

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :  
: No. 0611-2019(A)  
VS. :  
: DEBRA S. SLAYMAKER-WALKER :

**PETITION FOR WRIT OF HABEAS CORPUS / QUASH INFORMATION**

TO THE HONORABLE DONALD TOTARO, JUDGE:

NOW, comes Defendant, Debra S. Slaymaker-Walker, by and through her attorneys, Christopher Tallarico, Public Defender, and Rian Thompson, Assistant Public Defender, and represents the following:

1. On December 6, 2018 Defendant was charged by way of criminal complaint for allegedly committing the offenses of Murder in the Third Degree, 18 Pa.C.S. 2501 (2 counts), Homicide by Vehicle, 75 Pa.C.S. 3732 (2 counts), Aggravated Assault, 18 Pa.C.S. 2701, Aggravated Assault by Vehicle, 75 Pa.C.S. 3732.1, Involuntary Manslaughter, 18 Pa.C.S. 2504 (2 counts), Simple Assault, 18 Pa.C.S. 2701, Recklessly Endangering Another Person, 18 Pa.C.S. 2705, Fleeing and Eluding Police, 75 Pa.C.S. 3733, Reckless Driving, 75 Pa.C.S. 3736, Maximum Speeds, 75 Pa.C.S. 33362, and Safe Speed, 75 Pa.C.S. 3361, based on conduct stemming from motor vehicle accidents on October 26, 2018.
2. On October 26, 2018, Defendant was suffering from an epileptic seizure and post-ictal confusion that rendered her unaware of the nature and quality of her actions, and that what she was doing was wrong. See Notes of Preliminary Hearing Testimony (N.P.H.T.), and opinions of Drs. DiGiovanna, Mintzer, and Davis.

3. On January 28, 2019, a preliminary hearing was held before Magisterial District Judge Edward A. Tobin. N.P.H.T. is attached hereto as "Exhibit A".
4. During the preliminary hearing, Northern Lancaster County Regional Police Officer Alex Good testified that on the day of the incident he initially responded to a report of a slow-moving vehicle, later identified as the vehicle driven by Ms. Slaymaker-Walker, which eventually was altogether stopped in the roadway. N.P.H.T., p. 5 line 20; p. 11 lines 21-23.
5. This initial call was for a welfare check. Witnesses had asked for an ambulance for the driver of the stopped vehicle. N.P.H.T., p.12, line 9-21.
6. Lititz Borough Police Sergeant Jared Hahn testified that some of the first reports of Ms. Slaymaker-Walker's driving was erratic, traveling through different portions of the roadway at random. N.P.H.T., p. 29 lines 14-20.
7. He also testified that one of the other motorists approached Ms. Slaymaker-Walker's vehicle, knocked on the window and attempted to open her locked car door to get her attention, but that Ms. Slaymaker-Walker did not respond, and simply stared straight ahead. N.P.H.T., p. 31 lines 8-21.
8. At this point in time, Ms. Slaymaker was completely stopped in the roadway and was unresponsive to another vehicle honking its horn and flashing its lights attempting to gain her attention. N.P.H.T., p. 36 line 15 – p. 37 line 1.
9. Sgt. Hahn also testified that after the final collision, it was determined that Ms. Slaymaker-Walker did not have any controlled substances in her system and that she was in a state of seizure while in the ambulance. N.P.H.T., p. 37 lines 12-17.

10. His testimony also indicated that at the time of the collision, Ms. Slaymaker-Walker was licensed to drive, there was no contraband in her car, that she did not have any warrants, and no prior motor vehicle violations. N.P.H.T., p. 37 lines 18-25 -- p., 38 lines 1-16.
11. The final witness for the Commonwealth, Sergeant Rodney King, of the North Lancaster County Regional Police Department, testified that the airbag module in Ms. Slaymaker-Walker's vehicle recorded that in the last five seconds before the crash, her vehicle was constantly accelerating, and actively steering *into* a line of cars during the collision. N.P.H.T., p. 45 line 10 – page 48 line 11.
12. The testimony of all Commonwealth witnesses established that Ms. Slaymaker-Walker's behavior just prior to, and during the collision was involuntary; that she was unresponsive to outside stimuli; unaware of, and without control of, any of her actions; and that she was in a state of seizure immediately after the incident.
13. Despite undersigned counsel's argument that these charges cannot be bound over as the evidence established that Ms. Slaymaker-Walker's actions were the result of a seizure and not voluntary, MDJ Tobin found that the Commonwealth established a *prima facie* case that Ms. Slaymaker-Walker committed the offenses.
14. After receiving discovery from the Commonwealth on March 29, 2019, which included years of medical records detailing Ms. Slaymaker-Walker's history of seizure disorder, defense counsel sought the opinions of a forensic psychiatrist Brett DiGiovanna, MD, as well as a neurologist specializing in epilepsy Scott Mintzer, MD. The Commonwealth also consulted with a neurologist specializing in epilepsy, Kathryn Davis, MD. However, this was not done until October 2019, one year after the fatal crash, and after defense counsel tendered their expert opinions.

15. Dr. DiGiovanna, Dr. Mintzer, and Dr. Davis rendered expert opinions based upon their review of the criminal complaint, preliminary hearing, and discovery provided by the Commonwealth which included the Defendant's decades old seizure diagnosis and medical records consistent with that diagnosis. The reports are referenced hereto as "Exhibit B" and "Exhibit C" and "Exhibit D" respectively. The reports have been submitted to chambers.
16. The consulting experts for the defense Drs. DiGiovanna and Mintzer, *and* the consulting expert for the Commonwealth, Dr. Davis, are in agreement that Ms. Slaymaker-Walker's behavior and driving was the result of a seizure or post seizure state of confusion, and that she was not aware of, nor in control, of her actions on the date of the incident.
17. Dr. Mintzer's opinion, in summation, is that "Ms. Slaymaker-Walker's actions on October 26, 2018 were caused by epileptic seizures...and that the defendant could not have anticipated the onset of these seizures." See Exhibit C.
18. Dr. DiGiovanna's opinion, in conclusion, regarding Ms. Slaymaker-Walker is that "She suffered from a seizure prior to the accident which led to the charges, and the seizure manifested through loss of awareness of her surroundings and behavior. Therefore Ms. Slaymaker-Walker did not act voluntarily, knowingly, or recklessly. Further it is my opinion that she is not criminally responsible." See Exhibit B.
19. Dr. Davis, expert witness for the commonwealth, tendered a report in agreement with the experts consulted by the defense. See Exhibit D
20. Dr. Davis summarized her opinion by stating "it is my medical opinion to a reasonable degree of medical certainty that Ms. Slaymaker-Walker did not drive recklessly in a purposeful manner. Instead, she was in a post-ictal or ictal (between or during a seizure)

state at the time of the accident which impaired her ability to act rationally. Stated otherwise, I agree with the opinions stated by Dr. Scott Mintzer...that is Ms. Slaymaker-Walker's actions on 10/26/18 were caused by epileptic seizures and that the defendant could not have anticipated the onset of the seizures." Exhibit D.

21. A petition for writ of habeas corpus relief [or motion to quash the information] is the proper means for testing a pretrial finding that the Commonwealth has sufficient evidence to establish a *prima facie* case. *Commonwealth v. Nieves*, 876 A.2d 423, fn.1 (Pa.Super. 2005). It is the Commonwealth's burden to put forth a *prima facie* case of the defendant's guilt. *Id.* at 424. A *prima facie* case exists when the Commonwealth produces evidence of *each* of the material elements of the crime charged and establishes sufficient probable cause to warrant the belief that the accused committed the offense. *Id.* The evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to go to the jury. *Id.*
22. The evidence presented by the Commonwealth at the preliminary hearing established that immediately after the crash Ms. Slaymaker-Walker was in an observed state of seizure. Less than ten minutes before the crash, Ms. Slaymaker was stopped in the middle of the roadway, unresponsive to other motorists honking their horns, flashing their lights, opening her door, and staring straight ahead. She then slowly rolled down the road with an officer following behind her with his flashing lights. Despite not being under the influence, not having any contraband, and not having any warrants, Ms. Slaymaker-Walker did not pull over. She then accelerated unexpectedly, clipping the back of a school bus. Ms. Slaymaker then sped away, driving on the berm before turning the steering wheel twenty degrees to the left and driving *into* a line of six cars, and ultimately

killing two students and injuring a third.

23. Three separate expert consulting doctors in the fields of forensic psychiatry and neurology and epileptology, retained by defense counsel *and* the Commonwealth, have agreed that Ms. Slaymaker-Walker was unaware of her actions both before and during the events that transpired on October 26, 2018, and that she is not criminally responsible for her actions.

24. As a result, the Commonwealth has failed to present sufficient evidence so as to establish a *prima facie* case that Ms. Slaymaker-Walker committed any of the charged offenses.

25. All offenses require the commission of a voluntary act, and evidence that the person acted intentionally, knowingly, recklessly, or negligently, unless the statute clearly imposes absolute (strict) liability. See, 18 Pa.C.S. 301, 302 and 305.

26. Further, all the offenses charged in this criminal complaint require evidence of at least a reckless *mens rea*. See 18 Pa.C.S. 302, *Commonwealth v. Grimes*, 842 A.2d 432, (Pa.Super. 2004) (Homicide by Vehicle, 75 Pa.C.S. 3732 requires evidence of gross negligence i.e., recklessness defined by section 302 of the crimes code), see also, Involuntary Manslaughter 18 Pa.C.S. 2504.

27. Based on the evidence elicited at the preliminary hearing, Ms. Slaymaker-Walker was not aware of, and not in control of her actions because she suffered from a seizure. Her driving was not “sustained, purposeful, and effective” as argued by the District Attorney. Rather, her actions were the direct result of her suffering a seizure. Not only does the evidence show this, but every medical expert, retained by the Defendant and Commonwealth, determined to a reasonable degree of medical certainty that her driving was involuntary. Both neurologists also agree that Ms. Slaymaker-Walker could not have

anticipated the onset of these seizures.

28. Therefore, the Commonwealth cannot demonstrate that these offenses were the result of voluntary acts by Ms. Slaymaker-Walker, which is a prerequisite to criminal liability for the charged offenses.
29. The original theory of prosecution was that Ms. Slaymaker-Walker intentionally drove this recklessly and her actions were “not consistent with a medical condition.” Not only has this theory of prosecution been disproved by the evidence at the preliminary hearing and discovery provided by the Commonwealth; each consulting expert also agreed that Ms. Slaymaker-Walker was *not* acting recklessly by driving with her known seizure disorder. Therefore, the Commonwealth cannot demonstrate that she *consciously* disregarded a substantial and unjustifiable risk that her act of driving would result in injury. Because she could not anticipate the onset of these seizures, her act of driving was not a gross deviation from the standard of conduct that a reasonable person would observe in her situation. See 18 Pa.C.S. 302, reckless *mens rea* definition, reports by Dr. Mintzer, Exhibit C, and Dr. Davis, Exhibit D.
30. Based on the testimony presented during the preliminary hearing, the Commonwealth has failed to present sufficient evidence so as to establish a *prima facie* case as to any of the charges.

WHEREFORE, Defendant, Debra Slaymaker-Walker, respectfully requests that this Honorable Court dismiss with prejudice all of the charges filed on the above-captioned docket.

Respectfully submitted,  
OFFICE OF THE PUBLIC DEFENDER

By:



Christopher M. Tallarico  
Public Defender  
Attorney I.D. No. 204221

/s/ Rian D. Thompson  
Rian D. Thompson  
Assistant Public Defender  
Attorney I.D. number 318842

VERIFICATION

I verify that the facts set forth in this motion are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. §4904) relating to unsworn falsification to authorities.

By: Respectfully submitted,  
OFFICE OF THE PUBLIC DEFENDER

By:

  
Christopher M. Tallarico  
Public Defender  
Attorney I.D. No. 204221

/s/ Rian D. Thompson  
Rian D. Thompson  
Assistant Public Defender  
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DEBRA S. SLAYMAKER-WALKER :  
:

**PROOF OF SERVICE**

I hereby certify that I this 21<sup>st</sup> day of January 2020 served a copy of the foregoing document on the persons listed below at the address set forth below by PACFILE and hand delivery:

The Honorable Donald R. Totaro  
50 North Duke St., Chambers 10  
Lancaster, PA 17602

Mr. Jared Hinsey, Esq.  
Office of the District Attorney  
50 North Duke St., 5<sup>th</sup> Floor  
Lancaster, PA 17602

By:

  
Christopher M. Tallarico  
Public Defender  
Attorney I.D. No. 204221

/s/ Rian D. Thompson  
Rian D. Thompson  
Assistant Public Defender  
Attorney I.D. number 318842

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**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of Defendant's Petition for Habeas Corpus Relief, it is hereby **ORDERED** that a hearing on Defendant's Petition is scheduled on \_\_\_\_\_ in Courtroom Number 10 of the Lancaster County Courthouse.

BY THE COURT:

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J.

ATTEST:

EXHIBIT A

Transcript of Preliminary Hearing

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LANCASTER  
CRIMINAL

**COMMONWEALTH OF PENNSYLVANIA**

vs.

**DEBRA S. SLAYMAKER-WALKER**

**PRELIMINARY HEARING**

Before: MDJ EDWARD A. TOBIN

Date : Monday, January 28, 2019

Place : MDJ Tobin's Office  
690 Furnace Hills Pike  
Lititz, Pennsylvania

## APPEARANCES:

**Jared L. Hinsey, Esquire  
Assistant District Attorney  
For - The Commonwealth**

Christopher Tallarico, Esquire  
Rian Thompson, Esquire  
Assistant Public Defenders  
For - The Defendant

1 INDEX TO WITNESSES  
2

3	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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## PROCEEDINGS

(1:34 p.m.)

JUDGE TOBIN: This Court is now in session.

19 Do both parties have a copy of the complaint,  
20 and may I waive the reading?

21 MR. HINSEY: Yes, Your Honor.

22 MR. TALLARICO: Yes, sir.

23 JUDGE TOBIN: Thank you. Are there any  
24 amendments or motions?

25 MR. HINSEY: Not at this time, Your Honor.

1                   JUDGE TOBIN: Is the Commonwealth then ready to  
2 proceed?

3                   MR. HINSEY: We are ready, Your Honor.

4                   JUDGE TOBIN: You may call your first witness.

5                   MR. HINSEY: Call Officer Alex Good.

6                   ALEX GOOD,  
7 called as a witness, being duly sworn or affirmed, was  
examined and testified as follows:

8                   JUDGE TOBIN: Please be seated and state your  
9 name for the Court.

10                  THE WITNESS: My name is Officer Alex Good with  
11 the Northern Lancaster County Regional Police  
12 Department.

13                  JUDGE TOBIN: Thank you.

14                    DIRECT EXAMINATION

15                  BY MR. HINSEY:

16                  Q. Good afternoon, Mr. Good -- Officer Good.

17                  How long have you been with the Regional Police  
18 Department?

19                  A. Five and a half years.

20                  Q. Okay. And were you so employed on October 26th  
21 of 2018?

22                  A. Yes.

23                  Q. And were you working that day?

24                  A. Yes.

25                  Q. And what shift were you working?

1           A. I was working day shift.

2           Q. Were you dispatched for a vehicle with a  
3 possible reckless driver?

4           A. Yes.

5           Q. And what area was that in?

6           A. It was in -- on Temperance Hill Road in the  
7 area of Penn Valley Road.

8           Q. Okay. And about what time were you dispatched?

9           A. I don't recall the exact time. I'd say it was  
10 around 3 in the afternoon.

11          Q. And were you able to find the vehicle in  
12 question?

13          A. Yes.

14          Q. And what kind of vehicle was that?

15          A. It was a -- a black SUV.

16          Q. And what happened when you found that vehicle?

17          A. So I was coming down Lexington Road to  
18 Temperance Hill Road and I saw a long line of vehicles.  
19 So I activated my lights and sirens to go around all the  
20 vehicles that were following the slow-moving vehicle.

21           And as I got around all of the slow-moving  
22 vehicles, I observed that vehicle in about the 600 block  
23 of Temperance Hill Road.

24          Q. And did you attempt to stop that vehicle?

25          A. I did.

1 Q. And how did you attempt to stop that vehicle?

2 A. I had my lights and sirens activated as I was  
3 directly behind the vehicle in the area where Temperance  
4 Hill turns to Orange.

5 Q. And were you able to effectuate a traffic stop?

6 A. I was not.

7 Q. And why were you not able to?

8 A. The vehicle failed to yield to my sirens.

9 Q. At some -- did you continue following the  
10 vehicle with your lights and sirens on?

11 A. Yeah, I did for about half a mile.

12 Q. Okay. And when did you stop the lights and  
13 sirens?

14 A. My Sergeant came over the radio and advised me  
15 to stop --

16 Q. Okay.

17 A. -- my pursuing the vehicle.

18 Q. After you stopped pursuing the vehicle in an  
19 attempt to stop it, what did you do?

20 A. I shut off my lights and sirens and slowed down  
21 to give distance between myself and the vehicle.

22 Q. And did that vehicle keep traveling?

23 A. Yeah. I lost sight as it was going on --  
24 continuing on Orange Street.

25 Q. And as it was continuing onto Orange Street,

1 what direction was it heading?

2 A. It was headed east.

3 Q. And is that where Temperance Hill Road becomes  
4 Orange Street?

5 A. It would have been Orange -- or it would have  
6 still -- it would have already been Orange Street at  
7 that point.

8 Q. Okay. Did you continue following that vehicle  
9 through Orange Street?

10 A. So I created distance between myself and that  
11 vehicle and observed it strike a school bus.

12 Q. Okay.

13 A. So I let the -- I let it continue on at that  
14 point.

15 Q. And where did you see it strike the school bus  
16 at?

17 A. The school bus was taking a right turn from  
18 Orange onto Green Acre Road.

19 Q. So the school bus was also traveling east?

20 A. Correct.

21 Q. Okay. And did the black Kia fail to stop or  
22 did it stop at that school bus crash?

23 A. It continued moving. Yeah.

24 Q. Okay. And the area that you approached that  
25 vehicle starting back on Temperance Hill Road by West

1 Lexington Road down to where it struck that school bus,  
2 is that a straight roadway?

3 A. No, there's a turn in the road.

4 Q. And when you say a turn, are there several  
5 curves in the road and then one sharp turn?

6 A. Yeah. There's several curves, and then there's  
7 one sharp left turn.

8 Q. And about how sharp is that turn?

9 A. It's not quite 90 degrees.

10 Q. Okay. If someone were going the speed limit in  
11 that direction, would that turn force them to slow down  
12 to continue through that turn?

13 A. Yeah.

14 Q. Okay. And then did you continue behind that  
15 vehicle after it struck the bus?

16 A. I pulled up to the bus to -- to see the extent  
17 of the damage on the bus.

18 Q. Uh-huh.

19 A. And after stopping for a brief second, I  
20 continued.

21 Q. Yeah. Did you activate your lights and sirens  
22 after?

23 A. I continued without my lights and sirens until  
24 I saw the bus -- or until I saw the car traveling at a  
25 high rate of speed in the Borough.

1       Q. All right. And do you remember where in the  
2 Borough you saw that vehicle traveling at a high rate of  
3 speed?

4       A. It had already gone through the intersection  
5 near the high school. It was -- it was about at the  
6 high school when I saw it again.

7       Q. Okay. And at that point were you able to gain  
8 ground on the vehicle or was the vehicle pulling away  
9 from you?

10      A. No, the vehicle had pulled away.

11      Q. All right. Did the vehicle stop for your  
12 lights and sirens once inside the Borough?

13      A. No.

14      Q. All right. What happened after that vehicle  
15 and yourself got into the Borough?

16      A. So I was pretty far behind the vehicle at this  
17 point. And I believe it was the Chief of Lititz Borough  
18 had pulled in front of me and was between myself and the  
19 car.

20           And then the next I saw -- I lost sight of the  
21 car again. The next I saw it, it was right as it was  
22 striking the vehicle with the students inside and  
23 flipped.

24      MR. HINSEY: May I have the Court's indulgence?

25      JUDGE TOBIN: Sure.

1 BY MR. HINSEY:

2 Q. When you got into the Borough, did you only see  
3 Chief Nye's vehicle or did you see another vehicle?

4 A. No. So as I was -- as I was cresting the hill  
5 on Orange to where I could see the car again, I saw two  
6 Lititz Borough SUVs turning to go west on Orange as I  
7 was going east. So I saw those two pull out.

8 Q. And did you notice anything about the black Kia  
9 or those two SUVs as they pulled out of the parking lot?

10 A. Yeah. The Kia almost struck -- struck one of  
11 the vehicles as they were pulling out of the parking  
12 lot, and that's when I reactivated my lights, when it  
13 was --

14 Q. Okay. When you say almost struck, can you  
15 describe what you saw?

16 A. To me it looked like she had possibly hit the  
17 back end as it was -- it -- it -- I'm not sure how  
18 she -- how she didn't hit the SUV.

19 Q. Was the black SUV going straight as it went  
20 past the SUVs or did it turn around the SUVs?

21 A. I would say turned.

22 Q. Okay. And even after that near collision the  
23 black Kia continued traveling eastbound?

24 A. Correct.

25 MR. HINSEY: No further questions at this time.

1 JUDGE TOBIN: Thank you, Counsel.

2 Counsel?

3 MR. TALLARICO: Thank you, Judge.

4 CROSS EXAMINATION

5 BY MR. TALLARICO:

6 Q. Officer Good, can you tell us where it was that  
7 you found the long lineup of cars as you're responding  
8 to the reckless driver report?

9 A. Yeah. So I was on Lexington Road headed north.  
10 And as I approached Temperance Hill there was a line of,  
11 I'd say, 10 cars that were following the Kia.

12 Q. So you're from Lexington Road and then make the  
13 right onto --

14 A. Correct

15 Q. -- 772?

16 A. Yeah, correct.

17 Q. And when you say reckless driver, were you  
18 hearing the radio descriptions of what was actually --

19 A. Yeah.

20 Q. What they were reporting?

21 A. It was a slow-moving vehicle that had actually  
22 come to a stop at one point before I got there and then  
23 it continued going again.

24 Q. Anything else you remember about when the  
25 vehicle came to stop?

1           A. Not that I can remember.

2           Q. Do you remember any reports of any of the other  
3 drivers actually getting out and going up to try and  
4 make contact with the driver?

5           A. Yeah. Yeah, I do. They -- they did say that  
6 one of the other drivers did approach the vehicle. Yes.

7           Q. And do you remember hearing that that driver  
8 went up and was knocking on the window?

9           A. I don't recall that -- I -- I do recall that  
10 they asked for an ambulance, but I don't know if they  
11 actually made contact with the driver at all.

12          Q. So another -- another motorist had called and  
13 said to bring an ambulance?

14          A. Yeah.

15          Q. Do you remember any other descriptions about  
16 motorists trying to yell -- yell to the driver?

17          A. I don't recall that.

18          Q. And so when you first started following the  
19 Kia, it was mostly due to what we call, like, a welfare  
20 check?

21          A. Sure.

22          Q. And when you first started the vehicle -- when  
23 you first started following the vehicle, the car was  
24 going very slowly?

25          A. I could see the vehicle going very slowly.

1           By the time I had pulled onto Temperance Hill,  
2 the vehicle had pulled away from the -- the traffic --  
3 the line of cars.

4           I don't know if they were all stopping for me  
5 or if she had sped up at that point. But she was going  
6 faster than -- I don't know, I would consider it faster  
7 than slow speeds when I got behind her.

8           Q. So by the time you got behind her, the Kia was  
9 going --

10          A. Between --

11          Q. -- not -- not just rolling along --

12          A. Yeah.

13          Q. -- as the earlier reports?

14          A. Correct.

15          Q. All right. And when you got behind the Kia,  
16 did you have your lights and siren on?

17          A. Yes.

18          Q. When -- where along 772 was the incident with  
19 the school bus?

20          A. It was -- so it would have turned to West  
21 Orange at that point, and it was at Orange and Green  
22 Acre, the school bus was turning from Orange to Green  
23 Acre.

24          Q. And do you remember approximately where you  
25 first began being immediately behind the Kia?

1       A. It would have been just before Penn Valley  
2 Road. So if we were traveling -- if we were going east,  
3 it would have been before Penn Valley Road there is when  
4 I actually caught up to the vehicle.

5       Q. When the -- and the school bus was going the  
6 same direction --

7       A. Correct.

8       Q. -- as -- as the defendant's car?

9       A. Correct.

10      Q. Did the school bus have its turn signal on when  
11 it made its right-hand turn?

12      A. I was too -- I was too far away at that point  
13 to -- to tell.

14      Q. And you saw the defendant's car hit the back of  
15 the school bus?

16      A. Correct.

17      Q. And so that would have been the first motor  
18 vehicle violation that you witnessed?

19      A. Other than her failing to yield to my lights  
20 and sirens, correct. Yes.

21      Q. Excuse me. Okay. Thank you.

22           And you said at some point there was a decision  
23 to -- to -- to drop back?

24      A. Correct.

25      Q. Was that after the school bus incident?

1 A. It was before.

2 Q. It was before?

3 A. Yep.

4 Q. Okay. But you still had your lights and sirens  
5 on or no?

6 A. No. My lights and sirens were off at the time  
7 of the school bus accident.

8 Q. After the school bus incident, did you turn  
9 them back on, the lights and sirens?

10 A. Only after I crested the hill and saw her go  
11 through the intersection with -- and almost strike one  
12 of the Lititz Borough officers.

13 Q. And the Lititz police officers were making a  
14 left turn going the opposite direction?

15 A. Yeah, they heard -- I believe they heard me  
16 call out that there was an accident involving a school  
17 bus, so they were going that direction.

18 Q. Back to the Green Acre Road incident?

19 A. Yeah, they were headed that direction.

20 Q. And where do you remember that almost hitting  
21 the Lititz police, where was that intersection?

22 A. It's -- if you're going -- I'm not gonna think  
23 of the street name, but it's -- if you're going west  
24 on -- or, correction, east on West Orange, it's the  
25 intersection right before the high school. It would go

1 back to the middle school and the rec center, I believe.

2 Q. So maybe, like, the next intersection after the  
3 Green Acre one?

4 A. Yeah, it would be.

5 Q. And then when the -- when the ultimate crash  
6 happened, were you the only officer -- the immediate  
7 officer behind the crash or no?

8 A. No.

9 MR. TALLARICO: That's all I have for this  
10 witness.

11 JUDGE TOBIN: Thank you, Counsel.

12 Is there any redirect?

13 MR. HINSEY: No redirect, Your Honor.

14 JUDGE TOBIN: You may step down, Officer.

15 Thank you.

16 MR. HINSEY: You can be excused. Yep.

17 Commonwealth would next call Sergeant Jared  
18 Hahn.

19 JUDGE TOBIN: Thank you.

20 JARED HAHN,  
21 called as a witness, being duly sworn or affirmed, was  
22 examined and testified as follows:

22 JUDGE TOBIN: Thank you. Please be seated and  
23 state your name for the Court.

24 THE WITNESS: Sergeant Jared Hahn, Lititz  
25 Borough Police.

## 1 DIRECT EXAMINATION

2 BY MR. HINSEY:

3 Q. Good afternoon, Sergeant Hahn.

4 A. Good afternoon.

5 Q. How long have you been with the Lititz Borough  
6 Police Department?

7 A. This is my 16th year.

8 Q. And were you so employed on October 26th of  
9 2018?

10 A. Yes, I was.

11 Q. Were you working that day?

12 A. That's correct.

13 Q. And what shift were you working?

14 A. Day shift, which for us is 7 a.m. to 7 p.m.

15 Q. And at approximately 3:00 p.m., where were you  
16 positioned?17 A. At around that time, I was around the 300 block  
18 of West Orange Street, which is near the Warwick High  
19 School and some other businesses and residences in that  
20 area.21 Q. And that area, is that within your jurisdiction  
22 and the jurisdiction of this Court?

23 A. That is.

24 Q. Okay. At approximately 3:00 p.m., did you  
25 respond to a call that you heard over the radio?

1       A. Well, I initially had heard the -- the Northern  
2 Lancaster County Regional Police get dispatched to a  
3 reckless driver call from Lancaster County-Wide  
4 Communications, which is the 9-1-1 center.

5       Q. Uh-huh.

6       A. The initial placement of that event was along  
7 Route 772, but just further west of Lititz Borough into  
8 Penn Township.

9           So it's Lititz, it's Warwick, it's Penn, but  
10 there's a very small sliver of Warwick that separates  
11 them. So it was about maybe two miles from our  
12 location.

13       Q. And did you respond to any dispatch that  
14 occurred in that sliver of Warwick, Penn Township?

15       A. I didn't respond to the dispatch. I heard the  
16 call get dispatched. I realized its proximity to me. I  
17 realized 772 eventually comes into Lititz.

18           So I was in that block ahead of the dispatch,  
19 because it's customary for our department to have  
20 patrols around all the district schools after dismissal,  
21 just because we're aware of traffic and pedestrian  
22 issues so we want to have a presence.

23           So when I heard the Regional Police get  
24 dispatched, I was on 772 in front of the high school and  
25 I parked. There is a church across from the high

1 school, there's actually two of them, but the one that I  
2 was parked in the parking lot of is the Brethren Church,  
3 which is at the corner of West Orange Street and West  
4 Second Avenue.

5 So I guess parked and stopped and just  
6 listening to the call for the Regional Police unfold.

7 Q. And you said that Warwick High School is around  
8 that area?

9 A. Correct. So the church that I eventually  
10 parked into is directly across the street from the high  
11 school.

12 Q. And at approximately 3:00 in the afternoon, can  
13 you describe what the pedestrian and vehicle traffic is  
14 like on that street?

15 A. It's heavy. There is multiple parking lots  
16 around the Warwick High School property.

17 After dismissal, teachers, students, they all  
18 go to their cars in the various lots surrounding the  
19 property, they get into their cars, they all attempt to  
20 get out to West Orange Street.

21 A lot of the traffic goes east. A couple  
22 blocks down towards the intersection of 501 and 772 is a  
23 traffic signal. It usually only allows a couple of cars  
24 to get through before cycling right again.

25 So resultantly, a lot of the traffic on West

1 Orange Street backs up. So the traffic along West  
2 Orange Street for a span of two to three blocks is  
3 usually at a standstill for quite some time.

4 Again, other cars are trying to get out onto  
5 Orange Street. There is pedestrians that are utilizing  
6 the sidewalks adjacent to the roadway. There's  
7 pedestrians utilizing the crosswalks across West Orange  
8 Street.

9 So again, for that and other reasons we just  
10 try to have a presence in that area.

11 Q. And the pedestrian traffic, is that all kids  
12 that are leaving high school?

13 A. For the most part. There's also a retirement  
14 home about a block away. A lot of their residents are  
15 out for their walks around that time of day. But the  
16 vast majority are students and staff.

17 Q. And on October 26th, 2018, was that a pretty  
18 typical day for the pedestrian and vehicle traffic of  
19 being heavy in the area?

20 A. Correct. I would say it was not abnormal from  
21 any other day.

22 Q. All right. And did you hear the call for a bus  
23 crash that occurred, it would have been west of your  
24 location?

25 A. Correct. So after I heard the other events

1 that Officer Good had testified to in regards to the  
2 black SUV, I was already stopped in that parking lot of  
3 the church by that point.

4 So when Officer Good had called out that the  
5 SUV had struck a bus, I don't recall that he called out  
6 the location of the crash initially. I knew obviously  
7 it was to my left because that black SUV had not come  
8 past me.

9 So being that there was a possibility that it  
10 was in the Borough and -- and just even if it wasn't, to  
11 go -- I knew I was somewhat close to it, to see if I  
12 could offer assistance, I made the decision to leave my  
13 parked position, make a left out of the parking lot to  
14 travel west on West Orange Street to, one, determine  
15 where the crash was, because that would determine  
16 jurisdiction of who has to investigate it, but then  
17 also, again, to see if there was some sort of assistance  
18 that I could offer to anybody.

19 So when he had called out that the bus had been  
20 struck, I wasn't aware that the striking vehicle had  
21 continued. I was under the impression that that vehicle  
22 had likely stopped where the bus crash was.

23 Q. And what happened when you left your parked  
24 position and turned left to go west onto West Orange  
25 Street?

1       A.    So I had activated my cruiser's emergency  
2 lights. I tapped the siren in an attempt to signal to  
3 the drivers that I was pulling out to get to the bus  
4 crash as quickly as I could.

5           So I looked left, I looked right. I made my  
6 left turn. And as soon as I straightened out from my  
7 left turn, I -- I see Officer Good then coming towards  
8 me. He had been traveling eastbound from the location  
9 of where the bus crash had occurred.

10          So that had struck me as odd because I don't --  
11 I didn't know why he would have continued driving when  
12 the bus crash was, you know, somewhere down there. I  
13 thought he was already there.

14          So at that point I looked into my rearview  
15 mirror and I saw the black SUV, which had gone around  
16 me. So when I looked, I saw the back end of the black  
17 SUV. Apparently, I had pulled out in front of it  
18 without ever seeing it approach.

19          My first recollection of actually seeing it is  
20 it's behind me, it's very close to the curb. So I see  
21 it on my left-hand side, but looking at it from an  
22 eastbound perspective it would have been on the right.

23          It obviously had steered close to the curb. I  
24 could see some stones and dust being kicked up because  
25 there was some loose stones and some dirt along the curb

1 line, and it appeared to be traveling at a fast rate of  
2 speed.

3 Q. And what is the posted speed limit in that  
4 area?

5 A. 25.

6 Q. All right. So when you get out and you're  
7 facing westbound, you see this happening behind you,  
8 what did you do?

9 A. So at that point I -- I stopped. There was the  
10 intersection, the traffic signal right there. So I  
11 stopped.

12 Officer Good had gone past me. I had heard on  
13 the radio -- cause my Chief was also in that parking  
14 lot, he was there, again, for the same reason, because  
15 it's customary that we be in that area after dismissal.

16 And I heard the Chief call out that the vehicle  
17 had just went past him, it was a black SUV, it was  
18 traveling at a high rate of speed.

19 And almost immediately after that, he broke  
20 that radio transmission, and within a second or two  
21 initiated another radio transmission and said that the  
22 car had just been involved in a crash and had  
23 overturned.

24 So by that point, I was still facing westbound  
25 because there was other eastbound traffic coming so I

1       needed to wait until I could safely make my U-turn.

2           So at the point that I'm making my U-turn is  
3       essentially when he's calling out on the radio that the  
4       crash occurred. So I didn't actually witness the crash,  
5       I just heard it as I was making that U-turn.

6       Q.    Okay. And did you respond to that crash scene?

7       A.    Correct. So it's a short distance, I would say  
8       maybe several hundred feet, maybe a little bit beyond  
9       from the point that I was making that U-turn to where  
10      the crash was.

11       So I had drove up to that point. My Chief and  
12      Officer Good were already stopped, out of their cars.  
13      And there was a total of eight cars. It was complete  
14      chaos.

15       So I just stopped. I was just trying to get a  
16      handle on what we were dealing with, who was involved,  
17      the extent of injuries and just trying to triage and  
18      figure out what other resources we needed.

19       Q.    Were you able to view the black SUV?

20       A.    I was.

21       Q.    And where was its final resting position?

22       A.    It was overturned on its roof, and it would  
23      have been ahead of all the stopped vehicles that it had  
24      struck prior to and during its overturn.

25       Q.    And throughout your investigation, were you

1 able to determine who the driver of that black SUV was?

2 A. Correct, --

3 Q. Who --

4 A. -- Debra Slaymaker-Walker, who is seated ahead  
5 of me with defense counsel.

6 JUDGE TOBIN: So noted.

7 MR. HINSEY: Thank you, Your Honor.

8 BY MR. HINSEY:

9 Q. Did you see other vehicles that had sustained  
10 heavy injury or heavy impact?

11 A. Correct. There was a total of eight vehicles;  
12 the defendant's, plus an additional seven.

13 Various degrees of damage; some minor,  
14 driveable, to disabling.

15 Q. Okay. And was there a Chevy Sonic that had  
16 disabling damage to it?

17 A. That's correct. That was in the line of  
18 stopped cars.

19 Q. All right. And were you able to determine who  
20 occupied that Chevy Sonic?

21 A. Correct. There was a driver, a front-seat  
22 passenger and a rear-seat passenger.

23 Q. All right. And those three individuals, they  
24 were all juveniles?

25 A. Correct.

1 Q. Okay. What was the extent of their injuries?

2 A. All three were critical at the scene. They  
3 were all three transported by ground ambulance to a  
4 hospital.

5 The driver eventually made a recovery to the  
6 extent that he was able to be released, and the two  
7 passengers died as a result of their injuries.

8 Q. All right. Was anyone else in the other seven  
9 vehicles transported to the hospital?

10 A. Yes, I believe there were two other passengers  
11 in another vehicle that were transported for non-life  
12 threatening injuries and eventually released.

13 Q. All right. And were you the -- the lead  
14 officer in the investigation into this crash?

15 A. The lead reporting officer. The crash  
16 reconstruction was done by Sergeant King.

17 Q. Okay. Were you able to talk to witnesses or  
18 were other members of Lititz Borough Police Department  
19 able to talk to witnesses?

20 A. Correct.

21 Q. And were you able to watch the MVRs of the  
22 vehicles involved?

23 A. Correct.

24 Q. Were you also able to watch surveillance video  
25 from the high school overlooking the crash scene?

1       A. That's correct.

2       Q. Okay. Prior to the crash, what do those MVRs  
3 and the surveillance videos show the path of travel of  
4 that black SUV?

5       A. So all three video sources show the travel to  
6 be going eastbound entering Lititz Borough from Warwick  
7 Township.

8       Q. And once it enters into Lititz Borough, were  
9 you able to see how close of a near miss it was for that  
10 black SUV and your vehicle?

11      A. You can't see -- it was so close that you  
12 actually can't see it in my car's camera.

13      Q. Uh-huh.

14      A. There was another patrol car -- again, it was  
15 in the area because it's customary after school -- who  
16 would have been going westbound already in front of the  
17 Warwick High School at the time that the defendant's  
18 vehicle came eastbound. So that officer's MVR captured  
19 my stopped position, my left-hand turn to go west on  
20 Orange Street and the defendant's vehicle swerve around  
21 me.

22      So in his video that I viewed, you could see me  
23 pulling out. You could see her within a matter of feet.  
24 With -- with quite a bit of precision, she makes a  
25 right-hand movement within the lane, I think the best

1 way to describe it is threaded the needle between myself  
2 and the curb.

3 She didn't strike me, she didn't strike the  
4 curb. But there was very little room on either side.

5 She went past me. Again, you see the kick up  
6 of the -- of the debris and then continued past that  
7 officer's perspective.

8 Q. Okay. And you said there were eight total cars  
9 involved in this crash?

10 A. Correct.

11 Q. Were they all going eastbound?

12 A. Correct.

13 Q. Okay.

14 A. I'm sorry, no, one was going westbound.

15 Q. Okay. And out of the seven cars that were  
16 going eastbound, were they all positioned in a stopped  
17 line of traffic or were they kind of scattered in the  
18 right-hand lane --

19 A. So --

20 Q. -- prior to the crash?

21 A. -- prior to the crash they were all going  
22 eastbound. But like I testified to before, you get  
23 caught in that stopped line of traffic because the  
24 signal eventually down the road doesn't allow for more  
25 than one or two cars to make a turn to get through it.

1       Q. Okay. And did you also listen to dispatch  
2 calls from earlier in the day?

3       A. Related to this event?

4       Q. Yes.

5       A. That's correct.

6       Q. Okay. Did you listen to a dispatch call from  
7 Thomas Ashcroft?

8       A. Yes.

9       Q. And moving forward to trial, would Mr. Ashcroft  
10 be available to testify at trial?

11      A. That's correct.

12      Q. All right. And what was the nature of his  
13 dispatch call?

14      A. He had reported that the defendant's vehicle  
15 was -- and this is back in Penn Township -- was going  
16 west towards Lititz and was traveling at various  
17 positions within the roadway; he indicated within her  
18 lane, in the center of the lane essentially straddling  
19 the double yellow and, you know, having position partly  
20 in both lanes, also to include the oncoming lane.

21      Q. Okay. So that would have been driving towards  
22 his vehicle?

23      A. I believe so. I'd have to review his written  
24 statement to refresh my recollection, but that was the  
25 paraphrasing of his statement.

1       Q. Did you also listen to a dispatch call from a  
2       Cathy Hower?

3       A. I don't believe I listened to her call. I -- I  
4       reviewed a written statement that another member  
5       provided --

6       Q. Okay.

7       A. -- that they obtained from her.

8       Q. And would she be available to testify at trial?

9       A. That's correct.

10      Q. And what was the nature of her written  
11     statement?

12      A. She had indicated, again, that the black SUV  
13     was traveling westbound out in Penn Township. I believe  
14     she had said something to the effect of when the vehicle  
15     passed her it was requiring that the vehicles within her  
16     lane, so traveling eastbound, they needed to move to the  
17     far right position of the eastbound lane so that they  
18     could create enough space so that the westbound vehicle  
19     partially in their lane had enough room to pass them  
20     without striking them.

21      Q. Did she state as to whether she used her horn  
22     at all at her?

23      A. I believe she said she had honked her horn in  
24     an attempt to alert either other motorists or the  
25     defendant of what was happening.

1       Q. Okay. Did you speak with an Ernestine Jacoby  
2 or were you provided with a statement from Ernestine  
3 Jacoby?

4       A. I was provided with a statement.

5       Q. Okay. And would Ernestine Jacoby be available  
6 to testify at trial?

7       A. Yes.

8       Q. And what did Ernest -- or what was the nature  
9 of Ernestine Jacoby's statement?

10      A. Again, she encountered the defendant. I  
11 believe her encounter, the defendant just stopped in the  
12 lane.

13       She went up to the defendant's window,  
14 attempted to make contact with the defendant. I believe  
15 she knocked, got no response. Excuse me.

16       I believe she said she tried the door handle,  
17 the door was locked; couldn't get any response from the  
18 defendant.

19       She indicated that the defendant just stared,  
20 didn't seem to visually make any eye contact with her  
21 and eventually saw that the defendant drove away.

22      Q. Okay. And we heard how Temperance Hill Road is  
23 not a straight roadway.

24       Is the road -- is Orange Street, West Orange, a  
25 straight roadway once it's in the Borough of Lititz?

1           A. Once it's in the Borough, for the most part.  
2 There is one segment as soon as you enter Lititz Borough  
3 that there is a slight left -- I don't want to say turn,  
4 but a light -- slight left curvature.

5           Q. Uh-huh.

6           A. But once you straighten out just prior to the  
7 intersection of Orange and West Second, from that point  
8 the rest of the distance on West Orange Street is  
9 relatively straight, with the exception of just past  
10 where the crash is there is a slight right-hand bend,  
11 and then the rest of it is straight.

12          Q. Okay. And again, from where that intersection  
13 is with that left curve, about how far was your vehicle  
14 positioned from that intersection when you were stopped  
15 in the church parking lot?

16          A. Just to clarify, so the intersection of West  
17 Orange Street and West Second; is that correct?

18          Q. Yes, that's correct.

19          A. So the entrance to the parking lot is literally  
20 20 feet past that intersection.

21          Q. Okay.

22          A. So just inside of it.

23          Q. And between the entrance to that parking lot  
24 until where the crash occurred, about how far is that  
25 distance?

1       A. I would say several hundred yards.  
2                   I previously referred to it as several hundred  
3       feet.

4       Q. Uh-huh.

5       A. I should have referred to it as several hundred  
6       yards.

7       Q. Okay. And the two passengers that were taken  
8       to the hospital and treated for non-life threatening  
9       injuries, was that Nalini Cumberbatch and Gloria  
10      Cumberbatch?

11      A. That is correct.

12      Q. Okay. And all other vehicles, the seven other  
13      vehicles, they were all occupied at the time of the  
14      crash?

15      A. Correct.

16                   MR. HINSEY: I have no further questions at  
17       this time.

18                   JUDGE TOBIN: Thank you, Counsel.  
19       Counsel?

20                   CROSS EXAMINATION

21      BY MR. TALLARICO:

22      Q. Sergeant Hahn, I believe you and Officer Good  
23      say this all happened around 3 p.m.

24                   Does the time of about 3:12 sound like the  
25      approximate time the first 9-1-1 call is coming in?

1       A. I would say that would be accurate, give or  
2 take maybe a couple of minutes either direction.

3       Q. And do you know the -- do you have a time for  
4 the final ending crash?

5       A. I believe that was 1519 or 3:19.

6       Q. 3:19.

7           So it all happened within 10 minutes, give or  
8 take a minute or two probably?

9       A. Correct. So from the time that the -- the call  
10 was initially dispatched to the Regional Police to the  
11 time of the ultimate crash within Lititz Borough.

12       Q. And I believe Officer Good testified, but these  
13 first initial 9-1-1 calls, some of the other  
14 motorists -- motorists called in alerting 9-1-1 that an  
15 ambulance was needed to check on the driver?

16       A. Correct. So there was -- the initial dispatch  
17 is the -- the part of the 9-1-1 request I believe came  
18 subsequent to the initial dispatch.

19           So I don't recall exactly how many minutes  
20 after the initial dispatch, but I know it was at some  
21 point subsequent.

22       Q. And Mr. Hinsey took you through a couple of the  
23 9-1-1 reporters.

24           In addition to the ones that are in the  
25 affidavit and what we talked about today, are there

1 other ones or is that the extent of all the 9-1-1 calls?

2 A. I believe there was a statement from one other  
3 person. I don't believe he was a 9-1-1 caller, I  
4 believe he came forward with information after seeing  
5 everything on the news and realized he had some  
6 information that may be of relevance.

7 But that information was not in the affidavit  
8 of probable cause, it was more or less duplicate to what  
9 had already been established.

10 Q. And so just so I'm clear, the -- the one  
11 witness who called 9-1-1, Cathy Hower, she was going in  
12 the opposite direction?

13 A. I believe so. Again, I would have to read her  
14 statement to say with absolute certainty, but that's my  
15 belief at this point.

16 Q. But she noted that the car was stopped at one  
17 point and she was using her -- her horn and flashers to  
18 get the driver to -- to move or go, drive forward; is  
19 that the --

20 A. I believe -- I believe she was using that to  
21 alert either the defendant or other people on the road.

22 I believe she had indicated that people had to  
23 move right within their own lanes to avoid a collision.

24 Q. Ms. Hower also witnessed though that the  
25 defendant's car was stopped in the roadway for a period

1 of time?

2 A. I'd have to -- I'd have to refresh my  
3 recollection on that. I don't recall.

4 Q. Paragraph 24 of the antepenultimate sentence,  
5 that's the third from the -- or second from the last.

6 A. If I can just have a moment, please?

7 Q. Please.

8 A. Okay. Yes. So in addition to what I had  
9 testified to, she also said that she saw the defendant's  
10 vehicle stopped for a period of time.

11 Q. And I think you discussed Ms. Jacoby. She's  
12 the one who actually went up and tried to make contact  
13 with the defendant?

14 A. Correct.

15 Q. All right. And she was -- at one point she  
16 said she was yelling at the defendant?

17 A. Correct. I believe she was trying to knock on  
18 the window and then tried to get some sort of, you know,  
19 verbal response.

20 Q. She tried to open the door?

21 A. Correct.

22 Q. And so all this time, obviously, Ms. Slaymaker  
23 is stopped?

24 A. Correct.

25 Q. And there was no response to any of that?

1 A. That's what she reported.

2 Q. Okay. And you're the prosecuting officer for  
3 this case?

4 A. That's correct.

5 Q. And after the accident, I assume you or others  
6 within your department retrieved records from the  
7 hospital where Ms. Slaymaker was after the crash?

8 A. That's correct.

9 Q. Did you determine if she was under the  
10 influence of any controlled substances at the time of  
11 the crash?

12 A. There was nothing to indicate that she was  
13 under an influence of alcohol or drugs.

14 Q. And within those records, do you remember  
15 seeing reports that she was in a state of seizure in the  
16 ambulance?

17 A. That's correct.

18 Q. Within the car you didn't find any contraband  
19 items, you didn't charge her with any possessory crimes?

20 A. You're talking about illicit drug possession?

21 Q. Drugs, weapons, nothing like that?

22 A. Correct.

23 Q. At the time of the accident, she was validly  
24 licensed to drive?

25 A. Correct.

1       Q. She didn't have any warrants active for her  
2 arrest as to why she'd be fleeing officers?

3       A. Correct.

4       Q. She didn't?

5       A. No, I'm sorry, no warrants.

6       Q. And you pulled her driver's history?

7       A. I personally didn't, it was done by another  
8 member. But I have reviewed it.

9       Q. Is it true that she has no prior Motor Vehicle  
10 Code violations as a driver?

11      A. I don't -- I don't recall if there was any  
12 motor vehicle violations.

13      I'm aware of her history with regards to her  
14 licensing status, but I -- I can't tell you specifically  
15 if there's been convictions of traffic offenses. I'd  
16 have to refresh.

17      Q. You said her prior licensing status.

18      Do you recall in 2013 she was the subject of a  
19 medical recall?

20      A. Correct. I'm aware that at some point during  
21 2013 she did not have a valid license.

22      Q. And it was subsequently reinstated?

23      A. Correct.

24      Q. Just so we're clear, was the site of the final  
25 crash east of the entrance to Moravian Manor or before

1 that?

2 A. So the closest landmark that I can give you, if  
3 you're looking at your map there, as you go past Warwick  
4 High School, do you see there's a slight right turn and  
5 then there's South Walnut Street to the right?

6 Q. Yes, it bends to the right.

7 A. It would have been prior to -- it would have  
8 been just prior to South Walnut Street.

9 Q. Prior to that elbow there?

10 A. Correct.

11 MR. TALLARICO: Thank you.

12 That's all I have for this witness. Thank you,  
13 Judge.

14 JUDGE TOBIN: Thank you, Counsel.

15 MR. HINSEY: Just -- just very briefly, I  
16 didn't touch on it in my original direct.

17 REDIRECT EXAMINATION

18 BY MR. HINSEY:

19 Q. But you were the -- -- you filed all the  
20 charges that are held within that criminal complaint,  
21 correct?

22 A. That's correct.

23 MR. HINSEY: I have nothing else, Your Honor.

24 JUDGE TOBIN: Thank you.

25 MR. TALLARICO: Nothing else.

1 JUDGE TOBIN: You may step down. Thank you,  
2 sir.

3 MR. HINSEY: Call Sergeant Rodney King.

4 THE WITNESS: Do you want me to go grab him?

5 MR. HINSEY: If you could. Thank you.

6 RODNEY J. KING,  
7 called as a witness, being duly sworn or affirmed, was  
examined and testified as follows:

8 JUDGE TOBIN: You may be seated. And state  
9 your name for the court, please.

10 THE WITNESS: Rodney J. King.

11 JUDGE TOBIN: Thank you.

12 DIRECT EXAMINATION AS TO QUALIFICATIONS

13 BY MR. HINSEY:

14 Q. Good afternoon, Sergeant King.

15 A. Good afternoon.

16 Q. Where are you currently employed?

17 A. Northern Lancaster County Regional Police  
18 Department.

19 Q. And how long have you been so employed?

20 A. I've been a police officer since 1988, so I'm  
21 in my 31st year.

22 Q. And do you have any specialized training in  
23 collision reconstruction?

24 A. I do.

25 Q. And can you briefly discuss that training?

1 A. I've been through all the levels to get up to  
2 reconstruction.

3 After that, I have taken numerous classes,  
4 including advanced reconstruction, pedestrian  
5 reconstruction, energy, applied physics and been to  
6 numerous seminars and so forth.

7 MR. TALLARICO: Judge, I'd stipulate to his  
8 qualifications at this level.

9 MR. HINSEY: And so that he can testify as an  
10 expert as to reconstruction?

11 MR. TALLARICO: Sure.

12 MR. HINSEY: Perfect. Thank you.

13 JUDGE TOBIN: Thank you.

**DIRECT EXAMINATION**

15 BY MR. HINSEY:

16 Q. Did you assist in preparing a -- a  
17 reconstruction report for a crash that occurred on  
18 October 26th, 2018, in front of the Warwick High School  
19 between the hours of 3 and 3:30 p.m.?

20 A. I. did.

21 Q. And based on your reconstruction, how were you  
22 able -- or how did you determine that the crash  
23 occurred?

24 A. Well, the vehicles that were there had left all  
25 the physical evidence to show that there was a -- a

1 crash there. It involved eight vehicles.

2 Q. Okay. And I believe you have in front of you a  
3 picture that has the -- the eight vehicles listed on  
4 there.

5 What kinds of vehicles were they?

6 A. There's a -- a Sienna, which is a van; there's  
7 a Ford Mustang; there's a Dodge Neon; there's a Rogue;  
8 there's a Chevy Sonic; Subaru Forester; a Ford Transit  
9 and a Kia.

10 Q. And based on your reconstruction, how did the  
11 actual crash occur?

12 A. I can show you everything on the diagram, the  
13 cars stayed in the line that they were when they were  
14 hit.

15 So I have -- this is actually a -- an overhead.

16 MR. TALLARICO: Is this the only one?

17 THE WITNESS: No, I have a copy of the same  
18 thing. I can give you a copy to follow along.

19 MR. TALLARICO: Thank you.

20 MR. HINSEY: Thank you.

21 THE WITNESS: This is actually a -- there was a  
22 drone that was out there that took photographs of it.  
23 So this is the mosaic put together of all the cars,  
24 where they were in -- in the line.

25 So all the cars were -- except for the Kia,

1 were stopped in a line of traffic and for the road,  
2 which is going the opposite direction.

3 They were stopped in a line of traffic and  
4 everything was backed up from the red light at South  
5 Broad Street because of traffic from school being let  
6 out.

7 So when the Kia came in, the Kia was traveling  
8 eastbound on West Orange Street. The Sienna was  
9 stopped, all the other cars were stopped.

10 So as the Kia approached the cars that were  
11 stopped, it sideswiped the Sienna. It would have been  
12 on the passenger's side of the Sienna.

13 It sideswiped the Sienna where it hit the  
14 mirror and continued forward and it sideswiped the  
15 Mustang who was parked -- stopped on the road in front  
16 of the Sienna. It hit that one on the passenger's side,  
17 as well, and it hit towards the front end at the wheel  
18 and the tire area.

19 It continued on to the Neon, who was stopped in  
20 front of the Mustang, and it sideswiped the Neon -- Neon  
21 on the passenger's side.

22 It continued on, and then it struck the rear  
23 end of the Sonic that was stopped in front of the Neon.  
24 It hit the -- the Sonic really good on the rear end,  
25 which then propelled the Sonic forward, and the Sonic

1 then hit the back end of the Forester who was stopped in  
2 front of the Sonic.

3                   The Sonic then was redirected north, crossed  
4 over the center lines. And as the Rogue was traveling  
5 the other direction, it hit the side of the Rogue going  
6 the opposite direction and then they both came to rest  
7 there.

8                   After the Sonic hit the Forester, the Forester  
9 was pushed forward and it ran into the Transit.

10                  Now, after the Kia had hit the Sonic, the Kia  
11 continued to travel eastbound where it rolled over, and  
12 as it was rolling over it then came down the side of the  
13 Forester a second time and it ended up coming to rest  
14 off the curb up against the Transit who had stopped  
15 after it was pushed forward a little bit.

16                  Q. And were you able to pull CDR data from the  
17 Kia?

18                  A. I was.

19                  Q. And can you explain to the judge quick what the  
20 CDR data is generally?

21                  A. Vehicles that are equipped with air bags, they  
22 have a module in there that controls the -- the air bags  
23 but also records data that is going on in a crash.

24                  And they -- some -- they record it differently,  
25 but some record up to five seconds pre-crash, some are a

1 little bit longer, a little bit shorter.

2 But it shows data from five seconds pre-crash  
3 related to the speed the vehicle was traveling, steering  
4 inputs, braking inputs, engine idle, RPM and so forth.  
5 We can then access that information and can get it on a  
6 report that shows us how fast the vehicle was going  
7 through five seconds pre-crash.

8 Q. And were you able to determine how fast the Kia  
9 was traveling when it struck the Sonic in the rear?

10 A. Yes. The air bag module itself when it was  
11 read at what they call zero seconds, which would have  
12 been right around the impact point in time, I believe it  
13 was 76 miles an hour, 77 miles per hour.

14 Q. And did the CDR module show the Kia braking at  
15 any point prior to impact?

16 A. It did not.

17 Q. And prior to impact, did the CDR module show  
18 any steering of the Kia?

19 A. It did. About a second -- or about two and a  
20 half seconds to the second and a half before the crash  
21 there was a left steering input of five degrees, then it  
22 came back to zero; then there was a right steering input  
23 of five degrees.

24 And then from one -- one and a half seconds  
25 prior to crash there was left-hand input steering at

1 negative 20 degrees, which would have been  
2 counterclockwise, and it continued that until the  
3 impact, it actually increased to impact.

4 Q. Okay. And steering left, that would have been  
5 from the right shoulder of the lane into the cars that  
6 were actually within the lane of travel itself?

7 A. Yes, it would have been opposite of the  
8 direction of the curb. The curb went to the right, the  
9 steering input was to the left.

10 MR. HINSEY: The Court's indulgence?

11 No further questions, Judge.

12 JUDGE TOBIN: Thank you, Counsel.

13 Counsel?

14 CROSS EXAMINATION

15 BY MR. TALLARICO:

16 Q. Sergeant, you said generally cars that have the  
17 recording systems with the air bags have at least five  
18 seconds?

19 A. Some do, and some don't. It depends on what  
20 model the air bag module is. And in this case it did.

21 Q. So is this one five seconds or is this one --  
22 was this -- did you have more than five seconds before  
23 impact?

24 A. Five seconds.

25 Q. Five seconds.

1           Were you able to extrapolate back where the  
2 recording system stopped, like how far in distance --

3           A. Yes.

4           Q. -- that it went?

5           A. Yes. I can go from where the impact was and  
6 then take -- and it recorded in half-second increments.

7           Q. Okay.

8           A. So half seconds up to five seconds I can see  
9 where the vehicle was.

10          Q. So at the -- at the earliest recording that you  
11 were able to access, where does that put the defendant's  
12 vehicle?

13          A. I would have to get my diagram. I have a  
14 diagram of that. I don't have it with me right now.

15          Q. Does it include the incident around where  
16 Officer Hahn pulled in front of her?

17          A. It would have been after that.

18          Q. It's after that?

19          A. Uh-huh.

20          Q. So sometime between that and the ultimate  
21 ending point?

22          A. Yes.

23          Q. So would you agree with me that from I guess  
24 Second Avenue to the crash site is about three tenths of  
25 a mile? Does that sound right?

1           A. I didn't measure the distance.  
2           Q. You didn't measure that?  
3           A. No. Huh-uh.  
4           Q. At any time during that five seconds is there  
5 any manipulation by the -- by the brake pedal?  
6           A. No, there's not. The brakes were not engaged.  
7           Q. It's all accelerator?  
8           A. Yes.  
9           Q. And is it constant, like, as far as pushing it  
10 down?  
11          A. Uh-huh.  
12          Q. It just keeps accelerating?  
13          A. There was a percentage of the accelerator pedal  
14 that was pushed down, yes. But without having the  
15 report in front of me I won't give you -- I won't quote  
16 a number.  
17          But yes, it was. The accelerator was  
18 depressed.  
19          Q. So even though the defendant is hitting,  
20 what, --  
21          A. It sideswiped three before it hit the Sonic.  
22          Q. -- three -- three cars?  
23          A. Yes.  
24          Q. Still accelerating?  
25          A. Yes.

1 Q. No braking?

2 A. No.

3 Q. And you said about -- somewhere between two  
4 seconds and a second and a half, that's when there's  
5 those series of left-hand and right-hand turns?

6 A. Yes.

7 Q. Or not turns, but moving the steering wheel  
8 left and then right --

9 A. Correct.

10 Q. -- and then left again into the ultimate crash?

11 A. Yes.

12 Q. All right. As the defendant's striking those  
13 first cars, is there any movement of the steering wheel?

14 A. Yes, actually, there was. Because that would  
15 have been right -- she would have been turning the  
16 steering wheel before she started sideswiping those  
17 vehicles, and it continued to go left as she continued  
18 to sideswipe up till the impact.

19 Because it started off at a second and a half,  
20 which was pre-sideswipe of the first one. That's when  
21 it went to 20 degrees left. And then after that it  
22 continued to go further to the left. So there was  
23 steering --

24 Q. Further into -- I'm sorry.

25 A. -- input on the --

1 Q. I'm sorry. Finish what you were saying.  
2 A. There was further left input on the steering  
3 wheel as she continued into the cars until she hit the  
4 Sonic.

5 Q. So it's continuing to turn left as you're  
6 hitting the cars in the lineup?

7 A. Yes.

8 Q. So the first two cars that are getting hit,  
9 basically mirror to mirror?

10 A. The -- the Sienna, which was the first one that  
11 got hit, the only thing that got hit on that was the  
12 rearview mirror on the side.

13 The Mustang that got hit, it was hit further  
14 in. There was more damage to that, especially around  
15 the wheel and the tire because it actually moved the  
16 wheel and damaged the fender.

17 So there was more as it went in.

18 Q. So rather than turning away from any of these  
19 collisions, the defendant's turning into them --

20 A. Yes.

21 Q. -- and accelerating?

22 A. And accelerating.

23 MR. TALLARICO: That's all I have, Judge.  
24 Thank you.

25 JUDGE TOBIN: Thank you.

1                   MR. HINSEY: Nothing further, Your Honor.

2                   JUDGE TOBIN: You may step down, Sergeant.

3                   Thank you.

4                   MR. HINSEY: With that, the Commonwealth would  
5 rest, Your Honor.

6                   JUDGE TOBIN: Thank you.

7                   MR. TALLARICO: Judge, no testimony or  
8 witnesses at this time, just -- just argument.

9                   JUDGE TOBIN: Okay.

10                  MR. TALLARICO: Your Honor, there's a number of  
11 vehicle charges as well as Crimes Code offenses.

12                  Title 18, the first requirement for any  
13 culpability for any of the offenses in the Crimes Code,  
14 including third degree murder; the involuntary  
15 manslaughter, two counts of that; aggravated assault;  
16 simple assault; recklessly endangering another person,  
17 the first requirement, which -- apparently which  
18 everyone always assumes because it's never an issue, is  
19 in Section 301. That's a voluntary act is required.

20                  The testimony at this level of the Court is  
21 very clear, there is witnesses who are calling 9-1-1 for  
22 a driver who was unresponsive, drifting in and out of  
23 the lane.

24                  One other motorist goes to the extent of going  
25 up, tapping on the window, yelling at Ms. Slaymaker,

1 trying to open the door without any success. She then  
2 continues on and keeps driving till the ultimate crash.

3 So this is basically behavior consistent with  
4 someone who is having some kind of a medical emergency.

5 We then know that at the time of the  
6 accident -- I'm sorry, at the time of the ambulance, she  
7 was in an active state of seizure.

8 Then we have more totally irrational behavior  
9 by the fact that she's fleeing police when she had a  
10 valid license. There's no bench warrants for her  
11 arrest. There's nothing in her car that's  
12 incriminating.

13 And then she is actively turning into cars  
14 during these accidents and accelerating.

15 This is involuntary behavior, Your Honor. I'd  
16 ask the Court to dismiss those counts, first off.

17 The other ones, there is some case law that  
18 someone who is under a medical condition, if there is  
19 prior knowledge, as far as Vehicle Code violations. But  
20 we can't even meet the voluntary act that's required for  
21 any Crimes Code violations to go forward.

22 So I would ask the Court to dismiss those.

23 JUDGE TOBIN: Thank you.

24 Counsel?

25 MR. HINSEY: Your Honor, for criminal homicide

1 the Commonwealth must show a *prima facie* case that the  
2 defendant, with malice, caused the death of another.

3       The rest of the charges, including homicide by  
4 vehicle and voluntary manslaughter, aggravated assault,  
5 aggravated assault by vehicle, simple assault by vehicle  
6 and recklessly endangering another person all deal with  
7 a mens rea of recklessness, gross negligence.

8       Here we heard testimony today about all of the  
9 behaviors while driving.

10       To show malice, the Commonwealth must show,  
11 based on case law, any of the following driving  
12 behaviors:

13       Failing to yield to officers' lights and  
14 sirens; failing to respond to other motorists' pleas for  
15 help or their signals to -- to get attention of the  
16 motorist; failing to stop after a crash; traveling in  
17 excess of the speed limit, here it was three times the  
18 speed limit at the time of the final crash; traveling at  
19 a high rate of speed on a road with high vehicle and  
20 pedestrian traffic; passing vehicles in an unsafe  
21 manner; failing to brake before crashing; and steering  
22 into other vehicles.

23       Here there is testimony on every single one of  
24 those points which help sustain the malice mens rea  
25 needed for prosecution.

1       I would also submit to the Court that those  
2 driving behaviors also satisfy the elements of reckless  
3 and gross negligence on the remaining counts.

4       I believe today that the Commonwealth has shown  
5 a prima facie case that crimes did, in fact, occur on  
6 October -- on October 26th, 2018, and that the defendant  
7 is the one that committed those crimes.

8       I ask this Court to bind all charges over to  
9 the Court of Common Pleas.

10       JUDGE TOBIN: Thank you, Counsel.

11       Okay. Based upon the information provided to  
12 this Court this afternoon, I am gonna find that the  
13 Commonwealth has produced prima facie evidence with  
14 regard to charges committed in the complaint.

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16       (The hearing concluded at 2:36 p.m.)

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## EXHIBIT B

Opinion and Report of Dr. Brett DiGiovanna, delivered to J. Totaro and the Commonwealth

## EXHIBIT C

Opinion and Report of Dr. Scott Mintzer, delivered to J. Totaro and the Commonwealth

## EXHIBIT D

Opinion and Report of Dr. Kathryn Davis, delivered to J. Totaro and the Commonwealth