

GUILTY ON ALL COUNTS

Garden County Jury unanimously convicts Edward Hood: Facing up to 75 years in prison

The fatal collision occurred December 7th 2013. Witnesses described the day as “frigid” and perhaps the “coldest day of the year”. The mercury hit below zero that day without the wind chill. Other witnesses described a strong wind blowing, but all agreed that the road was clear of ice or snow.

That day, at around 3:00 pm, Mr. Hood was driving a Toyota sedan west on highway 26 about eight miles east of Oshkosh. To describe the events that followed, Nebraska prosecutors called several witnesses including: victims, good samaritans/witnesses, volunteer fire personnel, Garden County Deputies (both current and former), State Troopers, attending medical professionals, and highly accredited police accident-recreation-experts. The defense called no witnesses and Mr. Hood refused to testify.

Law enforcement witnesses stated that according to the skid marks at the scene, Mr. Hood's car strayed from his lane into the east bound lane and was essentially driving on the wrong side of the road. He continued on this path until his left front tire left the pavement. Mr. Hood's tire marks left impressions in the eastbound shoulder's dirt and snow. At the scene Mr. Hood was reported as saying he was watching a, “flock of birds” which distracted his attention from the road.

Perhaps alerted to his mistake, he then tried to correct the vehicles path. He skidded across the highway, back into his lane, and continued onto the westbound shoulder. He again tried to correct. His car then went into an uncontrollable sideways slide. He was skidding sideways, and headed directly into oncoming traffic.

Tragically, two females were headed east at the same time. Witnesses testified that this particular stretch of highway, mile marker 100, is flat and straight. The two females were in a Chrysler sedan. According to the experts, the Chrysler veered right, onto the shoulder in an attempt to avoid the impending collision. Some witnesses testified that the Chrysler had come to a complete stop. But unfortunately, there was not enough time to react, and a devastating collision occurred.

Expert witnesses used Matchbox cars to demonstrate what happened next to the twelve jurors (eight male, four female). Mr. Hood's passenger-side engine compartment careened into the driver's side of the Chrysler. The impact was so intense that the hood of the Toyota, and the drivers-side front-tire of the Chrysler were both dislodged from their vehicles, and fell to the ground. The vehicles spun. Debris, and articles inside both vehicles were strewn around the scene.

Later, dispatch alerted Garden County Deputies and state troopers of a two car collision. An off duty officer (I believe a state trooper) happened to be driving through the area with his wife, and was the first on the scene. He described the horror on the witness stand.

The off-duty officer first went to the Chrysler. He first went to the driver's side, as it had sustained the worst damage. Descriptions of the victims' state were described as “broken”, “seriously injured”, and the bodies were in “unnatural positions.” He reached in and checked the pulse of the driver. There was none.

He then went to the passenger side. He found the passenger; broken, unconscious, and having difficulty breathing. If I remember correctly, he tried to straighten her head in an attempt

to clear her airway. This was the first of countless, brave and crucial steps, performed by many, that saved this victim's life.

The off-duty officer then went to Mr. Hood's vehicle. He found Mr. Hood conscious, alert, and complaining that his ankle hurt. Subsequently, it was determined that he had broken his ankle.

Garden-County Chief-Deputy Randy Ross was the first uniformed officer on the scene (if memory serves correctly). His testimony on the witness stand was the most extensive and spanned over two days. His professionalism, composure, and attention to detail on the stand was exemplary.

Chief Deputy Ross painstakingly described dozens of his photos taken at the scene; explaining inch-by-inch what each skid mark represented, the position of each vehicle at any given moment, and a vivid description of every aspect of the situation. His scientific knowledge, extensive training, and level-headedness clearly demonstrated what an asset he is to Garden County.

Chief Deputy Ross also described the 2/3 full bottle of E&J Brandy (and accompanying photo) that was found in Mr. Hood's vehicle. The bottle appeared to be of the 1.75-liter size, but I didn't have a clear view of the evidence photos. Ross described the bottle as being located within the driver's reaching distance, in a bag "behind the center console". Witnesses testified that Mr. Hood claimed he hadn't been, "drinking today, but drank a lot the night before."

The female passenger survived. To me, she offered the most compelling testimony. With assistance from another, and with great effort and unsteadiness, she slowly approached the witness stand, heavily favoring one foot over the other. Visibly disabled, she also appeared determined.

She testified that her memory isn't what it used to be. She didn't remember the accident, several weeks after the accident, or even the large Thanksgiving-family-gathering that occurred in the prior month. Her account of the ongoing recovery process was heartbreaking.

She testified to: time spent in a coma, losing eight teeth (four of which she swallowed in the accident and were found in her stomach by x-ray), stays in several hospitals throughout Nebraska and Colorado, broken tibia, broken "shoulder bone", brain injury, surgeries, and the fact that she spent nine months in the hospital following the accident before she ever saw her home.

Suffice it to say, the Defense attorney had an uphill battle. He works for an advocacy defense firm out of Lincoln who serves poor/indigent clients facing large prison terms. He has a tough job, and I think he represented his client admirably. During testimony, he raised several objections and constitutional issues that may eventually merit an appeal of the verdict.

The defense's main argument is whether prosecution provided sufficient evidence to demonstrate beyond a reasonable doubt that the defendant's alcohol consumption was the proximate cause of the collision. A "lynchpin" of the charges. Proximate cause is a legal term that confounds scholars to this day, and great thinkers disagree on its meaning. I'll hazard a definition that essentially, it means that there is a connection between the action in question (drinking brandy), and the bad outcome (fatal crash).

The defense routinely questioned the fact that the police did not unequivocally establish that Mr. Hood was intoxicated. There is a myriad of tests available to determine whether a person is drunk. The most reliable are the breath test, and the blood test.

Mr. hood refused the breath test. He also refused the blood test. However, the defense attorney kept badgering the officers and attending medical staff as to why they didn't administer tests such as: reciting the alphabet, close your eyes and touch your nose, finger dexterity test, or the horizontal gaze nystagmus (HGN) test.

On the other hand, prosecution offered witness after witness that stating they noticed, "sweet smell" of alcohol on Mr. Hood, and the, "slow speech" patterns he exhibited, and his "bloodshot eyes." This testimonial evidence was in abundance, but as to whether Mr. Hood was drunk or not, would be a question for the jury to decide.

And decide they did. About an hour after the jury was released for deliberation they come back with their verdict. Guilty on all counts (I believe 4 in total). Hats off to the citizens who performed this duty. Perhaps one of the most important duties a community member has. It is a heavy burden to bear, to hold the fate of another human in your hands, and I do not envy their position.

Meanwhile, Mr. Hood sits in the basement of the Garden county courthouse/jail. Likely recounting his missteps. Prosecution offered that because Mr. Hood is not from this area, and constitutes a significant flight risk due to the potential 75-year prison term, he should be denied pre-sentencing bond. The Court agreed. Sentencing proceedings begin June fifth at nine o'clock.

I can't guarantee that all of this is true. Only that it represents my best recollection of the trial. No paper or pencil were allowed in the gallery, so even my direct quotes may be incorrect. Chief Deputy Ross said I could use his name after I mentioned I may be writing this article. All other witnesses'/victims'/attorneys' names have been omitted out of respect, but are a matter of public record.

During my travels in Oshkosh in observing this trial, I met a citizen that didn't realize that court hearings and trials are open to the public. I hope folks know that it's *your* courthouse as a citizen. Criminal trials are almost always open for the public to attend. Real, consequential, and life changing drama occurs all the time up on main street. I was surprised at the lack of public knowledge/interest/attendance in this rare and historic Jury trial here in our county.

I so admire the Judge, Jury, Police, Prosecutors, Defense Attorney, Fire & Rescue, and Good Samaritans I learned about/met during this trial. Get to know these folks. They live incredible and interesting lives. They are making a difference. They tell great stories.

This experience showed me that we live among real-life super-heroes. They save lives and regularly do incredible things. And the cool thing is, they live right up the street! Hope to see you at the sentencing hearings.

- Gregory A. Rosen