

Zenk Sentencing Submission # 1

The death of Mrs. Crystal Taman is a tragedy.

The accused bears the responsibility for Ms. Taman's untimely death. For this death he publicly accepted criminal responsibility when he pleaded guilty to the offence of dangerous driving cause death some weeks ago.

Mrs Taman – wife, mother of 3, daughter, sister and friend to many was 40 years of age on February 25, 2005.

As the morning February 25, 2005 dawned Crystal Taman, a dental assistant, would ready herself for work and prepare to set out from her home shortly before 7 am southbound on Highway 59 to her place of work driving her 1991 Chevrolet Sprint

convertible. Sadly she would not return home that day to her family in fact she would not even make it to work.

The morning was typical for winter in Winnipeg – the temperature -17 celcius, winds from the north, overcast and visibility unrestricted.

Mrs Taman died alone, without family and friends at her side, at the intersection of Highway 59 and Highway 101. There she was stopped for a red light, waiting behind another vehicle also waiting on the traffic light to change from red to green.

The accused, then a member of the Winnipeg Police Service, completed a work shift during the evening of February 24, 2005. Following work he met up with other members of the Service who were gathered at a local restaurant and bar for food and drink. Much like any night out with friends and colleagues no one paid attention to who ate what, who drank alcohol and who did not.

The accused remained at the after work meeting place with the group and at some point near closing time he departed with others to the home of a workmate.

When questioned about the activities of the accused no one recalled much of his activities that evening and expressed opinions that he likely would have had some alcohol but what and how much they did not know and at no time did he appear to be affected at all by alcohol that evening.

The home owner related that the gathering came to an end when he began to clean up and retire for the evening / morning near to or just after 4 am on February 25. He added that some of his colleagues remained at the home and when he woke around 6:30 am those who remained were reading to leave. One of those persons was the accused.

The accused, 32 years of age, was driving a black 1995 Dodge Dakota pickup truck.

The accused like Mrs. Taman was travelling southbound on Highway 59.

The speed limit on this section of Highway 59 is 80 KPH.

Approaching the intersection of Highway 59 and 101 like the accused was another driver. The driver related that as he approached the intersection he could see that the traffic light was red and that he observed two vehicles stopped at the intersection. He further stated that as he began to slow he noticed the black pickup drive by him in the left or median lane at what he believed to be the speed limit colliding with the Taman vehicle which was then pushed forward into the lead vehicle.

The impact was severe and the Jaws of Life required to extricate Mrs Taman from the vehicle.

Note: Time to Show Photos

East St. Paul Police attended to the scene and also requested investigative assistance from both the RCMP and the WPS.

The work of both the RCMP and the WPS investigators in this matter was most helpful.

RCMP Cst. C. Blandford, Forensic Traffic Collision

Reconstructionist, then of D Division, now in Alberta attended the scene and prepared a detailed report of his findings (100 page report).

File the report

The findings are,

1. No braking evidence identified to the Zenk vehicle.
2. No skid marks from the Zenk vehicle.

Both of which indicate no attempt to avoid a collision

3. Momentum analysis (speed) could not be conducted because of secondary impact
4. He found through an electrical equipment analysis that both the deceased vehicle and front vehicle had 2 brake lights on at impact
5. The accused would have had advance warning because of the overhead lights which activate and remain on for 8 seconds before yellow light activates and the yellow light is on for 4 seconds before the red light is activated.
6. Therefore approximately 12 seconds where the accused did not brake before red light activated.

In addition through statements obtained by the WPS there is anecdotal historical evidence of alcohol consumption by the accused sometime prior to the collision.

The investigation however does not permit conclusions to be drawn from this history. Thus proof of impairment would be difficult at best.

The tragic effects and devastating consequences of motor vehicle fatalities heard in the voices of the victims who suffer personal loss present difficult and complex issues for courts to deliberate upon.

Determination of the appropriate sentence for a senseless death caused in many cases as in this case in this proceeding by a person of otherwise good intent and background who has made a grave and terrible mistake is a difficult task.

It is recognized that the court proceedings bring some closure to the victims' nightmare but the loss will never be recovered.

The case authorities filed, in most cases involving similar factual circumstances, are from almost every year since 1999. All recognize that the sentencing process in criminal cases

contributes to the respect for law and the maintenance of a safe community.

The considerations therefore include,

- a) protection of the public,
- b) denunciation of the unlawful conduct
- c) specific/individual and general deterrence
- d) rehabilitation
- e) reparation
- f) promoting a sense of responsibility in the offender and acknowledgement of the harm done
- g) retribution – a sentence that reflects the moral blameworthiness of the particular offender – this principle is not about vengeance

In this case the accused,

- a) has no prior record
- b) impairment is not a matter that can be proven

c) the estimated speed was within the posted limit.

d) Erratic driving was not observed