15 determine whether or not he was under the influence  
16 of alcohol?

17 A. No, I did not.

18 MS. RICH: Pass the witness.

19 THE COURT: Cross-Examination.

20 CROSS-EXAMINATION

21 BY MR. KNIZLEY:

22 Q. Good morning, Officer Estes.

23 A. Good morning.

24 Q. How are you today?

25 A. A little tired, worked last night, got to go in

1           tonight. I'm good.

2   Q.    I gotcha. Get you out of here in just a minute.

3   A.    Thank you, sir.

4   Q.    Officer, you've been in patrol for 19 years or a  
5           patrol supervisor for 19 years?

6   A.    In patrol, not a supervisor.

7   Q.    And on patrol, a lot times you may come up to a  
8           vehicle or something and you need to know who the  
9           person is in there, that's helpful whether that  
10          person is a violent person, a reputable person or  
11          whoever it may be, any information you can get to  
12          know who the person is would be helpful; would it  
13          not?

14  A.    It is, yes, sir.

15  Q.    In this particular situation when Dr. Nakhla stuck  
16          the badge up there to you that said he was a police  
17          surgeon, could you see that?

18  A.    Yes, sir.

19  Q.    Wouldn't that tell you at least this person has  
20          some affiliation with police and someone has  
21          designated him as a police surgeon, would that be  
22          information that would helpful to understand who  
23          you're dealing with?

24  A.    Yes, sir.

25  Q.    And so that was a good thing that happened?

1 A. Yeah.

2 Q. Okay.

3 A. I mean, I was trying to calm him down, just like  
4 anybody.

5 Q. And we saw that and if we could look back at that  
6 on the video again and --

7 THE COURT: Officer, if you can just turn around and  
8 just look right up above you sort of, can you see  
9 that? (Indicating)

10 A. I can see that over there.

11 Q. If we get back to the first part, there it is right  
12 there when he's bringing the badge up.

13 MR. KNIZLEY: If you could play it forward just a  
14 little bit, Stephen.

15 THE COURT: And audio, please.

16 (PLAYING VIDEO)

17 MR. KNIZLEY: Stop it there, please, Stephen.

18 Q. Officer, he's trying to communicate to you there  
19 that there's another person in the car that's hurt;  
20 is that right?

21 A. Yes, sir.

22 Q. And he's asking the personnel on the scene to get  
23 assistance for the other person?

24 A. Yes.

25 Q. I think you've already told us he appeared to be



1           upset and you were trying to calm him down?

2   A.    Yes, I already told him a couple of times that they  
3       were en route and they'd be here shortly.

4   Q.    So we saw that on there, he had already told you  
5       before that --

6   A.    Before that, yes, sir.

7   Q.    He'd already made that plea to you before that time  
8       as well?

9   A.    He said that she was injured and she needed some  
10       help.

11           MR. KNIZLEY:   And if you'd go to about 2:30,  
12       please, Stephen.

13                           (PLAYING VIDEO)

14           MR. KNIZLEY:   Stop it there, Stephen.

15   Q.    Is that, yet, another occasion -- and what did he  
16       say?   What was he saying to y'all?

17   A.    That, I don't remember, sir.

18   Q.    Did it sound like "Got to get in there" or  
19       something of that nature?

20   A.    It might have been.

21           MR. KNIZLEY:   Run it back one more time,  
22       Stephen, and see if we can see what he's saying.

23                           (PLAYING VIDEO)

24   Q.    Could you hear it any better at that time, Officer?

25   A.    Yes, "Got to get in there."

1 Q. And is that a plea from him to emergency personnel  
2 on the scene to come in here as soon as they could?

3 A. I believe so.

4 Q. And tend to this lady, okay. And lastly, you went  
5 into the ambulance where he was to ask some  
6 questions about the number of occupants; is that  
7 right?

8 A. Yes.

9 Q. Could you tell the ladies and gentlemen of the jury  
10 the purpose of doing that?

11 A. Mobile Fire wanted to know if there was more than  
12 him -- other than the two people that were in the  
13 car to see if there might have been a third person,  
14 maybe a fourth person in the car and just might  
15 have been thrown from the car.

16 Q. Of course he's trying to figure out if someone else  
17 was injured --

18 A. So that they could help them also.

19 MR. KNIZLEY: Stephen, I think it's in the  
20 ambulance, can you get us there, please, sir? I  
21 think it's around 3, I think, but it's just a few  
22 moments after that, I believe.

23 (PLAYING VIDEO)

24 Q. He appeared to be upset?

25 A. Yes, sir.

1 Q. Did he ask about the other occupant of the car, how  
2 is she? Did he ask?

3 A. He did.

4 Q. So at least to what we saw there, he appeared to  
5 have a concern about his passenger; is that right?

6 MS. RICH: I'm going to object, Your Honor.

7 THE COURT: Wait a minute.

8 MS. RICH: He's asking for a mental operation

9 --

10 THE COURT: Wait a minute. Give your  
11 objection.

12 MS. RICH: My objection is he's asking for a  
13 mental operation of another person.

14 THE COURT: Mr. Knizley?

15 MR. KNIZLEY: I was asking how he appeared to  
16 this officer that day.

17 THE COURT: You're asking him to interpret  
18 whether he expressed -- say your question again.

19 Q. Did he appear to be concerned about his passenger?

20 MS. RICH: And that's a mental operation.

21 THE COURT: Sustained.

22 Q. What was his words about the passenger?

23 A. I believe he was asking how she was.

24 Q. Was he doing so in an excited state?

25 A. Yes, he was upset.

1 MR. KNIZLEY: Thank you.

2 THE COURT: Redirect.

3 MS. RICH: No, Your Honor.

4 THE COURT: Is the witness discharged as far  
5 as both sides?

6 MS. RICH: Yes, Your Honor.

7 MR. KNIZLEY: Yes, sir. Yes, sir.

8 MS. RICH: We call Sarah Percy.

9 THE COURT: Sarah Percy. All right. Your  
10 witness, Ms. Rich.

11 SARAH PERCY,

12 after having been first duly sworn, was  
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. RICH:

16 Q. Tell us your name, please, ma'am.

17 A. Sarah Percy.

18 Q. And where are you employed?

19 A. Mobile County Sheriff's Office.

20 Q. What do you do for the Mobile County Sheriff's  
21 Office?

22 A. I work in Internal affairs.

23 Q. How long have you been with the Mobile County  
24 Sheriff's Office?

25 A. Almost two years.