



**OFFICE OF THE KOOTENAI COUNTY
PROSECUTING ATTORNEY
BARRY McHUGH**

CRIMINAL DIVISION

501 Government Way
208-446-1800
FAX
208-446-1833

P.O. BOX 9000
COEUR D'ALENE, IDAHO 83816-9000

CIVIL DIVISION

451 Government Way
208-446-1620
FAX
208-446-1621

January 18, 2017

Detective Justin Scotch
Idaho State Police
615 W. Wilbur
Coeur d'Alene, ID 83815

Re: Kootenai County Sheriff's Office Incident
Idaho State Police Case #16-2411

Dear Detective Scotch:

I have concluded my review of the report you forwarded me regarding the above-referenced incident. Thank you for your work, and the work of the other officers involved in the investigation. Based on the information contained in your report, I have concluded that Kootenai County Sheriff's Office ("KCSO") Deputy Andrew Nye did not violate Idaho law in his driving conduct on October 8, 2016, when Amber Viuhkola walked in front of Deputy Nye's patrol car on Highway 95. Tragically, Ms. Viuhkola died as a result of injuries caused when Deputy Nye's vehicle struck her.

In reaching this conclusion, I have considered Idaho laws relevant in these circumstances. Manslaughter is defined in Idaho Code § 18-4006. To be guilty of a felony under § 18-4006 (3)(a), a person's operation of a motor vehicle must have significantly contributed to causing the death of another. Further, the driver must have operated the vehicle with gross negligence. To be guilty of a misdemeanor under § 18-4006 (3)(c), a person's operation of a motor vehicle must have significantly contributed to causing the death of another. Further, the driver must have committed or attempted to have committed an unlawful act, and the commission or attempted commission of the unlawful act caused the death of another.

To be guilty of reckless driving, a misdemeanor under Idaho Code § 49-1401(1), a driver must have driven a vehicle carelessly or heedlessly or without due caution and circumspection and at a speed or in a manner as to endanger or be likely to endanger any person or property. To be guilty of inattentive driving, a misdemeanor under Idaho Code § 49-1401(3), a driver must have driven a vehicle in an inattentive, careless or imprudent manner, in light of the circumstances then existing, rather than in a heedless or wanton manner, or drove in a manner where the danger to persons or property from the defendant's conduct was slight.

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Idaho Code § 49-702(1) states that “[w]hen traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to yield to a pedestrian crossing the highway within a crosswalk.” However, Idaho Code § 49-702(2) states that “[n]o pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.”

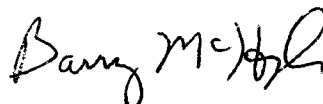
Deputy Nye was driving south in a KCSO patrol car on Highway 95 at approximately 1:37 a.m. after working a shift at the Silverwood Theme Park. He was driving 57 miles per hour in a 55 miles per hour zone. At Miles Ave. (“Miles”), Highway 95 has two lanes each for northbound and southbound traffic, and Deputy Nye was in the right lane. Deputy Nye was in front of other vehicles as he approached Miles. The intersection of Miles and Highway 95 is not controlled by traffic signals. Traffic on Miles must stop before driving across or onto Highway 95.

Ms. Viuhkola was walking westbound on Miles after having left Razzle’s Bar and Grill (“Razzle’s”), which is located at the intersection of Miles and Government Way. Edward Viuhkola, Ms. Viuhkola’s ex-husband, was driving a Toyota pickup while Ms. Viuhkola walked westbound on Miles. Mr. Viuhkola had tried to convince Ms. Viuhkola to ride in the truck, but she was angry after being involved in an argument while inside Razzle’s, and wanted to walk. At Highway 95, Mr. Viuhkola started across at the same time as Ms. Viuhkola, and it appears that his pickup may have prevented southbound drivers from seeing Ms. Viuhkola crossing the northbound lanes as she was walking on the south side of the pickup. Mr. Viuhkola crossed to the east of Highway 95 on Miles. Ms. Viuhkola crossed the northbound lanes of travel without incident, but did not appear to see Deputy Nye’s vehicle as she walked out in front of Deputy Nye’s vehicle immediately before being struck. Ms. Viuhkola was walking on the southern portion of the intersection when she walked in front of Deputy Nye’s vehicle without hesitation.

I do not find that Deputy Nye’s driving significantly contributed to causing the death of Ms. Viuhkola. Deputy Nye did not see Ms. Viuhkola before she walked out in front of his vehicle. Other witnesses indicated Deputy Nye did not have time to react when Ms. Viuhkola moved in front of his vehicle. The intersection was not well lit, and Ms. Viuhkola was wearing clothing not easily observed under the circumstances. Ms. Viuhkola walked in front of Deputy Nye’s vehicle in a manner that gave him no opportunity to see her in his headlights and react. Based on these circumstances, I do not find that Deputy Nye operated his vehicle with gross negligence, or in a careless, heedless, inattentive or imprudent manner. To the contrary, the evidence obtained from witnesses and the investigation indicate Deputy Nye was driving his vehicle in a responsible manner.

Please extend my condolences to Ms. Viuhkola’s family if you have the opportunity to do so.

Yours very truly,



Barry McHugh
Prosecuting Attorney