



Office of the New York State Attorney General Lettla James

Office of Special Investigation

December 13, 2024

Report on the Investigation into the Death of Luis Morocho

SUMMARY

New York Executive Law Section 70-b authorizes the Office of the Attorney General, through the Office of Special Investigation (OSI), to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer. When OSI does not seek charges, Section 70-b requires issuance of a public report. This is the public report of OSI's investigation of the death of Luis Morocho.

On August 18, 2023, off-duty New York State Police (NYSP) Trooper Liam Hayes was driving his personal vehicle on State Route 9 in the Village of Wappingers Falls (Dutchess County) when pedestrian Luis Morocho attempted to cross the roadway against the light. Mr. Morocho walked directly into the path of Trooper Hayes's oncoming vehicle and suffered catastrophic injuries that caused his death.

After a thorough factual investigation and legal analysis, OSI concludes that a prosecutor would not be able to prove Trooper Hayes guilty of a crime beyond a reasonable doubt and will therefore close this case without seeking charges.

FACTS

The Scene

Based on NYSP's Collision Reconstruction Findings Report (Collision Report), police Body Worn Camera (BWC) videos, and scene photos, State Route 9 (SR 9) generally runs in a north/south direction through Dutchess County and intersects with New Hackensack Road in the Village of Wappingers Falls. At that intersection, SR 9 contains two southbound lanes and four northbound lanes, three lanes for thru-traffic and a left-turn only lane. The northbound and southbound lanes are separated by a raised median that is several inches high and varies in width. The posted speed limit is 40 miles per hour (mph). The intersection is controlled by traffic lights suspended over the roadway. On the south side of the intersection, there is a marked pedestrian crosswalk across all lanes of SR 9 and a crosswalk signal light. The roadway is illuminated by overhead streetlights and ambient lighting from businesses and plazas along both sides of SR 9. On the evening of August 18, 2023, there was no precipitation; the roadway was clear and dry.

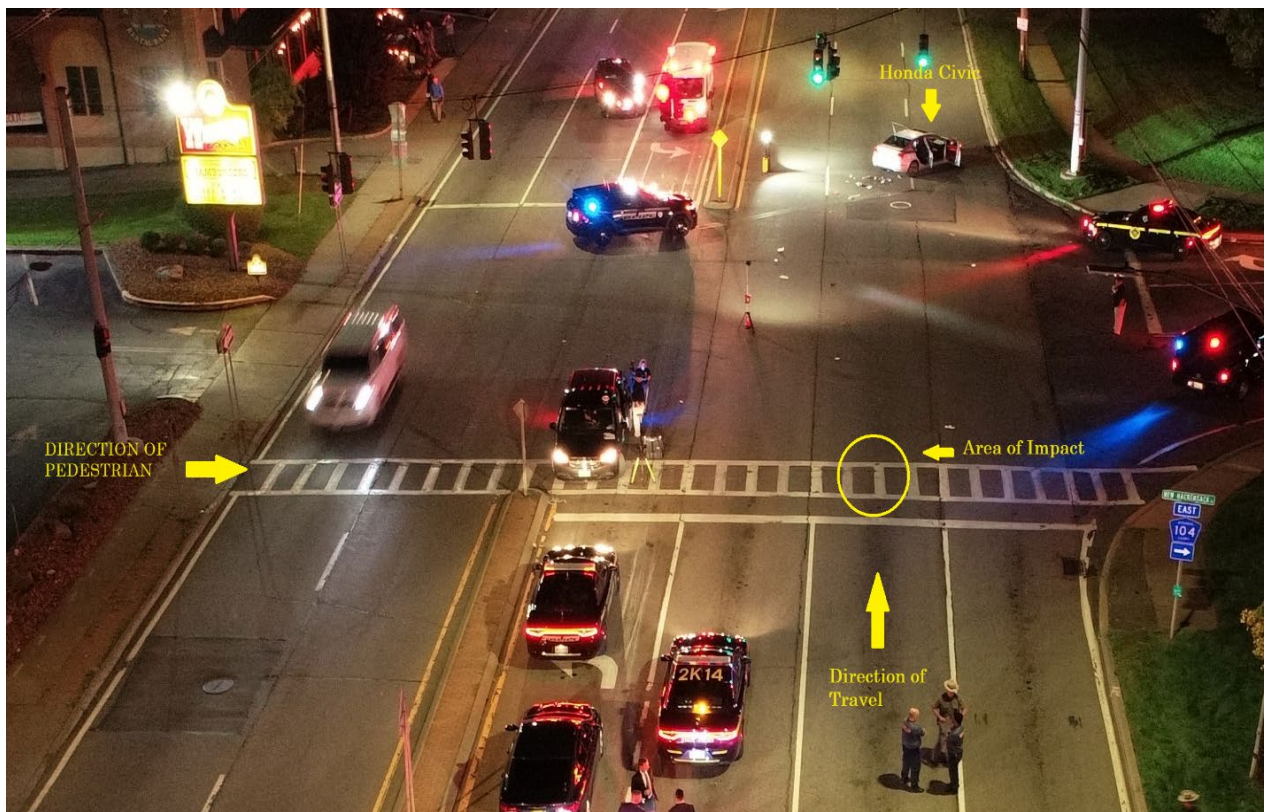
Incident

The facts in this section are based on OSI's review of BWC, post-collision photos, witness statements, and security video from a Dunkin Donuts at the southeast corner of the intersection.

At 9:02 p.m. on August 18, 2023, off-duty NYSP Trooper Liam Hayes was driving a gray 2013 Honda Civic northbound on SR 9 in the Village of Wappingers Falls. He was accompanied by a front seat passenger. (OSI does not publish the names of civilian witnesses.) As Trooper Hayes approached the intersection of SR 9 and New Hackensack Road, he was traveling in

the middle thru lane, and the light was green to him. Trooper Hayes was driving with the flow of traffic and his headlights were on.

Shortly before Trooper Hayes reached the intersection, Mr. Morocho began walking west to east across SR 9. He was in the crosswalk but was walking against the crosswalk signal. After he crossed the two southbound lanes, he paused near the median, suddenly quickened his pace, and jogged across the northbound lanes, directly into the path of Trooper Hayes's car. The front-left portion of the Honda Civic struck Mr. Morocho, and the impact caused him to land on the hood and strike the windshield. Trooper Hayes braked hard and swerved to the right, stopping the Civic on the north side of the intersection. Mr. Morocho was thrown from the vehicle and landed in the roadway.



Aerial photo of the scene taken after the collision. Trooper Hayes was traveling north on SR 9, as indicated by the yellow arrow.

Video Evidence

A security camera at the Dunkin Donuts on the southeast corner of the intersection fully captured the incident. (The Dunkin Donuts video may be viewed here: [Dunkin Security Video](#). OSI has circled Mr. Morocho and Honda at various points for clarity.) The video showed that Mr. Morocho entered the crosswalk on the western side of SR 9, crossed the southbound lanes, momentarily paused near the median, jogged across the northbound lanes, and was struck by Trooper Hayes's Honda Civic.



The top photo shows Mr. Morocho (circled) entering the western side of the crosswalk. The middle photo shows him near the median, and the bottom photo shows Trooper Hayes's vehicle (rectangle) approaching Mr. Morocho.

Statements of Trooper Hayes

NYSP Trooper Cory Pingiczer went to the scene and activated his BWC, which showed that Trooper Hayes said Mr. Morocho had “sprinted” out in front of the car in the middle of the intersection. Trooper Hayes said he slammed on his brakes and swerved to avoid Mr. Morocho, but there was “nothing [he] could do.” He acknowledged striking Mr. Morocho. Trooper Hayes estimated that he was traveling 40-43 mph. Trooper Hayes said he got out of his car, called 911, and started CPR (cardiopulmonary resuscitation) on Mr. Morocho. He said that two cars pulled up almost immediately afterward and took over CPR. Trooper Pingiczer asked Trooper Hayes if he had had anything to drink, and Trooper Hayes said, “No. Nothing at

all.” Trooper Hayes said he thought Mr. Morocho might have been drunk, as he could smell alcohol on Mr. Morocho’s breath when he started CPR.

Wappingers Falls Police Department (WFPD) Det. Sgt. Jennifer Farrell went to the scene and activated her BWC, which showed that Trooper Hayes said he had gone to BJ’s to pick up some groceries and was on his way home, traveling in the middle lane. He said he started CPR immediately after the collision.

Civilian Witnesses

Civilian Witness One (CW-1) provided a written statement to police on the date of the incident, and OSI interviewed CW-1 at a later date.

CW-1 said that at 9:00 p.m. she was driving a 2019 Nissan Frontier northbound on SR 9; she had been traveling directly behind Trooper Hayes’s Honda Civic for about four miles. CW-1 said she did not observe anything unusual about the Civic or how it was being driven; she did not observe the car swerve or cross the roadway lines. CW-1 said the traffic light was green as Trooper Hayes approached the intersection of SR 9 and New Hackensack Road and that, as the Honda Civic started to enter the intersection, a man suddenly came “out of nowhere, like a blur” and ran in front of the car. CW-1 said she saw the pedestrian’s body strike the windshield and go “over the vehicle,” landing on the ground. CW-1 said Trooper Hayes immediately stopped after the collision, got out of his car, and started performing CPR on Mr. Morocho. CW-1 said that Passenger took over chest compressions, at which point Trooper Hayes called 911.



Photo showing the condition of the Honda Civic at the scene on August 18, 2023.

In written statements provided to police on the date of the incident, CW-2 and CW-3 said they were at Longobardi's Pizzeria (which is at 1574 SR 9). CW-2 said he heard "brakes lock up" and loud screeching, followed by an impact. CW-3 said she heard a "loud bang." They followed the sound and drove to the intersection of SR 9 and New Hackensack Road, where they saw a damaged Honda Civic in the northbound lane. CW-2, who is a volunteer fire fighter with the Wappingers Falls Volunteer Fire Department, said he saw Mr. Morocho lying on the ground, covered in blood; he left the scene and went to a nearby fire station to obtain a Fire/Rescue SUV. CW-3 said she remained on scene, identified herself as an emergency medical technician (EMT), and took over CPR from Passenger.

WFPD Officer Louis Scagnelli was the first law enforcement officer on scene. As shown on his BWC, CW-3 was performing chest compressions when he arrived at 9:04:45 p.m., and Trooper Hayes was kneeling next to Mr. Morocho. Trooper Hayes felt Mr. Morocho's neck and told Officer Scagnelli he did not detect a pulse. Officer Scagnelli's BWC showed that he radioed control, said CPR was in progress, and that Mr. Morocho had "heavy trauma to the head." Officer Scagnelli took over CPR and continued to perform chest compressions until 9:07:41 p.m., when he switched out with another police officer, who continued CPR until the ambulance arrived, at 9:10:01 p.m.

In a written statement, Empress EMT Orlando DeJesus said Mr. Morocho appeared to be dead when the ambulance arrived. Nevertheless, the Empress Patient Care Report (PCR) said that emergency service providers continued CPR and rendered medical treatment on scene. The PCR said the ambulance left the scene at 9:26 pm and transported Mr. Morocho to

MidHudson Regional Hospital (Hospital) in Poughkeepsie.

Hospital medical records indicate that Mr. Morocho had no cardiac activity when he arrived at the emergency department at 9:39 p.m. Hospital staff quickly assessed Mr. Morocho and determined that they could not save him. Dr. David Woodkotch pronounced Mr. Morocho's death at 9:42 p.m.

Trooper Hayes's Condition

In her interview with OSI, CW-1 said she spoke briefly with Trooper Hayes immediately after the collision and did not smell alcohol or notice anything "suspicious."

In a written statement, NYSP Sgt. Thomas Cassesi said he spoke with Trooper Hayes on scene and determined that Trooper Hayes did not display any signs of impairment or intoxication. Sgt. Cassesi said he administered a preliminary breath test (PBT) to Trooper Hayes with an Alco-Sensor FST Intoximeter, serial # 133554 (an evidence-grade device) at 9:49 pm. According to Sgt. Cassesi's statement, Trooper Hayes provided an adequate breath sample, which was negative for the presence of alcohol.

NYSP told OSI at a later time that Sgt. Cassesi had not been issued a BWC, and that the Intoximeter he used could not be examined for accuracy.

Trooper Pingiczer's and Det. Sgt. Farrell's BWCs showed that when Trooper Hayes spoke with them, his speech, coordination, and demeanor seemed normal, without signs of impairment or intoxication.

Based on medical records from Vassar Brothers Medical Center (VBMC) in Poughkeepsie, Trooper Hayes was seen in the Emergency Room at for an abrasion to his arm at 10:39 p.m. According to the medical records, Trooper Hayes did not appear to be intoxicated by alcohol or other substances.

Autopsy

On August 21, 2023, Dr. Dennis Chute, a forensic pathologist, performed the autopsy at the Dutchess County Medical Examiner's Office. In the autopsy report, Dr. Chute stated that the cause of Mr. Morocho's death was "blunt impact injuries" of the head, neck, torso, and extremities. Dr. Chute ruled the manner of death to be Accident.

The pathologist sent a blood sample to NMS Labs for toxicology testing. The Toxicology Report indicated positive findings for Ethanol, with a Blood Alcohol Concentration (BAC) of 0.298 g/100 ml (0.298%).

Police Investigation

NYSP Investigator Roy Kievit from the Collision Reconstruction Unit (CRU) responded to the

scene on August 18, 2023 and issued a “Collision Reconstruction Findings Report” (Collision Report). Inv. Kievit photographed the roadway and the Honda Civic, documented the location of vehicular debris and other items in the roadway, and obtained surveillance videos from Dunkin Donuts and another nearby business. Based on his investigation, Inv. Kievit determined that the area of impact was in or near the crosswalk on the south side of the intersection, in the northbound lane. In an email to OSI, Inv. Kievit said that, while he was not able to determine the minimum speed of the Honda Civic at time of impact, the speed that Mr. Morocho achieved was “going to be similar to the speed of the vehicle.” In his Collision Report, Inv. Kievit indicated that Mr. Morocho achieved a speed of approximately 36 mph from the vehicle post-impact. According to the Collision Report, the posted speed limit on SR 9 was 40 mph.

In the Collision Report, Inv. Kievit stated that the “primary causative factor” to this collision was Mr. Morocho crossing SR 9 against a red crosswalk signal and failing to yield the right of way to Trooper Haye’s vehicle. Inv. Kievit said he had considered and ruled out roadway defects, environmental conditions, and vehicular defects as contributing to the cause of the collision.

LEGAL ANALYSIS

A person commits criminally negligent homicide when, “with criminal negligence, he or she causes the death of another person.” Penal Law Section (PL) 125.10. A person is criminally negligent “with respect to a result or circumstance ... when [that person] fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists” and when the risk is “of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.” PL 15.05(4).

The Court of Appeals held in *People v. Boutin*, 75 NY2d 692, 696 (1990), that “criminally negligent homicide requires not only a failure to perceive a risk of death, but also some serious blameworthiness in the conduct that caused it.” The evidence in this investigation does not show blameworthy or culpable conduct by Trooper Hayes.

Trooper Hayes was driving in the correct lane and had a green light as he approached the intersection. Although the NYSP Collision Reconstruction Unit could not determine his minimum speed, Inv. Kievit indicated that it would have been about the same speed that Mr. Morocho achieved post-collision, which was 36 mph. The Dunkin Donuts security video shows that Trooper Hayes’s vehicle was moving with the flow of traffic, at a similar speed as other vehicles. There is no evidence that Trooper Hayes exceeded the posted speed limit of 40 mph.

Further, there is no evidence that Trooper Hayes was impaired by alcohol or drugs. Nor is there any evidence that he was driving while distracted.

Based on the investigation, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that Trooper Hayes committed a crime when he caused Mr. Morocho's death. Therefore, OSI will not present this case to a grand jury for consideration of criminal charges.

Dated: December 13, 2024