

HERTZ,

Plaintiff,

vs.

AYCUP,

Defendant.

_____ /

TRANSCRIPTION OF SWORN DEPOSITION

PHILLIP AYCUP

DECEMBER 3

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1 P R O C E E D I N G S

2 Q. Mr. Aycup, what's your address?

3 A. 74 River Street, Springfield.

4 Q. And your date of birth?

5 A. 10/2/YR-52

6 Q. Are you married or single?

7 A. Married.

8 Q. What's your wife's name?

9 A. Danielle.

10 Q. And does she live with you at that address?

11 A. Yes, sir.

12 Q. How long have you been married?

13 A. 32 years.

14 Q. Who is your current employer?

15 A. Bancroft Bus Lines.

16 Q. How long have you been employed by them?

17 A. Approximately eight and a half years.

18 Q. And was this your first job as a bus

19 driver?

20 A. Yes, sir.

21 Q. Did you do a pre-trip inspection?

22 A. Always.

23 Q. What did they train you to do on a pre-trip

24 check?

25 A. Checking the outside condition of the bus,

1 tires, looking at any damage to the bus, any
2 scratches or dents on the bus that you notice,
3 windshields, side mirrors, any glass on the bus.
4 Checking the emergency exits on the bus; we have
5 two. We have one on each end of the bus - to make
6 sure they're operable. Again, just general looking
7 as to what you can see inside the bus.

8 Then you would go start your bus up, put
9 the lights on, and go outside and check to make sure
10 the headlights are working, the marker lights, and
11 taillights.

12 Q. What specifically did they tell you, if
13 anything, about being aware of pedestrians while you
14 were driving?

15 A. You always want to look out for, as I was
16 told when I first started, for what's around you.
17 You're very attentive to pedestrians, motor
18 vehicles, parked cars because you never know who may
19 come out running between parked cars, extensively on
20 that. They really harped on that as far as paying
21 attention to those areas.

22 Q. And what was the model and type of bus that
23 you were driving on the 18th of November of YR-2?

24 A. It was an MCI motor coach, 47 foot. It
25 held 47 people. I'm not sure of the exact year of

1 manufacture.

2 Q. Had you driven that particular bus before?

3 A. Yes.

4 Q. Do you remember what the date was that this
5 incident occurred?

6 A. It was the 18th of November.

7 Q. What were you doing on the 17th?

8 A. I was at home watching TV during the day,
9 reading the newspaper. My daughter came over for
10 supper with my granddaughter, and my son came over
11 with his wife and their two children; and we had
12 dinner.

13 Q. Do you remember what time you went to bed
14 that night?

15 A. Yes. Approximately 10 o'clock.

16 Q. What time did you get up the next day?

17 A. The next morning, I got up at 5:15 a.m.

18 Q. Was that late for you, 10:00 p.m., to go to
19 bed before a work night?

20 A. No.

21 Q. What time do you typically go to bed?

22 A. Around 10:00-ish, 9:30, 10 o'clock, in that
23 vicinity.

24 Q. In the 24 hours before the accident, did
25 you consume any alcohol?

1 A. No, sir.

2 Q. What time do you remember getting up on the
3 morning of the 18th?

4 A. Approximately 10 minutes of 5:00.

5 Q. What did you do?

6 A. Showered and shaved.

7 Q. What time did you leave the house?

8 A. Approximately quarter of 6:00.

9 Q. Where did you go?

10 A. To work.

11 Q. Where is that?

12 A. Twenty-five minutes from my house to the
13 garage in Flagstaff.

14 Q. Does this particular route that you were
15 driving on the 18th of November YR-2 have a
16 particular name?

17 A. Not a name.

18 Q. Or a number?

19 A. The schedule number would be 12 from
20 Springfield, leaving at seven o'clock arriving at
21 Flagstaff Airport at 9:05. That is the scheduled
22 arrival.

23 Q. How many times have you done that number 12
24 route in the eight years you worked for Bancroft Bus
25 Lines?

1 A. Probably -- and this is an approximation --
2 I would say approximately once a week.

3 Q. So it is fair to say that you did it about
4 once a week for seven years?

5 A. Yes, sir.

6 Q. On the right-hand side, if you looked
7 directly to your right when you're sitting in your
8 driver's seat, is there a door there?

9 A. Yes.

10 Q. And does that have a glass window in it?

11 A. Yes, it does.

12 Q. And did you check that to see if you could
13 observe anything out of the window?

14 A. Yes.

15 Q. How did it look?

16 A. Fine.

17 Q. Did you check the mirrors?

18 A. Yes.

19 Q. How did you check them?

20 A. Visually.

21 Q. Did this bus have manual mirror
22 adjustments, or could you do it automatically?

23 A. Electronically.

24 Q. Did you have to adjust them?

25 A. I don't recall.

1 Q. But you were comfortable about what you saw
2 out your mirrors?

3 A. Yes, sir.

4 Q. And again the side-view mirrors were in
5 good operating condition as far as you remember?

6 A. Yes, sir.

7 Q. Does the pre-trip check include any kind of
8 ?once around the block? just to make sure the engine
9 is running correctly and the steering and the brakes
10 are braking, stuff like that?

11 A. Well, you're driving the bus over to the
12 terminal, which is about a 10-minute drive. So you
13 would notice anything at that point in time.

14 Q. And if there was anything irregular or
15 something wasn't to your satisfaction, you could
16 bring the bus back?

17 A. Yes, sir. And the buses also have phones.

18 Q. And on the trip down from Springfield, did
19 you notice any problems with the bus?

20 A. No, sir.

21 Q. Is it fair to say you're very familiar with
22 this route that you drove that day?

23 A. Yes, sir.

24 Q. As you approached Flagstaff that morning,
25 do you remember whether the bus -- whether you were

1 running on time?

2 A. To my knowledge, my recollection, the bus
3 was not running late.

4 Q. What was the weather like that day?

5 A. Cloudy, partly cloudy I believe, not
6 chilly. The road conditions were dry.

7 Q. No precipitation?

8 A. Not that I am aware of.

9 Q. Do you remember whether there were any
10 passengers sitting in the first say three rows
11 behind you?

12 A. Yes, there were.

13 Q. And as you were driving down from
14 Springfield down into Flagstaff, did you have any
15 problems looking out your windshield?

16 A. No, sir.

17 Q. Any problems looking out your left side
18 window?

19 A. No, sir.

20 Q. Any problems with the side-view mirror on
21 your left-hand side?

22 A. No, sir.

23 Q. How about to your right, any problems
24 looking out the window on your right?

25 A. No, sir.

1 Q. At some point you stopped at Haymarket and
2 discharged some passengers. What do you remember
3 happening after that?

4 A. Proceeding up to the light. As a matter of
5 fact the light was green, so when I got through
6 discharging the passengers I closed the door, looked
7 in my left-hand mirror to make sure I could leave,
8 and I had the clearance to get out and go. And I
9 proceeded up to New Chardon Street.

10 Q. How many lanes are there on that street?

11 A. To my knowledge there are five lanes of travel.
12 Three are heading in the northerly direction and two are
13 heading in the southernly direction.

14 Q. So five lanes of travel. What lane were
15 you traveling up heading up New Chardon?

16 A. The second from the left.

17 Q. Are there any cars in front of you?

18 A. Yes, sir.

19 Q. What happened then?

20 A. I'm traveling up New Chardon Street
21 approaching the intersection of New Chardon and
22 Cambridge. The light turned red. Cars in front of
23 me went off to the right. I had another car in
24 front of me which was gray. He dropped to the left.
25 I was the first one in line at the red light right

1 on the intersection of New Chardon and Cambridge
2 Street.

3 Q. Do you know what the speed limit is on New
4 Chardon?

5 A. I believe it's 15 to 20, I think. I'm not
6 exactly sure.

7 Q. What was the traffic like that morning as
8 you headed up New Chardon Street?

9 A. Moderately heavy I would classify it.

10 Q. When you say "moderately heavy," is that
11 typical for that area of Flagstaff?

12 A. Yes. That can be a busy intersection.
13 Generally in the winter and the fall it seems to be
14 busier than the summer.

15 Q. Are you familiar with that intersection of
16 New Chardon Street and Cambridge?

17 A. I'd been through it before. Yes.

18 Q. How many times do you think you've been
19 through that?

20 A. Well, let me see. It's once a week for
21 seven years minus my vacations and maybe sick days I
22 took every now and then. I don't take many. I
23 don't know, sir.

24 Q. Like 300 or 400 times maybe?

25 A. Yeah. Probably around 200 to 300 times.

1 Yeah.

2 Q. All right. From where you stopped on New
3 Chardon Street you're looking straight ahead, what
4 do you see?

5 A. Bowdoin Street.

6 Q. How many lanes of travel are coming on
7 Bowdoin Street?

8 A. There are three lanes coming down onto
9 Cambridge Street and the right one turns right onto
10 Cambridge Street. And then it goes right onto
11 Cambridge Street. And there are two lanes to the east
12 where people go from New Chardon straight up onto
13 Bowdoin Street. And there's also a crosswalk, which
14 stands right out in front of Cambridge Street in
15 front of the median area.

16 And directly to the other side of the
17 crosswalk there is a pedestal for pedestrians to
18 walk and not to walk. And then there's also one on
19 the median area, a crosswalk pedestal, which are for
20 people crossing from New Chardon over to the median
21 area. And the other one dictates crossing from the
22 Bowdoin area side over to the median area.

23 Q. Are you referring to what's on your left-
24 hand or right-hand side?

25 A. From where I'm at on the bus, it would be

1 my left-hand side, sir.

2 Q. But it's fair to say that the traffic
3 that's facing you on Bowdoin Street, the traffic if
4 you're looking at it, it's the line of cars that's
5 facing you on your left-hand side; those cars are
6 going to come towards you and take a right-hand turn
7 on Cambridge; is that right?

8 A. Only those in the right turn lane.

9 Q. Because the other two go straight or left.

10 A. That's right.

11 Q. So the lane of travel I just described on
12 Bowdoin Street, those cars in the right lane are
13 typically turning west onto Cambridge Street?

14 A. Those cars in the right lane would be
15 making a right-hand turn onto Cambridge Street. I'm
16 not trying to give you a hard time.

17 Q. And then the other lanes of travel on
18 Bowdoin Street, which if you're coming down Bowdoin,
19 they're in the middle and on the left-hand side of
20 Bowdoin. This would be the middle lane and right lane on
21 Bowdoin as you are looking at them from New Chardon
22 Street.

23 A. That's correct, sir.

24 Q. If you know, are the traffic signals with
25 regard to -- let me rephrase this. When you're on

1 New Chardon Street and the light turns green, is
2 that light staggered? In other words, is the
3 traffic that's directly across from you when your
4 light turns green, do they have a green light as
5 well?

6 A. The traffic comes out as I'm going
7 straight when my light turns to green from Bowdoin.

8 Q. As far as you know you haven't observed or
9 noticed any kind of delay in terms of when the light
10 turns green they're still waiting there as you turn
11 left?

12 A. No. I've seen them come out almost
13 simultaneously.

14 Q. When you're at the light - and you said you
15 were the first vehicle in line on New Chardon
16 Street?

17 A. Yes, sir.

18 Q. Did you have the opportunity to look to
19 your left?

20 A. Yes, sir. I saw a white car and a black
21 vehicle.

22 Q. Where was the white car?

23 A. The white car was to my immediate left as
24 far as I can recall.

25 Q. And you said there was a black vehicle?

1 A. Yes, sir.

2 Q. Where was that?

3 A. I believe right to the left or behind the
4 white car to the left-hand side of it, sort of to
5 the left-hand side of it.

6 Q. And when you looked out to the left-hand
7 side, did you observe anything else?

8 A. Yes.

9 Q. What?

10 A. People walking across the crosswalk from my
11 left -- well, actually both directions. There were
12 people walking from left to right and right to left
13 right across the crosswalk.

14 Q. How would you characterize the pedestrian
15 traffic on this morning?

16 A. I don't know how to answer that.

17 Q. Were there a lot of pedestrians in the
18 vicinity?

19 A. There were several. I couldn't guess a
20 number. There were several people walking around
21 there and also walking across the other side of the
22 street I could see.

23 Q. So you certainly observed several people
24 both on that corner and crossing Cambridge?

25 A. Yes. And also people walking across -- I

1 mean, not walking across. I'm sorry. On the corner
2 of -- you know where Bowdoin Street is? When you
3 look across, people were standing in the vicinity
4 there, and there's also a Dunkin' Donuts to the
5 right-hand side.

6 Q. So there were a lot of people around?

7 A. Yeah. I don't know if it's more than the
8 normal. I've certainly seen less. I've seen more.
9 I think that's the best estimate I can give.

10 Q. When you're sitting in your bus at the top
11 of New Chardon Street and you look to the left, how
12 far can you see in distance?

13 A. Well, you can see directly across Bowdoin
14 Street. You can see somewhat up the hill. It's a
15 steep incline. You can see the crosswalk clearly
16 going across Cambridge. You can see down Cambridge
17 Street for a distance.

18 Q. When you look to your left, is there
19 anything in the interior of the bus that might
20 obstruct your line of vision?

21 A. No, sir.

22 Q. And looking straight out the windshield,
23 are there any obstructions?

24 A. No, sir.

25 Q. Your intended route when the light turns

1 green is to make a left-hand turn?

2 A. Yes, onto Cambridge Street.

3 Q. How many lanes are there on that stretch of
4 Cambridge Street that you're going to turn on to?

5 A. Three.

6 Q. Which lane is it that you intended to turn
7 into?

8 A. Usually we turn into, if at all possible,
9 the middle lane onto Cambridge Street. That way
10 you're avoiding the parked cars on the right-hand
11 side there on Cambridge Street. You don't want to
12 be at all close to parked cars when at all possible.

13 Q. Why is that?

14 A. Because you don't know if a door is going
15 to be opened all of a sudden or if somebody runs
16 between the cars. You want to avoid those areas
17 when at all possible.

18 Q. Did you observe other cars across from you
19 on Bowdoin Street?

20 A. Yes, sir.

21 Q. How would you characterize the level of
22 traffic on Bowdoin Street? Heavy, light, moderate?

23 A. Moderate.

24 Q. And you also observed pedestrians in the
25 area?

1 A. When I was approaching the intersection
2 with the bus or prior to?

3 Q. While you were sitting there waiting for
4 the light to turn.

5 A. Yes. I did see pedestrians.

6 Q. It is fair to say this is a pretty busy
7 intersection, especially, at 8:30 in the morning?

8 A. Yeah. I would say it's a busy
9 intersection.

10 Q. And since it's so busy, that requires a
11 high degree of care on your part; wouldn't you say?

12 A. Yes. You always, no matter what you're
13 doing, you're always looking.

14 Q. About how long did you have to wait for the
15 light to turn green?

16 A. A few minutes.

17 Q. What happened when the light turned green?

18 A. I looked into my mirrors and proceeded.

19 Q. Which mirror did you look in first?

20 A. Left.

21 Q. What did you see?

22 A. A white car coming around me to the left-
23 hand side of the bus.

24 Q. Did you observe that?

25 A. I saw it briefly. Yes.

1 Q. How did you see it?

2 A. In the mirror to the right. Because when
3 your eyes are consistently moving, you can never
4 focus on just one thing because you have activity
5 all around you.

6 Q. What happened next?

7 A. I saw some vehicles come out of Bowdoin
8 Street. I saw the crosswalk. Nobody was in the
9 crosswalk. There were two vehicles coming out of
10 Bowdoin Street. When I say nobody was in the
11 crosswalk -- the crosswalk going from the median
12 strip across Cambridge, that crosswalk I'm talking
13 about.

14 A white car and a black car came around me
15 to the left-hand side of the bus, and I had to yield
16 to a black vehicle coming down Bowdoin Street. He
17 seemed to want to get out of there in a hurry. So I
18 backed off the accelerator pedal. I was probably
19 traveling about eight miles an hour approximately,
20 backed it down, didn't come to a complete stop. Let
21 him go out.

22 Then I had my opening to continue my turn
23 onto Cambridge Street. Nothing was obstructing me,
24 okay, and as I was turning, a green pickup truck
25 came to the left-hand side of the bus and passed me

1 on the left-hand side. And that's what I was doing.
2 Other vehicles also passed me on the left.

3 Q. After you noticed the green pickup truck,
4 what happened then?

5 A. I heard a noise.

6 Q. Where were you when you heard the noise?

7 A. Past the crosswalk further down on
8 Cambridge Street.

9 Q. When you say you "heard a noise," how would
10 you describe it?

11 A. A loud, just one thump noise.

12 Q. Just so the record can reflect, the witness
13 had banged on the table lightly. And what did you
14 do when you heard the noise?

15 A. I looked in the mirror where the noise came
16 from, my left-hand side. And I heard a woman say,
17 "Oh, no" or something to that effect, and that's
18 what I did.

19 Q. What did you do when you heard the woman
20 say, "oh, no"?

21 A. I looked immediately in the left-hand
22 mirror.

23 Q. What did you see?

24 A. I saw an individual falling back to where
25 the crosswalk was.

1 Q. I was just trying to bring us up to where I
2 want to ask you the next question. After you heard
3 the noise you said you looked in your left-mirror,
4 and you saw somebody. Can you just tell me again
5 what you saw?

6 A. Okay. Looked in the left-hand mirror, and
7 I saw a person -- appeared to be a man with a
8 brownish colored coat -- falling with their hands
9 outstretched.

10 Q. In which direction was the person falling?

11 A. Back to my left, to my left rear.

12 Q. So was the person falling back towards the
13 intersection?

14 A. Yes.

15 Q. About how far down the bus was this person,
16 if you could tell?

17 A. The only thing I could tell is when I heard
18 the noise. The noise appeared to be somewhere in
19 the middle part of the left-hand side of the bus.
20 When I looked in the mirror -- again, this happened
21 very, very quickly. What I saw in the mirror was
22 real quick. I saw a brown coat or a brown jacket or
23 something on the individual. I saw some papers and
24 him going back to the left rear area of the bus or
25 left rear of where I was, at an angle.

1 Q. Right. When you saw the person in the
2 mirror, how far was the person from your bus?

3 A. I don't know.

4 Q. And when you saw the person could you tell
5 where the person was in relation to your bus? Was
6 the person down by the back wheels? Was the
7 pedestrian halfway down the length of the bus?
8 Where in the bus -- can you place the person in
9 relation to your bus?

10 A. When I looked out the mirror, again, I'm on
11 the left-hand side, the front left. I saw the
12 person towards the middle part of the bus it
13 appeared.

14 Q. Did you hear anybody say, "Stop"?

15 A. No, sir.

16 Q. And is it when you heard somebody say "oh,
17 no," that you looked in your mirror?

18 A. Well, I heard the noise. And the "oh, no"
19 came almost simultaneously, and I looked immediately
20 into my mirror.

21 Q. And after you saw what you just described
22 as "the individual," what did you do with the bus
23 then?

24 A. So I pulled the bus down to where I thought
25 was a safe spot to park the bus with the flashers

1 on, and I did that. I tried to dial 911. I
2 couldn't get through. I don't know why.

3 Q. Why were you calling?

4 A. Well, when I heard the person falling back
5 and I heard the noise, I assumed something had
6 occurred.

7 Q. Did you think you had hit somebody?

8 A. I thought somebody had hit the side of the
9 bus.

10 Q. When the light turned green, did you pull
11 out?

12 A. Did I go across from New Chardon across
13 onto Cambridge?

14 Q. Did you pull out?

15 A. Yes. I pulled the bus straight ahead.

16 Q. You didn't start to angle to the left; you
17 pulled straight out?

18 A. Yeah. Because when you drive a bus you
19 have to pull straight out in order to make the left-
20 hand turn. Otherwise, you wouldn't be able to make
21 the turn. Then I had cars on my left.

22 Q. Explain that to me. What's different about
23 making a left-hand turn with a bus that size as
24 opposed to a passenger car?

25 A. Well, you're bringing around 47 feet, and a

1 passenger car is how long in comparison to a bus?

2 The bus turns differently. It's a different turning
3 ratio with a passenger car.

4 Q. Tell me about that.

5 A. Well, when you're attempting to make a
6 left-hand turn, if you were over here to the inside
7 lane, and when you want to make that turn your rear
8 tires would go up onto the crosswalk area or the
9 median strip area.

10 Q. On the left-hand side?

11 A. On the left-hand side. Because you're
12 bringing around a wide piece of equipment. So in
13 training you're taught to stay whenever possible
14 away from that area, to get over towards the middle
15 of the road, okay, as you're making a left-hand
16 turn. So the rear of the bus could make a swing as
17 you make the turn onto the other street without
18 hitting or going up onto any obstacles or sidewalks
19 or whatever.

20 Q. What did you see in front of you as the
21 light turned green? What happened?

22 A. From my view, cars were coming down on
23 Bowdoin Street making a left-hand turn on Cambridge.

24 Q. From which lane did this car that took a
25 left-hand turn in front of you come from?

1 A. From my view, the car came from the left-
2 hand lane of Bowdoin Street.

3 Q. What did it look like?

4 A. It was a green vehicle. I don't recall the
5 make.

6 Q. What did you do when you saw this car
7 coming toward you?

8 A. Let him go.

9 Q. Did you come to a complete stop? Did you
10 pause? What did you do?

11 A. Paused dramatically.

12 Q. How far were you going before you slowed to
13 allow that car to pass in front of you?

14 A. I can give you an estimation, probably
15 anywhere between six and eight miles an hour.

16 Q. And after you paused, about how fast were
17 you going then?

18 A. Two to three, four.

19 Q. When the light turned green what did you
20 do?

21 A. I proceeded straight.

22 Q. Did you look to your left when the light
23 turned green?

24 A. Yes.

25 Q. What did you see?

1 A. A white car.

2 Q. What did you do then?

3 A. Continued forward a little bit.

4 Q. What happened then?

5 A. The white car went around me. Then I
6 noticed the black vehicle coming around to my left-
7 hand side.

8 Q. What did you next observe?

9 A. The cars coming down from Bowdoin Street.

10 Q. How far have you gone at this point?

11 A. Probably almost to the middle of the
12 intersection, not quite to the middle.

13 Q. And when you say that you had almost gone
14 to the middle, are you referring to the front of the
15 bus where you're sitting?

16 A. Yes. Almost to the middle of Cambridge
17 Street.

18 Q. What did you next observe?

19 A. Cars making a left-hand turn in front of me
20 onto Cambridge Street that I yielded to.

21 Q. How many cars did you yield to?

22 A. Two that I remember.

23 Q. What did you next observe?

24 A. Myself going forward in preparation to make
25 a left-hand turn onto Cambridge Street. There was a

1 black vehicle coming down Bowdoin Street wanting to
2 go right onto Cambridge. And I'm not going to say
3 he was speeding, but he was moving a lot faster than
4 I was.

5 Q. Can you describe what kind of vehicle this
6 was?

7 A. I'm not sure if it was a pickup or an SUV
8 or what, but it might have been something along
9 those lines. And as to the make, I don't remember.
10 Color was black.

11 Q. And after you made this observation what
12 did you do?

13 A. I let him go. I let him make his right-
14 hand turn onto Cambridge Street.

15 Q. How far into the intersection was your bus
16 at this time?

17 A. A little more than halfway.

18 Q. How fast were you going?

19 A. Five to seven.

20 Q. What did you next observe?

21 A. I observed a blackish vehicle turning left
22 onto Cambridge Street from my left-hand side. Some
23 people were across --

24 Q. Let me stop you right there. Did you see
25 this out your window? Did you see this via your

1 mirror? Did you see it out your windshield? How did
2 you see it?

3 A. See what?

4 Q. The vehicle you just described to me making
5 a left.

6 A. Left-hand mirror.

7 Q. And did you see it drive off down Cambridge
8 Street?

9 A. He went onto Cambridge Street. I wasn't
10 watching how far it went. I don't know how far it
11 went down Cambridge Street.

12 Q. You didn't see him drive down Cambridge
13 Street?

14 A. I saw him go past me on the left and then
15 proceeded. And then my eyesight was focused to the
16 right. I had two things going on to the right, too.

17 Q. And you observed pedestrians on the corner?

18 A. I just happened to see some people walking
19 around.

20 Q. What, if anything, did you notice about the
21 pedestrians on that corner?

22 A. Nothing.

23 Q. What did you next observe?

24 A. A green pickup truck passing me to the
25 left-hand side as I continued to make my turn.

1 Q. How is it that you observed that green
2 pickup truck?

3 A. Looking in the mirror.

4 Q. So you see it behind you?

5 A. I see it coming behind me and making the
6 left-hand turn. At this point in time I'm already
7 through the crosswalk. I've cleared the crosswalk.

8 Q. And do you see this green pickup truck pass
9 you? Or I don't know if it's a pickup truck, but do
10 you see this green vehicle pass you out your window
11 without the use of your mirror?

12 A. You can't. You're looking at the mirror
13 as soon as you look out the left-hand side. It's
14 glass about the size of this, and the mirror is
15 right there. First thing you're going to look at is
16 in the mirror.

17 Q. What did you next see?

18 A. Someone in my left-hand mirror.

19 Q. Does the island in Cambridge Street extend
20 up to the crosswalk? Does it go through the
21 crosswalk, or does it fall short?

22 A. It doesn't come through the crosswalk. It
23 falls short of the crosswalk.

24 Q. How far short does it fall of the
25 crosswalk?

1 A. Probably 10 feet approximately.

2 Q. As you began to make the left-hand turn,
3 did you look to your left?

4 A. Yes. And I saw no one crossing Cambridge
5 Street.

6 Q. Where did you look next after that?

7 A. To my right quickly.

8 Q. And did you look out the right into your
9 right side rearview mirror, or were you looking out
10 the window?

11 A. The mirror.

12 Q. And what did you see out that mirror?

13 A. A couple of cars that were going straight
14 up Bowdoin Street.

15 Q. And what are you looking at?

16 A. Car coming down Bowdoin Street.

17 Q. When you get to the edge of the crosswalk,
18 is the bus still in the process of turning at that
19 point?

20 A. Let me see if I understand what you're
21 saying. After I yielded to the black vehicle making
22 a right-hand turn onto Cambridge Street, I was
23 continuing making my left-hand turn onto Cambridge
24 Street. What you're asking me is as I was crossing
25 through the walkway, was the bus perfectly straight

1 with Cambridge Street, or was I still in the process
2 of making the turn?

3 Q. That's what I'm asking.

4 A. Still in the process of completing the
5 final turn.

6 Q. How much time had elapsed from when you
7 started forward when the light changed to green and
8 the time you entered the crosswalk?

9 A. Maybe 30 seconds, that's an estimate.

10 Q. After you make the left-hand turn and you
11 square the bus away, and it's pointing straight down
12 Cambridge Street, how much time goes by before you
13 hear that sound?

14 A. Probably 10 seconds or that vicinity. It's
15 not very long.

16 Q. Could it have been less than that?

17 A. Possibly.

18 Q. Could it have been more like five seconds?

19 A. I really don't know. I really can't be
20 specific.

21 Q. As you are entering the crosswalk, you're
22 looking in which direction?

23 A. All three directions.

24 Q. When you say "all three directions," are
25 you actually looking out your left, your driver's

1 side window?

2 A. You have to look out the driver's side
3 window to look in the mirror. Yes.

4 Q. And when you said that you were looking to
5 your left, don't you mean that you're looking out
6 your mirror and not what's out beyond your mirror?

7 A. You see things that are -- whatever is
8 there when you look into the mirror and maybe some
9 things are beyond the mirror, but you're looking
10 into the mirror. You're focusing into the mirror
11 because that's going to tell you what's to your
12 left, what's behind you to your left. Any
13 pedestrians there? Are there any vehicles there?
14 But you're trained to focus your eyes in several
15 different directions at once, not just concentrate
16 in looking in one area for 5 or 10 seconds because
17 something could happen over here.

18 Q. And especially at an intersection like
19 this; there's a lot going on, correct?

20 A. Yes.

21 Q. So you need to be very careful when going
22 through an intersection like this?

23 A. Absolutely.

24 Q. Can you estimate your speed for us from
25 when you first started from your position on New

1 Chardon Street to, say, where the crosswalk is?

2 A. Zero. When I started out, probably
3 anywhere from zero to six miles per hour.

4 Q. Where your window meets the front
5 windshield of the bus, is there a beam there or
6 something?

7 A. No. There is a support probably about this
8 wide.

9 Q. The mirror that you've been alluding to,
10 I'm assuming that comes out from that stanchion and
11 sticks out outside the bus, or is it more towards
12 you?

13 A. No. It's bolted out, and you have an
14 adjustable electronic -- it adjusts by itself by
15 moving the button up or down or in or out.

16 Q. Just getting back for a moment to the
17 mirror, on the driver's side of your bus and the
18 window that's there, can you look down out of that
19 window and see the ground right next to the bus?

20 A. Yes, sir.

21 Q. Do you have to lean into the window at all,
22 or can you just glance down from your natural
23 driving position and see the ground right next to
24 the bus?

25 A. You have to lean a little bit to see the

1 ground right next to the bus.

2 Q. Do you remember a gentleman coming up to
3 you and stating that he thought you were driving too
4 fast?

5 A. No, sir.

6 Q. Did he ask you at a later time how the
7 accident happened?

8 A. Yes.

9 Q. What did you say?

10 A. At the later time he asked me and told him
11 basically what I described to you.

12 Q. Tell me what you remember telling him.

13 A. I told him I was making a left-hand turn
14 from New Chardon Street onto Cambridge Street with
15 the green light. And that there was nobody in the
16 walkway. There were vehicles passing me on the
17 left. I had just got through yielding for a vehicle
18 coming down Bowdoin Street. I heard a noise. I
19 looked in the mirror and saw a person falling back
20 where the walkway was, and I pulled the bus over to
21 the right-hand side.

22 Q. Do you remember telling anyone that you
23 never saw the pedestrian, "I never saw anyone"?

24 A. Yes.

25 Q. Did you talk to anyone else at the scene?

1 A. Not that I remember.

2 Q. Where did you go after the accident?

3 A. I had to go and take an alcohol
4 breathalyzer right at Flagstaff Airport because Bob
5 Green had called me and requested me to do that,
6 which I had no objection to do. A couple of days
7 later, I sat down and drew a diagram out and filled
8 out an accident report for the Registry of Motor
9 Vehicles.

10 Q. Where was Ms. Hertz when -- did you
11 observe Ms. Hertz when you got out of the bus?

12 A. I observed her lying on the ground.

13 Q. Isn't it a fact that you were looking up
14 Bowdoin Street, and you were not looking in front of
15 you at the time of the accident?

16 A. No. I wasn't looking up Bowdoin Street,
17 sir. At the time of the accident I was on Cambridge
18 Street.

19 Q. I have no more questions.

20 (Deposition concluded)

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