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Richmond, Va.

Record Nos. 6865,6866

In the Supreme Court of Appeals of Virginia at Richmond

KATHERINE HOLLOWAY,
an infant, etc.
v. Record No. 6865
AMBROSE R. MOORE, JR.

VAUGHN HOLLOWAY
v. Record No. 6866
AMBROSE R. MOORE, JR.

FROM THE CORPORATION COURT OF THE CITY OF CHESAPEAKE

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6865

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Tuesday the 9th day of January, 1968.

KATHERINE HOLLOWAY, AN INFANT, WHO SUES BY HER FATHER AND NATURAL GUARDIAN, VAUGHN HOLLOWAY,

Plaintiff in error,

against

AMBROSE R. MOORE, JR., Defendant in error.

From the Corporation Court of the City of Chesapeake
Jerry G. Bray, Jr., Judge

Upon the petition of Katherine Holloway, an infant, who sues by her father and natural guardian, Vaughn Holloway, a writ of error is awarded her to a judgment rendered by the Corporation Court of the City of Chesapeake on the 18th day of July, 1967, in a certain motion for judgment then therein depending, wherein the said petitioner was plaintiff and Ambrose R. Moore, Jr., was defendant; no bond being required.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6866

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Tuesday the 9th day of January, 1968.

VAUGHN HOLLOWAY, Plaintiff in error,

against

AMBROSE R. MOORE, JR., Defendant in error.

From the Corporation Court of the City of Chesapeake
Jerry G. Bray, Jr., Judge

Upon the petition of Vaughn Holloway a writ of error is awarded him to a judgment rendered by the Corporation Court of the City of Chesapeake on the 18th day of July, 1967, in a certain motion for judgment then therein depending, wherein the said petitioner was plaintiff and Ambrose R. Moore, Jr., was defendant; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said corporation court in the penalty of $300, with condition as the law directs.

Record No. 6865

* * * * *

page 23 } INSTRUCTION NO. A

The court instructs the jury that if you believe from a preponderance of the evidence that the motor vehicle in which the plaintiff was riding occupied the inside southbound lane of George Washington Highway as it entered the intersection of said Highway and Victory Boulevard and if you further believe that said lane was marked with traffic signs indicating left turn only, then it was the duty of the driver of the vehicle in which the plaintiff was riding to turn to the left and the defendant had a right to assume that the driver of the vehicle in which the plaintiff was riding would turn to the left until the defendant knew or should have known to the contrary, and if the driver of the vehicle in which the plaintiff was riding failed to execute a left turn, but instead continued to go straight through the intersection aforesaid, then the driver of the vehicle in which the plaintiff was riding was negligent, and if you further believe that such negligence was the sole proximate cause of the accident, then you should find your verdict in favor of the defendant.

5-16-67. J. G. B., J.

* * * * *

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* * * * *

KATHERINE HOLLOWAY, an infant who
sues by her father and natural
guardian, VAUGHN HOLLOWAY, Plaintiff,
v.
AMBROSE R. MOORE, JR., Defendant.

AT LAW 2107-M

ORDER

This day came the parties by counsel upon the motions of the plaintiff to set aside the verdict of the jury in favor of the defendant rendered on May 16, 1967 as contrary to the law

and the evidence, to set aside the said verdict for error in granting Instruction A on behalf of the defendant, to strike defendant's evidence, to enter judgment for the plaintiff and to order new trials as to damages only, and order new trials on all of the issues, and upon the Memorandum filed by each of the parties hereto, and was argued by counsel; and

The court having heard the arguments and maturely considered the memoranda submitted and being of the opinion that the said verdict of the said jury should not be disturbed, it is hereby ORDERED that the aforesaid motions on behalf of the plaintiff are denied and judgment is hereby entered on behalf of the defendant pursuant to the verdict of the jury aforesaid, to all of which action the plaintiff by counsel objects and excepts.

Enter this 18th day of July, 1967.

J. G. B., JR., Judge

* * * * *

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* * * * *

KATHERINE HOLLOWAY,
an infant, etc., Plaintiff
vs.
AMBROSE R. MOORE, JR., Defendant

DOCKET NO. 2107-M

* * * * *

ASSIGNMENT OF ERROR

The Trial Court erred in granting the defendant's instruction numbered "A" in that it is contrary to the law and unsupported by the evidence.

Given under my hand this 23rd day of August, 1967.

KATHERINE HOLLOWAY, an infant, etc.

By: SIDNEY L. JACOBSON
Of Counsel for Plaintiff

* * * * *

VIRGINIA:

In the Clerk's Office, Corporation Court of Chesapeake Received and filed this the 25 day of Aug., 1967.

Teste:

JULIAN R. RAPER, Clerk
By MARION LIPE, Deputy Clerk

* * * * *

Record No. 6866

page 15 } ISTRUCTION A

The court instructs the jury that if you believe from a preponderance of the evidence that the motor vehicle in which the plaintiff was riding occupied the inside northbound lane of George Washington Highway as it entered the intersection of said Highway and Victory Boulevard and if you further believe that said lane was marked with traffic signs indicating left turn only, then it was the duty of the driver of the vehicle in which the plaintiff was riding to turn to the left and the defendant had a right to assume that the driver of the vehicle in which the plaintiff was riding would turn to the left until the defendant knew or should have known to the contrary, and if the driver of the vehicle in which the plaintiff was riding failed to execute a left turn, but instead continued to go straight through the intersection aforesaid, then the driver of the vehicle in which the plaintiff was riding was negligent, and if you further believe that such negligence was the sole proximate cause of the accident, then you should find your verdict in favor of the defendant.

5-16-67. J. G. B., JR.

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VAUGHN HOLLOWAY, Plaintiff,
v.
AMBROSE R. MOORE, JR., Defendant.

AT LAW 2108-M

ORDER

This day came the parties by counsel upon the motions of the plaintiff to set aside the verdict of the jury in favor of the defendant rendered on May 16, 1967 as contrary to the law and the evidence, to set aside the said verdict for error in granting Instruction A on behalf of the defendant, to strike defendant's evidence, to enter judgment for the plaintiff and to order new trials as to damages only, and to order new trials on all of the issues, and upon the Memorandum filed by each of the parties hereto, and was argued by counsel; and

The court having heard the arguments and maturely considered the memoranda submitted and being of the opinion that the said verdict of the said jury should not be disturbed, it is hereby ORDERED that the aforesaid motions on behalf of the plaintiff are denied and judgment is hereby entered on behalf of the defendant pursuant to the verdict of the jury aforesaid, to all of which action the plaintiff by counsel objects and excepts.

Enter this 18 day of July, 1967.

J. G. B., JR., Judge

* * * * *

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VAUGHN HOLLOWAY, Plaintiff
vs.
AMBROSE R. MOORE, JR., Defendant

DOCKET NO. 2108-M

* * * * *

ASSIGNMENT OF ERROR

The Trial Court erred in granting the defendant's instruction numbered "A" in that it is contrary to the law and unsupported by the evidence.

Given under my hand this 23rd day of August, 1967.

VAUGHN HOLLOWAY

By: SIDNEY L. JACOBSON
Of Counsel for Plaintiff

* * * * *

Records Nos. 6865-6866

page 6 } JAMES F. WHITE, called as a witness on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Jacobson:

Q. Would you state your name and address, please?

A. My name is James F. White. I live 729 East Brunswick Road, Portsmouth, Virginia.

Q. And what is your occupation, sir?

A. Police officer, City of Portsmouth.

Q. And were you so employed on December 24, 1964?

A. Yes, sir, I was.

Q. And what was your particular assignment on that evening?

A. Particular assignment on the evening was routine patrol duty.

Q. Did you have occasion to investigate an accident which occurred that evening at the intersection of George Washington Highway and Victory Boulevard in Portsmouth?

A. Yes, I did.

page 7 } Q. And would you tell us who the parties were who were involved in that accident?

A. The party was Ambrose R. Moore, Jr., and Hugh Arnold Ashley.

James F. White

Q. And were there any passengers in either of the vehicles?

A. There was a young lady in the Ashley vehicle and there were several people with Mr. Moore. I do not remember at this time who was with him.

* * * * *

Q. Could you describe the weather conditions that particular evening, sir?

A. They were rather messy. It was drizzling and the street was wet. It had been raining rather hard earlier.

* * * * *

page 9 }

* * * * *

Q. I see. Then which way was the Ashley vehicle that Miss Holloway was a passenger in, which way was that vehicle headed?

A. The Ashley vehicle—this is a little large—was—more or less from my investigation was heading in a southerly direction.

* * * * *

Q. I see. Did you note any damage to either of the cars?

A. Yes, sir. The Moore vehicle had damage to the right rear of the vehicle, and the Ashley vehicle had damage to the right front.

page 10 } Q. And when you say right rear, could you demonstrate on this small car?

A. Right rear would be right rear bumper and quarter panel, this portion of the vehicle back here to the rear.

Q. You are not speaking actually of the rear end itself?

A. No, I am speaking of the side quarter panel. I do remember this, because it was mashed down on the tire itself. Had a little trouble getting it moved.

Q. Officer, is there any lighting at this intersection?

A. Yes, sir. This is a pretty well-lighted intersection. There's a gas station here and a gas station here and there's lights around the intersection.

Q. Um-hum. Are there ony other facts that your investiga-

tion at the scene disclosed, such as skid marks or any other physical evidence you could find?

A. No. The only thing that—would be the debris, which was setting in this position in the intersection. The street was rather wet, which would not give me any skid marks to work with.

Q. Officer, I believe you can take the stand.

A. (Did so)

Q. Did you have occasion to talk with the drivers
page 11 } of the vehicles after the accident?

A. Yes, sir; I took a statement from both of them upon investigating it.

Q. And what did these statements consist of?

A. Primarily Mr. Moore said that he was coming up to the intersection and he was going to make his left-hand turn, said he thought he had enough time to clear the intersection when the Ashley vehicle struck him in the right rear.

Q. I see. Did Mr. Ashley also make a statement to you, sir?

A. Yes, sir. He told me he was coming south on George Washington when Mr. Moore's vehicle turned in front of him. Said he hit his brakes but he skidded on the wet street and he was unable to avoid the Moore vehicle.

* * * * *

Q. Do you know—did you know prior to this accident Mr. Moore?

page 12 } A. Yes, sir, I did.

Q. Did you know Mr. Ashley?

A. No, sir, I did not.

Q. Where did you know Mr. Moore, sir?

A. I knew Mr. Moore—we served together in the National Guard.

Q. Was there any evidence of drinking involved here by anybody?

A. Mr. Moore had a slight smell on his breath, but in no way in my opinion impaired his driving.

* * * * *

Hugh Arnold Ashley

page 16 } HUGH ARNOLD ASHLEY, called as a witness on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Jacobson:

Q. Would you state your name, please?

A. Hugh Arnold Ashley.

Q. And would you please speak up as loud as you can here so the judge and the jury can heard you.

What is your address, Hugh?

A. 210 West Iowa Street, Chesapeake.

Q. And how old are you?

A. I am eighteen.

Q. You are eighteen?

A. (Indicated yes).

Q. And how old were you at the time of this accident?

A. Sixteen.

* * * * *

page 17 }

* * * * *

Q. Were you the driver of a car that was involved in an accident at the intersection of George Washington Highway and Victory Boulevard in Portsmouth on December 24, 1964?

A. Yes, I was.

Q. And who was the driver of the other car?

A. Mr. Ambrose Moore.

* * * * *

Approximately what time of night did this accident happen, Hugh?

A. Approximately 11:30.

Q. And would you tell us where you had been
page 18 } that evening?

* * * * *

Hugh Arnold Ashley

page 23 }

* * * * *

Q. Would you tell us what kind of a night it was?

A. Well, it was cloudy. It had been drizzling a lot through the evening.

Q. And would you tell us were there any passengers in your automobile?

page 24 } A. Yes, there was: Kathy Holloway.

Q. And is Kathy the young lady sitting behind me?

A. She is.

Q. When you left Kathy's grandmother's and proceeded to get something to eat what did you observe as you approached the intersection involved here today?

A. Well, as I approached I observed Mr. Moore in the left-hand lane.

Q. Are you referring to the left-hand turn lane?

A. Yes, sir.

Q. And what lane were you in at that time?

A. I was in the right-hand lane next to the curb.

Q. And what color was the light?

A. It was green.

Q. And what happened then?

A. Well, as I got to the intersection, about sixty or seventy feet, he started to turn and I hit my brakes, and I just started sliding and I tired to avoid him by going into the left-hand lane, but it was no use. I hit him in the right rear.

Q. And what happened to Kathy when you struck the right rear of the car?

page 25 } A. Well, she—the jerk had slung her up against the dashboard of the car.

Q. Did she hit any parts of her body?

A. She struck her head against the windshield.

Q. What happened after the cars stopped?

A. Well, I got out of my car and I went over to talk to Mr. Moore.

* * * * *

Q. Now, did you state that you got out of your

page 26 } car?

A. I did.

Hugh Arnold Ashley

Q. And what did you do?

A. I proceeded over to talk to Mr. Moore.

Q. And what did you observe about Mr. Moore, if anything?

A. Well, he looked uneasy. He looked like he had been drinking.

Q. Why do you say that?

A. Well, he was nervous and all red and his eyes were real bloodshot.

Q. Have you seen people who have been drinking before this time?

A. Yes, I have.

Q. And what happened after you went over to talk to Mr. Moore, what ever happened?

A. Well, the police were notified, and I called my father and he was—he came down and talked to me and then he talked to the policeman and he asked Mr. Moore, he said, "Have you been drinking?" And he says, "No, Why?" He said, "Well, you look like it."

Q. Did you smell Mr. Moore's breath?

A. I smelled something that smelled like liquor.

Q. Have you ever smelled liquor before?

page 27 } A. I have.

Q. Do you drink, Hugh?

A. No, I don't.

Q. Were you with Mr. Moore the entire time after the accident until you left the scene?

A. Yes, I was.

Q. And did you see him have anything to drink in your presence?

A. No, I didn't.

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page 28 }

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Q. Let's go back for one second, Hugh, to the accident itself. I believe you testified that you were about somewhere between fifty and seventy feet away when you saw Mr. Moore's car start to turn. What action did you take, if any, at that time, when you saw him begin to pull out?

page 29 } A. As soon as he started to make his turn I ap-

plied the brakes, and I was just sliding, and I tried to get out of his way by turning left.

Q. I see.

A. But it just slid.

* * * * *

ROY ARNOLD ASHLEY, JR., called as a witness on behalf of the plaintiffs, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Jacobson:

Q. Would you state your name, please, sir?

A. Roy Arnold Ashley, Jr.

Q. And what is your address, sir?

page 30 } A. 210 West Iowa Street, Chesapeake.

Q. And what is your occupation?

A. Switchboard operator.

Q. And where are you employed?

A. Portsmouth Power Station.

Q. Are you the father of Hugh Ashley?

A. Yes, I am.

Q. And he is the boy who just testified?

A. That's right.

Q. Did you have occasion to go to the scent of an accident involving your son on December 24, 1964?

A. Yes, I did.

Q. Did you have occasion to go to the scene of an accident sir?

A. Yes.

Q. And would you tell us the condition of that car when you arrived at the scene?

A. The front end was messed up on it. The hood and the bumper and the fender.

Q. And what, if anything, did you do at the scene of the accident?

A. Well, I went over to—I checked on Kathy and Hugh first, and then I went over to the car where the officers were and talked to the officers and Mr. Moore.

page 31 } Q. And did you say anything to Mr. Moore?

A. I asked Mr. Moore was he drinking.

Q. And why did you ask him that, sir?

A. Well, from his appearance he looked to me like he was.
Q. And would you describe his appearance for us?
A. Well, I was sitting in the car beside him and his eyes were bloodshot and his face was flushed and he acted as if—like he was under the influence.

Mr. Garrett: Your Honor, I object to that.
The Court: Sustain that. He may describe any physical—anything physical that he saw, not draw any conclusions.

* * * * *

page 33 } KATHERINE A. HOLLOWAY, plaintiff, called as a witness on her own behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Jacobson:
Q. Would you state your full name, please, Kathy?
A. Katherine A. Holloway.
Q. And what is your address?
A. 116 Rock Drive, Chesapeake.
Q. And would you try to speak up so that the jury can hear you?
A. I have a sore throat.
Q. How old are you, Kathy?
A. I am sixteen.
Q. And how old were you at the time of the accident?
A. I was fourteen.
Q. And you are two years younger than Hugh Ashley?
A. Yes, sir.
Q. Kathy, where had you and Hugh been that night?
A. We had been at my grandmother's house. We
page 34 } were exchanging gifts at a Christmas party.
Q. And where were you going when you left there?
A. We was going to get something to eat at the Dixie Drive-In.
Q. I see. What happened about 11:30 that night at the intersection of George Washington Highway and Victory Boulevard?
A. We had a wreck.
Q. I see. And what part of the car were you sitting in?
A. I was sitting on the right side next to the door.

Katherine A. Holloway

Q. And what were you doing prior to the accident?

A. I was just looking around, just sitting around, just looking out the windows.

Q. Did you see Mr. Moore's car as you-all approached this intersection?

A. Yes, sir, I did.

Q. And where was his car?

A. It was in the left turning lane.

Q. I see. Approximately, if you can recall, how far away were you when you first saw his car?

A. I'd say about sixty feet.

page 35 } Q. And what was his car doing, if anything?

A. Which car?

Q. Mr. Moore's car.

A. It was pulling out into the turn.

Q. What color was the light in the direction that you were heading, the traffic signal?

A. It was green.

Q. Was it a solid green?

A. Yes, sir.

Q. You are sure it wasn't a green arrow?

A. No, sir, I am sure it was solid.

Q. What happened after that?

A. Well, we hit him and I—

Q. What happened just prior to your hitting him?

A. I don't understand you.

Q. Well, you were approaching the intersection and he pulled out, you say. What did you-all do?

A. Well, Hugh tried to slam on brakes and the car slid and he turned the car towards the left and tried to avoid him.

Q. I see. What lane were you in before he put on his brakes?

A. He was in the right lane.

Q. You talking about the lane nearest the curb?

A. Yes, sir.

* * * * *

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AMBROSE RUSSELL MOORE, JR., defendant, called as a witness on his own behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Garrett:

Q. State your name, please?

A. Ambrose Russell Moore, Jr.

* * * * *

page 124 }

* * * * *

Q. Were you involved in an automobile accident—

A. I was.

Q. —with Hugh Ashley as the driver and Katherine Holloway as a passenger?

A. That's right.

Q. On that day what time was it?

A. It was at nighttime. Late, 10:30, eleven.

* * * * *

page 125 }

* * * * *

Q. All right, sir. On this particular evening was the weather dry?

A. It had been misty rain that night.

Q. And the streets wet?

A. That's right.

* * * * *

Ambrose Russell Moore, Jr.

page 126 }

* * * * *

Q. And from the time, say, that you were in front of the Super Seventeen Drive-In what lane were you in?

A. I was in that lane—I was in the inside lane, the left-turn lane, only approximately I turned on there across the railroad track, along in there.

Q. What was your speed at that time?

A. Well, about that time I was running round about I'd say twenty-five or thirty miles an hour.

Q. All right, sir. As you approached this intersection what color was the light?

A. As I approached the intersection?

Q. Um-hum.

A. The light was green.

Q. Did you give any kind of signal?

A. I did.

Q. What kind?

page 127 } A. A left turn signal.

Q. Use your hand or your blinker switch?

A. The blinker switch on my car.

Q. Was it operating?

A. It really was. It was a new car.

Q. All right, sir. When is the first time that you saw the vehicle that turned out to be operated by Hugh Ashley?

A. Well, it was at nighttime and I saw the headlights to an automobile approaching me approximately back along about the Seventeen—Super Seventeen I mean, the drive-in movie.

Q. And where was this vehicle?

A. It was on down the road a good ways. Naturally you can see headlights on a car.

Q. All right, sir. Now, as you came up to the intersection approximately how fast were you going?

A. As I came up to the intersection?

Q. Um-hum.

A. Well, I am naturally slowing down, and as I came up to it I couldn't have been going over fifteen miles an hour.

Q. All right, sir. Did you then observe the vehicle driven by Mr. Ashley?

A. I did.

page 128 } Q. Where was it?

Ambrose Russell Moore, Jr.

A. I'd say he was a block, tow blocks away.

Q. All right, sir. Was he in the intersection at that time?

A. Not as I came up, um-um.

Q. Well, how about at the time that you began to make a turn?

A. As I began to make a turn he came at me.

Q. All right, sir. What lane was he in?

A. He was on the inside lane, the left-turn-only lane.

Q. How long had he been in that lane?

A. He had been in that lane ever since I had first seen him.

Q. Now, you mentioned left-turn-only lane. What causes you to refer to the lane you were in as left turn only?

A. It plainly states out on the highway that that is a left turn only either way. The letters are bigger than this desk. They are written out on the highway, both sides.

Q. All right, sir. Now, were those letter written in the lane that the Ashley car was in?

A. They certainly were.

Q. Now, you saw this car coming. Was it giv-
page 129 } ing any signal?

A. I can't say whether he was giving a signal or not.

Q. Did you anticipate that this car would continue to come forward or make a turn?

A. No, I assumed he was going to turn. He was on the inside lane, he was in the left turn lane only to turn, so when you are in that lane you are supposed to slow up and turn. I did.

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page 134 }

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CROSS EXAMINATION

By Mr. Hays:

* * * * *

Ambrose Russell Moore, Jr.

page 138 }

* * * * *

Q. That's right. And how many other cars were coming towards you on George Washington Highway that night?
A. Toward me at that time?
Q. Um-hum.
A. One.
Q. Just this one?
A. Thats' right.

* * * * *

page 141 }

* * * * *

Q. I see. Now, you testified that they were in the left-hand lane all the way from the first time that you saw them. Now, are there any lights on George Washington Highway way down, street lights?
A. Yes, there is.
Q. There are street lights, so you could see them then way down?
A. I could see him. Yes, I saw him.
Q. Had no difficulty seeing?
A. No.
Q. None at all?
A. None at all.
Q. And your speed was about twenty-five miles an hour as you approached?
A. I say twenty-five or thirty. I stated that.
Q. As you approached the intersection?
A. It was about fifteen as I approached coming stopping.
Q. All right. How far from the intersection were you when you started to slow down?
A. When I started giving my turn signal?
page 142 } Q. Um-hum.
A. I was back up about the Super Seventeen Drive In Theatre.
Q. I don't know where the Super Seventeen Drive In Theatre is. Could you tell me in feet, please?
A. Well, I guess it is a hundred.

Q. Hundred feet?

A. I guess it is. Maybe it is more than a hundred feet. It is over.

Q. All right. From the time you passed the Super Seventeen—

A. It is over that.

Q. —until you got to the intersection you could see Mr. Ashley's car coming at you the whole way?

A. Yes.

Q. You had no difficulty seeing it?

A. No.

Q. And at the drive-in theater, which is a hundred feet away, you turned on your left turn signal?

A. Yes.

Q. And you anticipated that he would make a left turn?

A. I assumed that he would, yes.

Q. You assumed that he would?

A. Well, he was supposed to if he is on the
page 143 } left inside lane.

Q. Now, immediately after the accident did you go back up George Washington Highway in the direction he was coming?

A. Did I?

Q. Yes.

A. Well, the wrecker towed me away.

Q. So you didn't go back up George Washington Highway the same way this boy was coming that night?

A. Well, I had to get home.

Q. Well, I mean—

A. A friend of mine—

Q. Let me rephrase the question. Did you come the same direction down George Washington Highway that he was that night?

A. No, I don't think I came out—I don't think I had any need to go back that way, no reason.

Q. You don't know what the markings on George Washington Highway were at that time that night?

A. Beg pardon?

Q. You don't know what his markings on the highway would have been that night?

A. Yes, sir, I do.

Q. How do you know that?

A. Because I was back there the next day.
page 144 } Q. That is the next day, not that night?

A. They hadn't been painted the next day.

Ambrose Russell Moore, Jr.

Q. I am not talking about being painted. You don't know whether you could see them or not, do you?
A. Yes, I do.
Q. You weren't there?
A. I was on my side and my side had been painted the next day.

* * * * *

Q. Your side of the road is different from his, isn't it? It is two places.
A. It is two places, but they are similar.
Q. It is similar, not the same?
A. No two places are the same.
Q. That's right, and a road with water on it looks different to one person than it does to another?
A. I couldn't say. It is according on how he looks at it. I look at it as a highway with markings on it,
page 145 } and that's the way I see it. I mean if he looks at it that way that's the way he is going to see it.
Q. Now, the policeman said that there were people in your car. You have said that there were not. How would you explain that?
A. Maybe a mistake on his part. That's the only thing I know of, because there were so many people around that night. Could have been—
Q. None of these people went up to the policemen and said they were there, did they?
A. No. If any people were there I'd had them here.
Q. How long had this light been green as you were coming down George Washington Highway?
A. Well, it was green as I was approaching it.
Q. Been green for a little time?
A. Well, yes, it was green when I put my turn signal on.
Q. Hundred feet away?
A. I'd say it was.
Q. How far away was Mr. Ashley at that time?
A. I done stated he was approximately two to three blocks away I think. I already said that.
Q. How long is a block? I am trying to get it into feet that I can understand, because your blocks—
page 146 } A. You know as much about how far a block is as I do, really.

Ambrose Russell Moore, Jr.

Q. I asked you a question how big in feet is your block you are talking about? Can you give me feet?

A. Well, I couldn't say right offhand. Blocks vary, don't you know?

Q. Then you don't know how far Mr. Ashley was away from you, do you?

A. Well, I just told you he was two or three blocks the way they are right along down through Craddock there. They are short blocks through there, but he was a good two to three blocks away.

Q. Well, is a short block fifty feet?

A. I just told you I didn't know. I just got through telling you that. I don't know how much those blocks are.

Q. From the time you started making your left turn or putting the turn signal on you were going between twenty-five and thirty?

A. Beg pardon, now?

Q. When you first turned your left turn signal on I believe you said you were going between twenty-five or thirty?

A. Well, I was going approximately twenty-five to thirty as I crossed the railroad track, and by the time
page 147 } I got there I put my turn signal on—before I put my turn signal on I was slowing down. I wasn't doing thirty miles an hour when I put the turn signal on.

Q. Then you were doing fifteen, somewhere in this area?

A. I said approximately twenty, something like that. Because you don't make a ninety-degree turn fast.

Q. How long did it take you to go from that point of approximately a hundred feet to the intersection? Do you know?

A. Well, sir, I wasn't checking a watch. I don't have any watch. I wasn't wearing one that night. I don't know.

Q. Do you have any mental impression how long it took you in seconds?

A. No, I don't. Because I wasn't trying to time myself.

Q. And at this time, as I understand it, Mr. Ashley's car was two or three blocks away?

A. He was approximately that.

Q. And he—then as you got to the intersection you were doing about fifteen miles an hour?

A. As I pulled up getting ready to stop—I mean not stop, but as I was slowing down to make a turn. You
page 148 } ain't going to make a turn going right there at fifteen miles an hour, to start with.

Q. Did you stop?

Ambrose Russell Moore, Jr.

A. As a dead stop, no.
Q. No dead stop?
A. No. I wasn't doing five miles an hour turning though.
Q. Then you made this swing just like that?
A. It was a turn. No swing, a turn.
Q. I am not trying to trap you into something. I mean turn. You made a ninety-degree turn?
A. That's right.
Q. And it was at that point in the turn you got hit?
A. Absolutely, that's right.

Mr. Hays: No more questions.

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The Court: Whatever you have got to say about A you better say it.

Mr. Hays: We *objection* to instruction A first on the ground that there is no evidence to indicate that at the time of the accident the defendant saw or in the exercise of keeping a proper lookout should have seen that his—that the left lane of George Washington Highway in the direction in which he was proceeding was marked left turn only. And secondly, that the State Code requires and prescribes the manner in which a left turn shall be made, that is, to use a mechanical signal or an arm. There is no evidence that either of these were done. Thirdly, that the jury might speculate as to
page 153 } when and where along the distance of George Washington Highway any car might make a left turn in that there is no evidence that this lane restricts making left turns solely and particularly at this intersection.

Mr. Jacobson: And there is no evidence that any party, and especially the defendant, could see at this particular occasion just prior to the accident any indication that only a left turn could be made in the left-hand lane, which is the inner lane southbound on George Washington Highway at its intersection with Victory Boulevard, and with no evidence in the case to such a fact it is the plaintiff's position that the instruction's objectionable, is not supported by any evidence.

The Court: I will give it.
Mr. Jacobson: Would you note our exception.

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A Copy—Teste:

Howard G. Turner, Clerk.

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