

Questions about Justice in the State of Georgia

The following is a summary of our crash on May 4, 2013, in Georgia and our concerns and questions about how the investigation was handled.

“On May 4, 2013, I was driving with the three youngest of my nine children (AnnaLeah 17, Caleb 15, and Mary 13) in my Crown Vic from Rocky Mount, North Carolina, on our way to Arlington, Texas, where four of our children were having college graduations and our oldest daughter was getting married on May 11. We were heading out early with the wedding dress which I had sewn to help with wedding preparations.

A little before 2 p.m. on a rainy day in Georgia (Lake Oconee, Greene County), Caleb (in the front seat) and I noticed that traffic had slowed down ahead of us and observed that perhaps there was an accident ahead. The next thing I remember (because I must have been knocked unconscious or blocked it out) is yelling that I felt like I was being squeezed as rescue workers were attempting to get all four of us out with the Jaws of Life.”

This is the accident summary from the crash report:

"Vehicle #1, a bronze in color semi truck pulling a car hauler, was traveling west in the left westbound lane of Interstate 20. Vehicle #2, a blue in color Ford Crown Victoria, was in the right westbound lane traveling west on Interstate 20. Vehicle #3, a purple in color semi truck pulling a box van, was in the right westbound lane of Interstate 20 directly in front of Vehicle 2 and also traveling west. All three vehicles were inside the interchange area of Exit 130 for State Route 44 and Greensboro.

According to witness statements, Vehicle #1 attempted to change lanes and struck Vehicle #2. The area of impact was in the right westbound lane and was determined by the witness statement and from fresh gouge marks found in the roadway. After impact, Vehicle #2 rotated and was struck a second time by Vehicle #1. The second impact sent Vehicle #2 into the rear of Vehicle #3. The rear of Vehicle #2 became lodged underneath Vehicle #3.

Vehicle #1 came to an uncontrolled rest in the right westbound lane approximately 289 feet from the initial area of impact, facing northwest. Vehicle #2 came to an uncontrolled rest in the right westbound, facing east, approximately 253 feet from the initial area of impact. Vehicle #3 came to an uncontrolled rest on the north side of the roadway approximately 278 feet from the area of impact, facing northwest."

AnnaLeah died at the scene--she was in the backseat and there was underride. Mary was also in the backseat and had horrific injuries including gross facial injuries and a carotid artery injury with multiple strokes, broken ribs--dying a few days later.

What followed was a rude awakening to many problems related to truck crashes. We have, since that day, worked diligently to inform ourselves and to speak up as advocates for truck safety and protection and justice for the vulnerable travelers on the roads of our country.

In particular, we would now like to raise the question of justice for crash victims in Georgia. We anticipated receiving a SCRTE Crash Reconstruction Report from the Georgia State Patrol much sooner than the seven months which passed before we received it. And, when we were finally able to read it, it fell far short of our expectations for investigation into the circumstances of the crash which killed our two daughters, AnnaLeah (17) and Mary (13). In fact, our attorney from Atlanta, Georgia,

Rob Register of the Malone Law Firm, was very disappointed in the Report. This summarizes his reaction when we discussed it on the phone after receiving the full report:

“Rob expressed disappointment in two things: first, that there was not more done in the way of analytical reconstruction of the accident (he realizes that evidence could have been lost due to time passed and rainy conditions—no gouges or skid marks) and, second, that the investigator put so much commentary in the report which Rob has not seen in the past and does not think is appropriate. His job was to do an objective analysis of the scene, a reconstruction effort.”

We have many unanswered questions about this investigation, as listed here:

1. Do all of the Georgia State Patrol SCRTE Reports on fatal crashes take over 6 months to produce? Was it the same thing before budget cuts? Are they likely to have their budget for that increased?
2. The SCRTE Report seems to be lacking a number of important details, as indicated in our lawyer's reactions above. Is that normal?
3. A Level 1 DOT inspection was not performed. http://www.cvsa.org/programs/nas_levels.php (It is our understanding from DOT that the state police could have requested help from DOT if they were short staffed.) Why was a Level 1 DOT Inspection **not** performed?
4. Is it the normal practice of the State Police not to obtain the medical card from the driver?
5. Is it normal practice of the State police not to obtain the log books of the driver? (None were mentioned in the SCRTE Report; there was not even a box to check on the Report Form. And there was no mention made of any attempt to reconstruct his hours of service in the hours prior to the accident.)
6. It is our understanding that the driver of the truck was found slumped over the steering wheel and no medical issue has been identified to account for that—stroke, heart attack, epileptic seizure, etc. Why was no investigation into his Hours Of Service (HOS) performed? (<http://www.fmcsa.dot.gov/regulations/title49/section/392.3> , “§ 392.3: Ill or fatigued operator. No driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. However, in a case of grave emergency where the hazard to occupants of the commercial motor vehicle or other users of the highway would be increased by compliance with this section, the driver may continue to operate the commercial motor vehicle to the nearest place at which that hazard is removed. Citation: [35 FR 7800, May 21, 1970, as amended at 60 FR 38746, July 28, 1995]”)
7. Why was the driver of the truck that hit us not charged with every violation that occurred with the accident? E.g., these are all mentioned in the SCRTE Report:
 - driving without a seat belt (<http://www.fmcsa.dot.gov/regulations/title49/section/392.16> , “§ 392.16: Use of seat belts. A commercial motor vehicle which has a seat belt assembly installed at the driver's seat shall not be driven unless the driver has properly restrained himself/herself with the seat belt assembly. Citation: [35 FR 10860, July 3, 1970, as

- amended at 60 FR 38747, July 28, 1995]” ,
 - driving without his headlights when it was raining (<http://www.dmv.org/ga-georgia/safety-laws.php>) ?
 - No log books (<http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Interstate-Passenger-Carrying-Driver-Guide-To-HOS.pdf> , “At the point you start driving in interstate commerce you must have logs with you for your last 7 days.”)
 - No Medical Card (<http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/ETA-Final-508c-s.pdf> . “Medical Examiner’s Certificate* (49 CFR 391.43) *NOTE: DRIVERS MUST BE ISSUED COPIES OF THESE CERTIFICATES. DRIVERS NEED ONLY HAVE A COPY OF THE MEDICAL EXAMINER’S CERTIFICATE IN THEIR POSSESSION WHILE DRIVING”)
 - <http://www.fmcsa.dot.gov/documents/safetyprograms/Medical-Report.pdf>
8. No one in California, prior to being contacted by our family, was informed of this fatal crash or has done any investigation into the truck driver and the circumstances surrounding it. Why did the Georgia Department of Public Safety (<https://dps.georgia.gov/>), which oversees the Georgia State Patrol (<https://dps.georgia.gov/press-releases/2014-08-01/tommy-waldrop-promoted-gsp-commanding-officer>), not inform the Georgia FMSCA Division Field Office (<http://www.fmcsa.dot.gov/mission/field-offices>) in Atlanta so that they could inform the California FMSCA Field Division Office that a truck driver with a California CDL (with poor command of the English language) had been involved in a truck crash with two fatalities? (The Crash Report had the box checked: Recommend Re-exam. No one, apparently was informed of this or took any action on this.)
 9. Why did the Georgia State Police allow the truck driver's sister to be an interpreter for them when questioning the driver at the motel? Is this normal practice?
 10. Why did the Georgia State police not investigate how the driver was able to obtain his CDL license without being able to adequately communicate in English—a requirement for a CDL license (Federal law: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title49-vol5/pdf/CFR-2011-title49-vol5-sec391-11.pdf> , **General qualifications of drivers.**(a) A person shall not drive a commercial motor 391.11 vehicle unless he/she is qualified to drive a commercial motor vehicle. Except as provided in [§391.63](#), a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle.(b) Except as provided in [subpart G](#) of this part, a person is qualified to drive a motor vehicle if he/she—(1) Is at least 21 years old;(2) ***Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;***(3) Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives” and California law: https://www.dmv.ca.gov/pubs/cdl_htm/sec1.htm “The commercial driving test will be administered in the English language only. This is pursuant to *Federal Motor Carrier Safety Administration* regulations §§391.11(b)(2) and 383.133(c)(5).“)?
 11. Why did the Georgia State Police not review the condition of the trailer? Our attorney had it inspected by a third party expert (in conjunction with the truck driver's attorney), who found multiple violations. (Level 1 DOT Inspection: http://www.evsa.org/programs/nas_levels.php)

12. Why did the State Police not follow up on the fact that the insurance which the truck driver had was for **intra**state and not **inter**state (the driver had insurance for a 300 mile radius from Los Angeles)? No charges were filed related to this issue.
13. There were no skid marks at the accident scene and no apparent attempt to stop; so no findings were produced by the State Police as to how fast the truck was going at the time of the crash. Is this normal?
14. The Assistant D.A ., upon his own admission, lacks experience in these types of cases. In terms of the investigation process, what help is there available for him?
15. Does the SCRTE Report, completed on our crash, contain adequate information for the DA to represent the State's interests {our daughters'} in court?
16. We were told that the driver was a “flight risk” and had no money yet he was able to retain one of the most powerful law firms in Atlanta to represent him. (Pines & Ross) Did this fact have any bearing on how this case has been handled?
17. The question comes to mind: **Was the SCRT Report the full extent of the investigation done by the prosecution for the criminal case against Dorj?** An interview the day of the accident of the truck driver and collection of documents related to the accident? Two people died and no one is trying to find out what happened to cause that?

These questions are relevant to our case. And we would like them addressed for that fact alone. But we are also wondering whether this is the normal course of events for fatal crashes in Georgia. If we don't raise these questions, who will? Will they ever be, first of all, acknowledged and, secondly, answered?

Jerry & Marianne Karth, August 6, 2014