

1 IN THE SUPERIOR COURT OF FULTON COUNTY

2 STATE OF GEORGIA

3  
4 MALCOM SMITH,

5 Plaintiff,

6 vs.

CIVIL ACTION FILE  
NO. 2012-CV-223874

7 PATIENCE AJUZIE,

8 Defendant.  
~~~~~

9  
10 VIDEOTAPED DEPOSITION OF

11  
12 BRUCE WAYNE GUILLORY, II

13  
14 October 16, 2013

15 12:26 p.m.

16  
17 Suite 1040

18 900 75 Circle Parkway

19 Atlanta, Georgia

20  
21 Richard Bursky, RMR, CRR, CCR-2509  
22  
23  
24  
25

APPEARANCES OF COUNSEL

On behalf of the Plaintiff:

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Also Present:

TERRY WETZ, Videographer

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PREVIOUSLY MARKED EXHIBITS

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(Original exhibits have been attached to the original transcript.)

1 VIDEOTAPED DEPOSITION OF BRUCE WAYNE GUILLORY, II

2 October 16, 2013

3 (Reporter disclosure made pursuant to  
4 Article 10.B. of the Rules and Regulations of the Board  
5 of Court Reporting of the Judicial Council of Georgia.)  
6

7 THE VIDEOGRAPHER: We are on the record. The  
8 time is approximately 12:26. This is the  
9 beginning of Tape 1 of the videotaped deposition  
10 of Bruce Guillory in the matter of Smith versus  
11 Ajuzie. Today's date is October 16, 2013.

12 My name is Terry Wetz, legal video specialist.  
13 Would counsel present please identify themselves  
14 and who they represent for the record.

15 MR. BUTLER: Jeb Butler on behalf of Plaintiff  
16 Malcom Smith.

17 MR. HIESTAND: Trevor Hiestand for the  
18 Defendant Ajuzie.

19 THE VIDEOGRAPHER: Thank you, counsel. Would  
20 the court reporter please swear in the witness.

21 BRUCE WAYNE GUILLORY, II,  
22 having been first duly sworn, testifies as follows:

23 MR. BUTLER: This will be the deposition of  
24 Mr. Bruce Guillory taken pursuant to notice,  
25 subpoena and agreement taken pursuant to the Civil

1 Practice Act for all purposes permitted by the  
2 Civil Practice Act including use at trial.

3 We are sitting now at the office of defense  
4 counsel, Mr. Hiestand. We have already announced  
5 ourselves.

6 DIRECT EXAMINATION

7 BY-MR.BUTLER:

8 Q. So, Mr. Guillory, would you state your name  
9 for the record, please?

10 A. Bruce Guillory.

11 Q. Did you observe a wreck at the intersection of  
12 Northside Drive and Martin Luther King Drive on or  
13 about December 3, 2010?

14 A. Yes, sir.

15 Q. At the time, what were you doing? Were you a  
16 student at the time?

17 A. Yes, sir.

18 Q. Where at?

19 A. Clark Atlanta University.

20 Q. Did you know my client, Malcom Smith, before  
21 this wreck?

22 A. No, sir.

23 Q. Did you know any of the people who were  
24 involved in this wreck at any time before this wreck?

25 A. No, sir.

1 Q. How did you come to be at that intersection?  
2 Where were you coming from?

3 A. I was coming from Clark Atlanta headed to  
4 church.

5 Q. Headed to?

6 A. Church.

7 Q. How did you approach the intersection? What  
8 road were you coming and in what direction?

9 A. I was on MLK, headed eastbound.

10 Q. You can use Plaintiff's Exhibit 1 for  
11 reference if you need to. As you headed eastbound on  
12 MLK to the intersection, what were you planning to do  
13 at the intersection? Were you planning to go straight  
14 or turn left or turn right?

15 (Witness reviewing document.)

16 A. I don't remember.

17 Q. Let me ask you this, then: What lane were you  
18 in on MLK?

19 A. I was in the right turning lane.

20 Q. At the time of the wreck that you observed,  
21 were you stopped or were you still moving?

22 A. I was stopped.

23 Q. Were there any cars between you and the  
24 intersection?

25 A. No, sir.

1 Q. The wreck that you observed, was that between  
2 a black Kia SUV and a gold-colored Tahoe SUV?

3 A. Yes, sir.

4 Q. Tell us in general terms what those two  
5 vehicles were doing, what direction they were moving  
6 and on what roads.

7 A. The black Kia was traveling southbound on  
8 Northside and the gold Tahoe was in the turning lane on  
9 Northside going northbound.

10 Q. Is that when you first saw the Tahoe, it was  
11 headed north on Northside and in the left-hand turn  
12 lane?

13 A. Yes, sir.

14 Q. What if anything did you see the Tahoe do  
15 after you observed it in the left-hand turn lane of the  
16 northbound side of Northside Drive?

17 A. It was behind a vehicle blowing a horn, in my  
18 assumption, trying to get the vehicle to push through  
19 the light. And it swerved around the vehicle and tried  
20 to attempt a left turn on MLK westbound.

21 Q. You said, you referred to a vehicle blowing  
22 the horn. Was that the Tahoe blowing its horn or a  
23 different vehicle?

24 A. That was the Tahoe.

25 Q. Do you know how many times the Tahoe blew its

1 horn?

2 A. No, sir.

3 Q. How many vehicles -- let me just see if I can  
4 clear this up for the record and for the jury. When  
5 the Tahoe was sitting in the left turn lane on the  
6 northbound side of Northside Drive, were there any  
7 vehicles ahead of the Tahoe in the left turn lane?

8 A. Yes, sir.

9 Q. And is that the vehicle that the Tahoe cut  
10 around?

11 A. Yes, sir.

12 Q. Tell us what happened after the Tahoe  
13 attempted to cut around the vehicle that was sitting  
14 ahead of it in the left-hand turn lane.

15 A. After it made the turn, it hit the black Kia  
16 in the middle of the intersection southbound.

17 Q. Look at Plaintiff's Exhibit 2, if you will,  
18 which is a Google map image sitting there in front of  
19 you. Who drew the mark on that map?

20 (Witness reviewing document.)

21 A. Me.

22 Q. Tell us what that mark represents, please.

23 A. What it represents, this area is the Tahoe in  
24 the northbound turn lane on Northside behind the  
25 vehicle that was there and how it swerved around that



1 vehicle to make the left turn on MLK.

2 Q. Did it appear to you that the Tahoe failed to  
3 maintain its lane?

4 MR. HIESTAND: I am going to put an objection  
5 on the record to the extent that that is an  
6 ultimate conclusion of the law. That is for the  
7 jury to determine and not for this lay witness.

8 Q. (By Mr. Butler) You can go ahead and answer.

9 A. What was the question?

10 Q. Did it appear to you that the Tahoe failed to  
11 maintain its lane?

12 A. Yes.

13 Q. You referred to the impact between the Tahoe  
14 and the Kia. Did that occur on the southbound side of  
15 the intersection or on the northbound side of the  
16 intersection?

17 A. It happened on the southbound side.

18 Q. Look at Plaintiff's Exhibit 1, which is also  
19 in front of you, please. Who made the Sharpie mark on  
20 Plaintiff's Exhibit 1?

21 A. I did.

22 Q. What does it show?

23 A. It shows the point of impact.

24 Q. Is the point of impact as you recall and as  
25 depicted in Plaintiff's Exhibit 1 in the straight lanes

1 for southbound traffic on Northside Drive or is it in  
2 the left turn lane for southbound traffic on Northside  
3 Drive?

4 A. It is in the straight lanes for southbound  
5 traffic.

6 Q. I would like to ask you a little bit about the  
7 traffic lights. As you sat on MLK heading eastbound,  
8 what color was your light?

9 A. My light was red.

10 Q. Do you know what color the light was for the  
11 traffic headed north and south on Northside Drive?

12 A. Yes, sir, they were green. The turning lanes  
13 had the green yield light.

14 Q. So just so we are clear, sometimes there is  
15 what we might call a green circle light and other times  
16 there is a green arrow saying you can turn left.

17 A. Yes, sir.

18 Q. Did traffic have, did northbound and  
19 southbound traffic on Northside Drive have the green  
20 circle light or the green turn signal?

21 A. The northbound side had the green circle. I  
22 couldn't see the southbound. In my assumption it did.

23 Q. That would mean, in other words, that traffic  
24 headed north on Northside Drive would have to yield if  
25 it wanted to turn left; is that right?

1 A. Yes, sir.

2 MR. HIESTAND: Objection, leading.

3 Q. (By Mr. Butler) What would that traffic signal  
4 mean with respect to traffic that was turning left off  
5 of Northside Drive and on to MLK, had to do?

6 A. It means that you have to watch for oncoming  
7 traffic coming southbound before you can make the left  
8 turn.

9 MR. HIESTAND: Objection, conclusion of law.

10 Q. (By Mr. Butler) It is your understanding that  
11 the Tahoe, based on that turn signal, would have had to  
12 yield?

13 A. Yes, sir.

14 Q. Do you recall whether the Tahoe had its  
15 headlights on or its blinker on?

16 A. No, sir.

17 Q. Did you ever at any point see the Kia in the  
18 left-hand turn lane?

19 A. No, sir, I didn't.

20 Q. Did you ever see the Kia attempting to turn  
21 left?

22 A. No, sir.

23 Q. At the time of the impact, I would like to ask  
24 you about what direction the Kia was pointing. And if  
25 we look at Plaintiff's Exhibit 1, which is in front of

1 you, and imagine that a vehicle pointing due north  
2 toward the top of the page would be the 12:00 position,  
3 I would like to ask about the orientation of the Kia at  
4 the time of the wreck. What point on the clock would  
5 it have been pointing toward at the time of the wreck?

6 A. Six.

7 Q. In other words, due south?

8 A. Yes, sir.

9 Q. Would about the Tahoe, was it pointing due  
10 north or did it appear that it was trying to turn a  
11 little bit to the left?

12 A. It appeared that it was trying to turn a  
13 little bit to the left.

14 Q. What point on the clock would you give it?

15 A. I would say 11.

16 Q. What did you do -- strike that.

17 Have you signed any written statements in this  
18 case?

19 A. Yes, this affidavit.

20 (Plaintiff's Exhibit 3 was marked for  
21 identification.)

22 Q. (By Mr. Butler) I am going to hand you what  
23 has been marked as Plaintiff's Exhibit 3. Does that  
24 appear to be the statement that you signed?

25 (Witness reviewing document.)

1 A. Yes, sir.

2 Q. Is all the language in that statement true and  
3 accurate and correct?

4 A. Yes, sir.

5 Q. Who did you meet with when you signed that  
6 statement?

7 A. Mr. Danny Agan.

8 Q. Do you understand him to be an investigator  
9 for the law firm where I work?

10 A. Yes, sir.

11 Q. At the time you signed that statement, had you  
12 spoken with Mr. Agan before or not?

13 A. Yes, I had.

14 Q. Does the language in that statement reflect  
15 your recollections of the wreck?

16 A. Yes, sir.

17 Q. Is that why you signed it?

18 A. Yes, sir.

19 Q. Did Mr. Agan try to put words in your mouth or  
20 anything like that?

21 A. No, sir.

22 Q. What did you do after this wreck occurred?

23 A. After impact or --

24 Q. Yes, after impact.

25 A. I pulled my car into the southbound right lane

1 of Northside and we went to try to help the people who  
2 were part of the wreck.

3 Q. Who did you try to help?

4 A. I went to the gold Tahoe. There was a young  
5 man in the back seat, a young lady in the driver seat,  
6 and another young guy in the passenger seat of the gold  
7 Tahoe, the front passenger seat.

8 Q. Did you ever talk to any police officers?

9 A. Yes.

10 Q. Tell us about that, please. What did you say?

11 A. He asked what I saw, and I told him exactly  
12 what I saw. The gold Tahoe was in the turning lane and  
13 he made the left. He swerved around the vehicle, made  
14 the left turn on to MLK.

15 Q. Let me stop you there. I think that the  
16 driver of the Tahoe was actually a lady. But I think  
17 you used the pronoun "he."

18 A. I am sorry. I keep saying he. Yes, it was a  
19 lady.

20 Q. Go ahead.

21 A. She was in the left turning lane, and there  
22 was a vehicle in front of her and she swerved around  
23 the vehicle in front of her and tried to make the left  
24 turn on to MLK. And that's when she made contact with  
25 the Kia.

1 Q. In other words, did you tell the officer the  
2 same basic things that you told us here today?

3 A. Yes, sir.

4 Q. Did you also give the officer your contact  
5 information?

6 A. Yes, sir.

7 Q. Did he say anything about whether anyone would  
8 contact you in the future?

9 A. He said somebody will call.

10 Q. Did that police officer or anyone from the  
11 police officer's office ever call you?

12 A. No, sir.

13 Q. At any time after that?

14 A. No, sir.

15 Q. How long were you on the scene before the  
16 officer said you could go?

17 A. I would say roughly 20 minutes, max.

18 MR. BUTLER: Let's go off the record a second  
19 while I look over my notes. I think this is  
20 probably going to be it.

21 THE VIDEOGRAPHER: We are off the record. The  
22 time is 12:38.

23 (Pause.)

24 THE VIDEOGRAPHER: We are back on the record.  
25 The time is 12:39. You may continue.

1 Q. (By Mr. Butler) Mr. Guillory, I wanted to ask  
2 you just briefly about what the Tahoe and the Kia did  
3 after the wreck. Do you know one way or another how  
4 the Tahoe and the Kia moved after the collision  
5 occurred?

6 A. No, sir.

7 Q. Do you think that they did move some or do you  
8 know at all one way or the other?

9 A. I don't really remember.

10 MR. BUTLER: That's all the questions I have.

11 CROSS-EXAMINATION

12 BY-MR.HIESTAND:

13 Q. Sir, just to be sure the jury understands your  
14 testimony, this accident would have occurred basically  
15 right in front of you, correct?

16 A. Yes, sir.

17 Q. Now, you did not see the Kia before the  
18 impact; is that correct?

19 A. Correct.

20 Q. First time you saw it would have been right  
21 when the impact occurred?

22 A. Yes, sir.

23 Q. And as a result of that impact, you don't know  
24 if the Kia went up in the air or if it bounced back?  
25 You don't know any movements that the Kia made after



1 the impact?

2 A. No, sir.

3 Q. Likewise with the Tahoe, you don't know what  
4 motions the Tahoe made after the impact; is that  
5 correct?

6 A. No, sir.

7 Q. And you don't know how fast either one of  
8 those vehicles was going when the impact occurred?

9 A. No, sir, I don't.

10 Q. The impact was, I think you said, almost  
11 head-on, correct?

12 A. (Indicating affirmatively.)

13 Q. And it happened in the intersection?

14 A. (Indicating affirmatively.)

15 Q. In the middle of the intersection?

16 A. Yes, sir.

17 Q. And after the vehicles did come to rest, they  
18 were both still in the intersection?

19 A. Yes, sir.

20 Q. In the middle of the intersection?

21 A. Yes, sir.

22 Q. You stayed after the impact and you spoke to  
23 the investigating police officer?

24 A. Yes, sir.

25 Q. And there was a Mr. Radcliffe who has given

1 some testimony in this case, in fact just before you  
2 today, and I think you said you saw Mr. Radcliffe as  
3 you were coming in; is that correct?

4 A. Yes, sir.

5 Q. And you recognized him?

6 A. Yes, sir.

7 Q. As being one of the witnesses at the scene of  
8 this collision?

9 A. Yes, sir.

10 Q. And you saw Mr. Radcliffe speaking, when you  
11 were at the scene of the accident, you saw  
12 Mr. Radcliffe speaking to the police officer; is that  
13 correct?

14 A. Yes, sir.

15 Q. You mentioned that you had met with an  
16 investigator from Mr. Butler's office; is that  
17 correct?

18 A. Yes, sir.

19 Q. And that you don't remember the exact date,  
20 but you know it was sometime in the year 2011, that is,  
21 the year after this accident?

22 A. Yes, sir.

23 Q. And you signed an affidavit in 2011?

24 A. Well, it was 2012.

25 Q. So you met with the investigator in 2011 but

1 the affidavit that has been identified wasn't signed  
2 until 2012?

3 A. Yes, sir.

4 Q. And you didn't actually write out the  
5 affidavit, you just signed it; is that correct?

6 A. Yes, sir, I just signed it.

7 Q. You had been asked a question whether there  
8 were any headlights on the Tahoe at the time of the  
9 accident or if it had its blinker on. And you said,  
10 just to be clear, you don't know whether it did or  
11 did not have its lights or blinker on; is that  
12 correct?

13 A. Yes, sir I don't.

14 Q. It might have, you just don't know?

15 A. I don't know.

16 Q. At the time of this accident, you were a  
17 student at Clark Atlanta; is that correct?

18 A. Yes, sir.

19 Q. So you were fairly familiar with this  
20 intersection?

21 A. Yes, sir.

22 MR. HIESTAND: Sir, I have no further  
23 questions for you. Thank you.

24 MR. BUTLER: Nothing further.

25 THE VIDEOGRAPHER: Stand by. This concludes

1 the videotape deposition. The time is 12:42. We  
2 are off the record.

3

4 (Whereupon, the deposition was concluded at  
5 12:42 p.m.)

6

7 (Pursuant to Rule 30(e) of the Federal Rules  
8 of Civil Procedure and/or O.C.G.A. 9-11-30(e),  
9 signature of the witness has been reserved.)

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C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 20 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 29th day of October, 2013.



RICHARD BURSKY, RMR, CRR, CCR

COURT REPORTER DISCLOSURE

Pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia which states: "Each court reporter shall tender a disclosure form at the time of the taking of the deposition stating the arrangements made for the reporting services of the certified court reporter, by the certified court reporter, the court reporter's employer, or the referral source for the deposition, with any party to the litigation, counsel to the parties or other entity. Such form shall be attached to the deposition transcript," I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Esquire Deposition Solutions. Esquire Deposition Solutions was contacted to provide court reporting services for the deposition. Esquire Deposition Solutions will not be taking this deposition under any contract that is prohibited by O.C.G.A. 9-11-28 (c).

Esquire Deposition Solutions has no contract/agreement to provide reporting services with any party to the case, any counsel in the case, or any reporter or reporting agency from whom a referral might have been made to cover this deposition. Esquire Deposition Solutions will charge its usual and customary rates to all parties in the case, and a financial discount will not be given to any party to this litigation.



RICHARD BURSKY, RMR, CRR, CCR-2509

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DEPOSITION ERRATA SHEET

Our Assignment No. 20259  
Case Caption: Smith v. Ajuzie

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the above-captioned matter or the same has been read to me and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

BRUCE WAYNE GUILLORY, II

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