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FEATURED

## Hanceville cop takes stand in his defense in wrongful death lawsuit

Tiffany Owens 5 hrs ago



Tiffany Owens/The Cullman Times

Hanceville police officer Billy Clemons, left, testifies Thursday in a wrongful death lawsuit against him and the City of Hanceville involving a wreck that killed Annie Mae Butts, 77, in 2009.

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As tears filled his eyes, former Hanceville police officer Billy Clemons testified Thursday he couldn't have avoided the wreck that killed a 77-year-old woman in 2009.

Clemons is the defendant in a wrongful death lawsuit, along with the City of Hanceville and ALFA Insurance Company, filed by the estate of the late Annie Mae Butts. Butts was killed Feb. 16, 2009, when a patrol vehicle driven by Clemons slammed into the passenger side of her car as she crossed Alabama 91 from Edmondson Road. Clemons was traveling between 85-90 mph at the time of the wreck without blue lights or sirens. The posted speed limit on the highway is 45 mph.

Clemons was responding to a suspected intoxicated driver call along with former Hanceville police Sgt. Danny Robertson when the collision occurred. Butts' son, Randy Carlton Butts Brown, filed the lawsuit in May 2009 as the administrator of his mother's estate. However, after he died, Butts' sister, Rachael Franks, was designated administrator.

A jury will decide whether or not the defendants should be held responsible for Butts' death, and Cullman County Circuit Judge Martha Williams is presiding.

The trial got underway Monday, and on Thursday, the defense called witnesses to provide testimony refuting the plaintiff's claims Clemons caused the wreck. Clemons took the stand and told the jury of 11 women and two men (including one alternate) that the wreck had a traumatic and severe impact on him, but he maintained Butts would be alive if she had not pulled out in front of him.

"If I could bring this lady back, I would, but it's not in my power," Clemons said, facing the jury. "When this is over, y'all get to leave here, the lawyers get to leave, but I have to live with this the rest of my life. I have to deal with what someone else has done, and I have to live with it."

When cross examined by plaintiff's attorney David Marsh about whether he took any responsibility for the wreck, Clemons replied: "I take responsibility for not having my lights and sirens on."

The dash camera video from Clemons' patrol car shows him leaving the police department, with Robertson driving ahead of him, and driving north on U.S. 31. As he turned onto northbound Highway 91, the footage shows Clemons turn on his blue lights and then turn them off.

Clemons was visibly upset and agitated through parts of the cross-examination Thursday. At one point, his attorney Tim Donahue had to tell him to simply answer the questions. Clemons was deposed in 2012 and had not seen the dash camera footage of the wreck until two weeks ago leading up to the trial.

Through questioning, Marsh told the jury data pulled from Clemons' patrol car revealed he wasn't wearing a seatbelt at the time of the wreck, and he only buckled up and turned on his blue lights after the collision. Clemons acknowledged he was trained at the state's police academy to turn his lights and sirens on when driving above the speed limit when responding to a call.

Clemons had to have three stitches in his knee and was airlifted to UAB Hospital after the wreck. He said he still has trouble remembering specific details about the collision.

The defense's witnesses Thursday also included Pam Stirling, a traffic accident and reconstruction consultant and former Alabama State Trooper, Warren Bond, a forensic photographer, and former Hanceville dispatcher Sandra Blackwood who witnessed the wreck.

A point of dispute between the plaintiff and defendants is the source of a light inside Butts' car captured on the dash camera. The plaintiff's attorneys argue the light is from the reflection of Blackwood's headlights on Butts' rearview mirror while the defendants' attorneys say it is an interior "dome" light which would have likely hindered Butts' view of Clemons' heading north on Highway 91.

Crash reconstruction engineer Michael McCort previously testified that based on his analysis, the light was a reflection. He also provided the court a video simulation which showed Butts' vehicle safely crossing the highway if Clemons' was traveling 45 mph.

Bond's testimony Thursday featured photos he took in 2014 of the highway from the exact position Butts would have been in under similar conditions on the night of the wreck. His photos showed headlights of an oncoming vehicle — representing Clemons' patrol car — from various lengths, from 2,013 feet, 1,000 feet, 500 feet and 300 feet. The wreck report found that Butts began crossing the highway when Clemons' was 388 feet away. McCort testified earlier that a vehicle traveling 90 mph would travel 132 feet per second.

Blackwood was the last witness called to testify and she described the moments right before the wreck. She was traveling in a vehicle with her two children behind Butts on Edmondson Road after a 12-hour shift. She testified she remarked to her children that "It's going to take us all night to get home," due to Butts's speed, which she estimated was 10-15 mph on Edmondson Road. As she waited at the intersection behind Butts, she said she saw the headlights of Clemons' car and watched as Butts' vehicle proceeded slowly into highway.

"I said 'She's not going to make it.' I knew she wasn't going to," Blackwood said. "It (the wreck) was a big explosion, glass hit my windshield. My kids were hysterical. We were all in shock."

Blackwood testified she wouldn't have crossed the highway at that time due to the proximity of the oncoming car. Under cross examination by Gaynor St. John, the plaintiff's attorney, Blackwood confirmed she told the investigating state trooper at the scene she didn't see Clemons' blue lights on and police are supposed to have them on if they're "running code."

St. John said data from Clemons' patrol car refuted Blackwood's claim that Butts' car was rolling into the intersection and then stopped prior to the wreck. Blackwood maintained the wreck still would have occurred due to how close Clemons' car was when Butts entered the highway.

Testimony for the defense could continue Friday. Terry Sides, the attorney for the City of Hanceville, told Williams he may have another witness or two testify before the defense rests its case.