

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

Case Number: 22-09348CFANO

STATE OF FLORIDA,

Plaintiff,

VS.

JUAN ARIEL MOLINA-SALLES,

Defendant.

DEPOSITION OF: BENJAMIN SIMPKINS
TAKEN BY: Counsel for the Defendant
DATE: February 9, 2024
TIME: 9:40 a.m. - 9:50 a.m.
PLACE: ZOOM videoconference
REPORTED BY: Tamara M. Pacheco, RPR
Notary Public, State of FL

Pages 1 - 16

ZOOM VIDEOCONFERENCE APPEARANCES

ELIZABETH CONSTANTINE, ESQUIRE

Assistant State Attorney

14250 49th Street North

Clearwater, Florida 34620

Attorney for the State of Florida

MARIA DELIBERATO, ESQUIRE

NICHOLE BLAQUIERE, ESQUIRE

Assistant Public Defenders

14250 49th Street North

Clearwater, Florida 34620

Attorneys for the Defendant

INDEX

BENJAMIN SIMPKINS	PAGE:
Examination by Ms. DeLiberato.....	4
Certificate of Oath.....	14
Errata/Signature Page.....	15
Certificate of Reporter.....	16

EXHIBITS

(No exhibits were marked for identification.)

1 WHEREUPON,

2 BENJAMIN SIMPKINS

3 (was adduced as the deponent herein, and being first duly
4 sworn on oath, was examined and testified as follows:)

5 EXAMINATION

6 BY MS. DELIBERATO:

7 Q Okay. Officer, my name is Maria DeLiberato.
8 I'm an assistant public defender. Along with Nichole
9 Blaquiére, we represent Juan Molina-Salles. Elizabeth
10 Constantine is here for the State.

11 This is Pinellas County Sheriff's case number
12 SO22-305232. I understand you're with Pinellas Park
13 Police. Is that right?

14 A Yes.

15 Q Okay. How long have you been employed with the
16 Pinellas Park Police?

17 A Over twenty years.

18 Q Any prior law enforcement experience before
19 then?

20 A Three years in Corrections with the Sheriff's
21 office.

22 Q With PCSO?

23 A Yeah.

24 Q Did you work at the jail?

25 A Yes.

1 Q Okay. In your 23 years with the Sheriff and/or
2 Pinellas Park Police, ever had any disciplinary
3 infractions sustained against you? Complaints sustained.
4 Not complaints but ones that were sustained.

5 A None that I can remember.

6 Q Okay. And what's your -- are you a patrol
7 officer? What's your title with Pinellas Park PD?

8 A Patrol officer.

9 Q And September 22nd, 2022, that's what we're
10 talking about. Were you on duty with Pinellas Park Police
11 then?

12 A I was doing an overtime detail.

13 Q And what was that overtime detail?

14 A Basically, it was sitting on the side of the
15 road with my lights on for the construction crew to work.

16 Q And I don't have a supplement from you, but
17 there is a note that you wrote a supplement. Did you in
18 fact draft a supplement in this case or not?

19 A I don't think so.

20 Q Okay.

21 A I don't know.

22 Q There's a note that says refer to his report.
23 It may be in a somewhat unrelated case. But as far as the
24 -- because there were two incidents happening, which we'll
25 get to. But you were working an off-duty traffic detail.

1 what does that entail? what are you supposed to be doing
2 when you're working an off-duty traffic detail?

3 A Basically, it's to sit where they put us with
4 our lights on and making sure that nobody is bothering
5 them while they're trying to work.

6 Q And were you in the same traffic detail as
7 Deputy Hartwick, the deceased in this case, or was it a
8 separate construction off-duty detail?

9 A No, it was all the same detail.

10 Q All the same detail. Did you know Deputy
11 Hartwick?

12 A I did.

13 Q Did you see him that night before you guys got
14 put in your places?

15 A I did not.

16 Q Okay. So you -- had you worked with him on that
17 detail before?

18 A Yes.

19 Q Okay. But that particular evening you didn't
20 have any communication with him before the accident?

21 A No.

22 Q Okay. How far away were you from where Deputy
23 Hartwick was stationed?

24 A If I had to guess, about a half-mile maybe.

25 Q Okay. So you weren't able to visually see where

1 he was?

2 A No.

3 Q And when you're on traffic detail, are you --
4 are there certain parameters or things that you're
5 supposed to do? Are you supposed to stay in your car?
6 Can you get out of your car? what are the details and
7 rules about that?

8 A You can get out of your car. Just make sure
9 you're available if they need you to move or take any
10 enforcement actions if somebody is doing something.

11 Q And is there any safety precautions that you
12 should take when you're getting out of your car on like a
13 live construction site?

14 A I would guess you would have to have your
15 traffic vest on.

16 Q Okay. Anything else that you're told that you
17 can think of?

18 A Not off the top of my head.

19 Q Okay. And my understanding is you were actually
20 at this traffic detail, and there was a second -- there
21 was the Deputy Hartwick incident. Did you hear that
22 incident first on your radio?

23 A I did.

24 Q And were you getting ready to respond to that
25 area or no?

1 A No.

2 Q Okay. So what did you hear? How did the call
3 go out?

4 A Actually, I was made aware of it by one of the
5 construction workers stopping by to see if I was okay. He
6 said that one of our officers got hurt. That's all I
7 knew.

8 Q Okay. Do you remember about what time that was?

9 A Not off the top of my head. It was nighttime.

10 Q The construction worker that told you that, do
11 you remember his name?

12 A Oh, no. I didn't get a name or anything. He
13 stopped by in a truck and zoomed away.

14 Q Okay. And then when you were sitting there, was
15 there a second traffic accident that you actually
16 witnessed?

17 A Yeah, there was.

18 Q So was that after you had heard about Deputy
19 Hartwick?

20 A Yes.

21 Q And was there -- were they making -- like, I
22 assume the radio traffic was pretty excited and loud.
23 Were they asking units to respond, or were you just
24 planning to stay put because you had to stay on your
25 detail?

1 A We had to stay where we're put we were told.

2 Q And so how long after did this secondary
3 accident happen?

4 A I couldn't put a real time to it. It wasn't
5 long. It was minutes.

6 Q And what happened? what did you observe?

7 A Basically, I was sitting in my vehicle, and I
8 was next to an unfinished overpass, and a vehicle came
9 over the edge of the unfinished overpass and crashed onto
10 the roadway in front of my vehicle.

11 Q Pretty close to your vehicle it sounds like,
12 right?

13 A Very close to my vehicle.

14 Q It must have been a little bit terrifying.

15 A A little, yeah.

16 Q Were you able to sort of run right out and
17 render aid?

18 A Yes.

19 Q And this unfinished overpass, this is all part
20 of the same construction site run by Archer Western. Is
21 that right?

22 A Yes.

23 Q How long had you worked off-duty traffic detail
24 for Archer Western?

25 A This time was probably my fourth or fifth one.

1 I'd worked for them before when they were installing the
2 overpasses at US-19.

3 Q Okay. This was your four or fifth time on this
4 particular project?

5 A Yeah.

6 Q And how does that work? Do you -- it's
7 off-duty, so you work for Archer western? Are you like a
8 contract employee? How does that work sort of from a
9 financial standpoint?

10 A I work for the City of Pinellas Park who
11 collects a fee for having us out there for them.

12 Q Okay. So it's just part of your -- it's
13 basically like off-duty extra detail, but you get it paid
14 through Pinellas Park PD?

15 A Right.

16 Q And Pinellas Park gets paid by Archer western?

17 A Right.

18 Q Okay. Was anyone else with you when this
19 gentleman drove off the unfinished overpass?

20 A There was a couple of deputies further back.
21 Because when he came over, they saw him come over, and
22 then they come up to help me get him out of the car.

23 Q And he's pretty severely -- he was pretty
24 severely injured is my understanding.

25 A He appeared to be, yeah. I know it was -- it

1 was a couple stories fall.

2 Q Yeah. And at the time, did anyone think that it
3 was potentially related to Deputy Hartwick's accident
4 or --

5 A We didn't know. We just knew someone had
6 injured Deputy Hartwick and left the scene. So we didn't
7 know whether it was this guy or someone else. We started
8 looking at the car. Didn't really see any obvious signs
9 of human involvement on the outside of his vehicle.

10 Q Okay. So at one point you thought maybe this is
11 the suspect who's fleeing, because why is he driving over
12 an overpass?

13 A He just went over an unfinished overpass,
14 correct.

15 Q Sure. It sounds like you determined pretty
16 quickly that it wasn't related to the accident?

17 A It didn't appear to be. The problem with it
18 being -- I was told that Deputy Hartwick was struck by
19 something, which would lead you to believe that if he was
20 hit by this gentleman there would be damage to the front
21 of the car. The problem being is, it came off the end of
22 the overpass and landed on the front of the car. So it
23 was really hard to determine a hundred percent, but after
24 looking at it a few minutes, it didn't appear to be
25 involved.

1 Q Okay. Did you ever go to the scene where Deputy
2 Hartwick was -- where the Deputy Hartwick accident
3 happened?

4 A No.

5 Q Did you participate in the search for the
6 suspect or anything like that?

7 A No.

8 Q Did you sort of stay with this gentleman and
9 kind of follow that case through that evening, or what did
10 you do?

11 A I stayed with that until he was transported out
12 and we secured the scene, and then they released us from
13 there.

14 Q Okay. Did you attend any meetings or briefings
15 with PCSO about Deputy Hartwick, about his accident or --
16 about the accident or the case or anything like that?

17 A No. All I did was I provided a copy of my
18 in-car video to them for their investigation. I didn't
19 attend anything.

20 Q And that would have been just video of the car
21 coming over the overpass?

22 A Right.

23 Q Did you have a body cam on as well?

24 A I did, but the body cam didn't pick it up. I
25 was inside.

1 Q Okay. And so you don't believe you -- you
2 definitely didn't author any reports as it relates to
3 Deputy Hartwick's accident, right, because you weren't
4 involved with that?

5 A No, I wasn't involved with that at all.

6 Q Okay. And did you attend any meetings or
7 anything at the State Attorney's office? Any follow-up
8 with the Deputy Hartwick accident after that?

9 A No.

10 MS. DELIBERATO: I don't have any further
11 questions for you. Nichole, anything?

12 MS. BLAQUIERE: (Shakes head.)

13 MS. DELIBERATO: I'm going to assume that Liz
14 doesn't have questions. I know she can hear. If you
15 have questions, Liz, just put it in the chat, and we
16 can figure it out.

17 (ASA Constantine responds "No questions" in chat
18 message.)

19 MS. DELIBERATO: Thank you so much. I
20 appreciate your time.

21 THE DEPONENT: No problem, ma'am.

22 (Deposition concludes at 9:50 a.m.)

23

24

25

1 COUNTY OF PINELLAS)

2 STATE OF FLORIDA)

3 CERTIFICATE OF OATH

4

5 I, the undersigned authority, certify that
6 BENJAMIN SIMPKINS personally appeared before me by ZOOM
7 videoconference and was duly sworn.

8 witness my hand and official seal this 9th day
9 of February, 2024.

10

11

Tamara M. Pacheco

12

Tamara M. Pacheco, RPR
COMMISSION #942612
EXPIRES: March 30, 2024

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Tamara M. Pacheco, certify that I was authorized to and did stenographically report the Deposition of BENJAMIN SIMPKINS; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Tamara M. Pacheco

Tamara M. Pacheco, RPR