

Jury rules against former Hanceville cop, city with \$4.5 million judgement

Tiffany Owens Feb 26, 2016



Tiffany Owens/The Cullman Times

Gaynor St. John, standing, delivers her closing argument Friday during the wrongful death trial against former Hanceville police officer Billy Clemons and the City of Hanceville.

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A Cullman County jury handed down a \$4.5 million civil verdict Friday against a former Hanceville police officer and the City of Hanceville for a 2009 wreck that killed a 77-year-old woman.

The jury ruled in favor of the estate of the late Annie Mae Butts in the wrongful death suit and found that Billy Clemons, who is no longer a police officer, and the city were responsible for the wreck that killed Butts on Feb. 16, 2009. A Cullman County grand jury decided in 2009 to not indict Clemons on any criminal charges for the wreck.

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.

Clemons was responding to an erratic driver call when he slammed into the passenger side of Butts' 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.

The trial began Monday with Circuit Judge Martha Williams presiding and included expert testimony,

footage of the wreck from the dash camera on Clemons' car and testimony from Clemons himself in his defense. On Friday, the defense rested its case and both sides made closing arguments before Williams turned the case over to a jury of 10 women and 2 men to deliberate.

In their closing statement Friday, the plaintiff's attorneys David Marsh and Gaynor St. John emphasized to the jury "it could have been anyone" that was killed while trying to cross the intersection and that jurors had a unique opportunity to send a message to law enforcement that officers weren't above the law.

"You can show them that we're not going to allow law enforcement to break the law, break their own procedures, travel at unimaginable speeds, and then come in and blame some lady that's not even here to defend herself," Marsh said.

The plaintiff's attorneys recommended awarding \$5 million-\$10 million in punitive damages to deter the defendant and others from such conduct in the future — an award Marsh described would "save lives."

Clemons' attorney Tim Donahue asked the jury to separate their feelings when making their decision, explaining Clemons' demeanor Thursday under cross-examination as him "acting out."

"He told me that was seven years of frustration and pain that came out," Donahue said of his client's testimony. "But this is not a personality contest. It's about applying the evidence and the law."

In their closing, Terry Sides and Matt Carter, both representing the City of Hanceville, and Donahue argued no evidence was provided that Butts wouldn't have pulled out in front of Clemons had he had his lights and sirens on or if she even looked in his direction before accelerating.

"Just like they say Ms. Butts had the right to assume other people on the road would obey the laws, Mr. Clemons had the right to assume Ms. Butts wouldn't pull out in front of him," Donahue said.

Sides added: "Both drivers failed to do their duty. Both drivers violated Alabama law and the rules of the road."

During his closing, Marsh said one of their witnesses summed up the case when she testified seeing police vehicles race past her apartment on Alabama 91 in pursuit of the suspect vehicle.

"She said 'My God, they're going to kill somebody!' And she was right. Thirty seconds later, Ms. Butts was dead," Marsh said.

Clemons and the City of Hanceville can appeal the jury's decision. He and Hanceville Mayor Kenneth Nail, who both attended the weeklong trial, declined to comment.