



RAFIDI, PALLANTE & MELEWSKI, LLC
ATTORNEYS AT LAW

TESTIMONY – HOUSE BILL 27
Civil Justice Committee
March 12, 2019

Chairman Hambley, Vice Chair Patton, Ranking Member Brown and members of the Civil Justice Committee, thank you for the opportunity to provide proponent testimony on House Bill 27.

EXECUTIVE SUMMARY

I have the honor and privilege of representing Renee McConnell and her family arising out of a catastrophic collision with an untrained, inexperienced patrol officer on a high-speed pursuit that involved speeds exceeding 75mph in a residential neighborhood. At the time of the collision, the officer had lost visual contact with the suspect for over 1.3 miles. Nevertheless, the officer ran a right light on a blind intersection without checking for cross-traffic. A massive collision occurred between the patrol car and Renee's sedan.

Renee suffered extreme and permanent physical injuries that will be with her for the rest of her life. Taking into account Renee's past and future medical expenses, lost wages and other economic losses, Renee's economic damages exceed Four Million Dollars. Beyond the economic loss, Renee suffered and continues to suffer mental, physical and emotional pain. In addition, this was a life changing event to the whole McConnell Family. It not only has impacted Renee – but it has had profound and damaging impact on her husband Paul and four daughters RyAnn, Emily, Leah and Rachel.

Unfortunately, under the current language of R.C. 2744.02, Officer Dudley and Coitsville Township gets immunity for Officer Dudley's negligent driving. The current statute forces Renee to have to prove that Officer Dudley's conduct rises to the level of willful or wanton to get any form of recovery. The practical result is that Renee has been fighting a court case for over three and a half years and counting. Every victory Renee wins at the court house has led to another appeal by the township.

H.B. 27 would make a tremendous difference in cases like Renee's. A clear negligence standard – rather than a wanton or willful standard – would allow Renee get the justice she deserves rather than being stuck in extended, expensive litigation where the burden to get justice is higher on Renee because she was struck by a first responder as opposed to any other political subdivision employee or private citizen.

THE JUDGE EBEN NEWTON HOUSE, 105 N. BROAD STREET CANFIELD, OHIO 44406

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SEPTEMBER 18, 2013

Renee McConnell (“Renee”) was born and raised in the Mahoning Valley. She is married to Paul McConnell, a teacher with the Youngstown City School and the mother of four daughters, RyAnn Heller, Rachel McConnell, Leah McConnell and Emily McConnell ranging from ages 17 to 34. Renee has dedicated her life to helping the autistic population. For the past ten years, Renee has worked for The Paula and Anthony Rich Center for the Study and Treatment of Autism (“Rich Autism Center”) at Youngstown State University (“YSU”). The Paula and Anthony Rich Center for the Study and Treatment of Autism is an externally funded unit of YSU.



On September 18, 2013, Renee McConnell was driving down McGuffey Road in Youngstown, Ohio just before 8:00am. She was on her way to the Rich Autism Center where she was about to fulfill a career-long dream of becoming the Director of the Rich Autism Center.

As Renee proceeded through the green traffic light at the intersection of McGuffey Road and Lansdowne Boulevard and before she could see or hear any warning sign, Renee’s vehicle was struck at a high rate of speed by a Coitsville Township Police cruiser; forever changing her life.

THE COLLISION

Renee was struck by Officer Donald Dudley – an inexperienced part-time patrol officer who received no training on pursuit driving. Prior to September 18, 2013, Officer Dudley had only been on the job for a little over two years. His training was inadequate. He was never trained in pursuit driving. His experience was very limited. He had never been on a police pursuit – in fact- he had never gone through a stop sign or red light with his lights and siren on.

On September 18, 2013, Officer Dudley was the sole police officer on duty for the Coitsville Township Police Department. At around 7:45am, he was dispatched to the intersection in Youngstown, Ohio due to a possible theft of a vehicle. The entire incident was captured on the officer’s dash-cam.

Officer Dudley arrived at the intersection and discovered the suspects and was given a golden opportunity to apprehend both suspects. Instead he pulled his vehicle behind the suspects and watched as they exited their vehicle, unlatched the stolen vehicle, and re-entered the suspects’ vehicle before pulling away slowly. This occurred over a period of ninety (90) seconds. During that time, Officer Dudley did not report to dispatch that there were two suspects; he did not report that the suspects exited their vehicle; he did not use his megaphone to make any commands to the suspects. During this time Officer Dudley made no attempt to arrest the suspects. He never turned on his emergency lights; he never turned on his emergency siren; he never commanded the suspects to stop, freeze or stay in their vehicle; he made no effort to stop the suspects from dumping the stolen vehicle and pulling away. He merely sat in his police cruiser and watched for about a minute and a half without doing anything to stop it.

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After watching the suspects slowly pull away, Officer Dudley waited about 9 seconds before beginning his “pursuit.” Coitsville has a pursuit policy. Officer Dudley may have reviewed it once on his first day of orientation. He never saw it again. Not surprisingly, Officer Dudley committed numerous violations of the pursuit policy.

One of the most egregious facts is the from the moment Officer Dudley began his “pursuit” until he made collided with Renee, the suspects’ vehicle was never visible on the dash cam. Officer Dudley was out of his jurisdiction, on unfamiliar roads, driving at speeds exceeding 75 miles per hour. This all occurred on residential streets at 8:00am on a weekday - a time when people are going to work and children going to school. In fact, a local high school is less than .2 miles from where the collision occurred.

Five hundred (500) feet before the intersection, Officer Dudley had a clear view of the red light at the intersection of Lansdowne Boulevard and McGuffey Road – yet he did not know it was red. The Ohio State Highway Patrol determined that Officer Dudley had the red light for 42 seconds. This did not make any difference because Officer Dudley never looked at the light. Officer Dudley knew he was approaching a blind intersection and never looked to his left or right to see if another car was coming. According to black box, Officer Dudley pressed the accelerator 3 seconds before the collision and did not take his foot off the accelerator until .5 seconds before impact. He had traveled about 1.3 miles without any visual contact with the suspect’s vehicle.

As Renee proceeded through the green traffic light at the intersection of McGuffey Road and Lansdowne Boulevard and before she could see or hear any warning sign, Renee’s vehicle was struck at a high rate of speed by Officer Dudley. Renee’s vehicle travelled a total of 34 feet after the initial collision. Her car was thrown eight feet before slamming off of a telephone pole which caused it to flip upside down and slide on its roof.

THE TRAGIC AND PERMANENT DAMAGE

Renee suffered extreme and permanent physical injuries that will be with her for the rest of her life. As a result of the collision, Renee’s car was flipped upside down and the top of Renee’s head was scalped. Blood poured out all over the car and onto the firefighters who had to extract her from the vehicle. She was transported to St. Elizabeth’s Hospital where she would stay for the next 22 days.



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As a direct and proximate result of that collision, Renee suffered numerous traumatic and permanent physical, mental and emotional injuries. Below is a nonexhaustive list of some of the injuries Renee suffered:

- Scalp laceration and degloving; remains scarred and extremely sensitive;
- Collapsed lung requiring a chest tube; reduced lung capacity due to amount of scar tissue.
- 17 rib fractures; rib cage healed unevenly leaving her in constant and permanent pain
- Vision impairment including detached retina, intraocular pressure in her eyes and floaters; posterior vitreous detachment, high myopia OU, and blunt trauma
- Fractures at all levels of her spine including C2 fracture, L 2-3 TP fracture, lumbar transverse process fracture, and dislocation of T4-5 thoracic vertebrae;
- Manubrium and sternal fracture
- Right shoulder pain;
- Cognitive issues including memory loss;
- Scarring on right calf and knee;
- Scarring under arm pits where chest tubes were placed;
- Chipped teeth;
- Left wrist laceration with permanent scarring and limited range of motion; suffered ligament damage and required routine cortisone shots; TFCC (triangular fibrocartilage complex) injury which will require surgery;
- Left arm is scarring due to shards of glass from window;
- Acute blood loss anemia;
- C-diff;
- Pulmonary contusion;
- Respiratory failure;
- Gastroenteritis and dehydration;
- Panic attacks, anxiety and depression; and
- Traumatic brain injury

Taking into account Renee's past and future medical expenses, future lost wages and other economic loss, Renee's economic damages exceed Four Million Dollars. Beyond the economic loss, Renee suffered and continues to suffer mental, physical and emotional pain. In addition, this was a life changing event to the

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whole McConnell Family. It not only has impacted Renee – but it has had profound and damaging impact on her husband Paul and four daughters RyAnn, Emily, Leah and Rachel.

THE CURRENT INJUSTICE

Officer Dudley has tried to accept responsibility for this tragedy. Under oath, Officer Dudley testified as follows: **“I am taking responsibility for what I did. I don't know if I'm using the wrong word, but I'm not happy that this occurred, if that's what are you trying to say, I'm not happy about this at all.”** Unfortunately, under the current language of R.C. 2744.02, Officer Dudley and Coitsville Township gets immunity for Officer Dudley's negligent driving. The current statute forces Renee to have to prove that Officer Dudley's conduct rises to the level of willful or wanton to get any form of recovery. The practical result is that Renee has been fighting a court case for over three and a half years and counting. Every victory Renee wins at the court house has led to another appeal by the township.

H.B. 27 would make a tremendous different in cases like Renee's. A clear negligence standard – rather than a wanton or willful standard – would allow Renee get the justice she deserves.

On behalf of the McConnell family, we support H.B. 27. Unfortunately, I am unable to attend the March 12, 2019 committee hearing; however, if anyone wishes to discuss this further, do not hesitate to contact me.



Ryan J. Melewski