

WITNESS STATEMENT

JB – Jack Bisland JD – Sgt. James Day

JB Testing 1-2-3-4-5. Today's date is December 7th, 2010. This will be a recorded interview with Sgt. James Day of the Volusia County Sheriff's Department. The person's present are Sgt. Day and Inv. Jack Bisland with the State Attorney's Office. This interview is taking place in Deland at the courthouse inside the State Attorney's Office. Sgt. Day for the record I want to establish that I am conducting a criminal investigation and this is not an internal or an administrative investigation. Do you understand that?

JD Yes I do.

JB Ok. Additionally that you have been identified as a potential witness and are giving this statement voluntarily is that the case?

JD Yes sir.

JB Ok. Based on a complaint from the Sheriff's Office I'm conducting an investigation into the events surrounding the fatality accident which occurred in Debarry on November 25th, 2010 involving members of the Osowski family. Specifically this investigation concerns the action or inaction of Capt. Alan Osowski after being notified of that accident. So prior to the start of the interview what I'd like to do is swear you in. If you would please just raise your right hand for me. Do you solemnly swear or affirm that the statement you are about to give will be the truth the whole truth and nothing but the truth so help you God?

JD I do.

JB Ok. If you would for me please state and spell your full name.

JD James Day, J-A-M-E-S Day, D-A-Y.

JB And a good contact phone number for you sir?

JD 

JB And...

JD 

JB 

JD Yeah it didn't look like a two from here.

JB And you're currently employed with the Volusia County Sheriff's Office is that correct?

JD Yes sir.

JB How long have you been employed?

JD It'll be 10 years October, this 2011 so nine and a half.

JB Ok and your current assignment?

JD I'm currently assigned to Debarry or district six as a road supervisor.

JB Were you working on Thanksgiving Day?

JD Yes sir.

JB What shift were you working?

JD It would've been alpha.

JB That's 6p to 6a?

JD Yes sir, no, yes 6p to 6a yes sir.

JB Ok. It would have been early on in your shift then units got dispatched to a traffic accident on 17-92 near the entrance to Glen Abby. Can you tell me about how you first were aware of that call and then your response please?

JD We were at the district and subsequently the radio called us and said there was a traffic accident on Charles R Beal and, well entrance to Glen Abby but it's also North Pine Meadow.

JB Uh huh.

JD Um, just a, just a standard you know car accident with injuries.

JB Ok and did you respond?

JD Yes sir.

JB Ok do you remember the other units that responded and arrived?

JD Yes sir um, my 61 man which is Dep. Sawicki responded as well as my 62 person um, which is Dep. Galarza. We also had another unit that was available but he

was in the process of being transport, or taking a prisoner to the fairgrounds so he was out of the equation at this point but he does come to the scene.

JB His name?

JD Dep. Ray, he comes to the scene later on.

JB Can you describe for me what you saw when you first got there essentially?

JD As we uh, virtually all three of us showed up on scene seconds you know and again you know anytime you say seconds, 10 to 15 you know it's within the minute timeframe I mean so, but uh there was one car, traffic was virtually at a stand still or was limited access and primarily the, those that were moving were those on 17-92 heading south.

JB Ok.

JD It was, the turn lane was definitely blocked from 17 Charles R Beal as you turn into Glen Abby. You had a car in the intersection and then you had the uh, what later, and a lot of this you know that's hindsight.

JB Uh huh.

JD But later was determined to be the Osowski vehicle on the north east corner up on the sidewalk near the um...

JB Lets ask, let me ask you this question then. So there was significant road blockage and you evaluated for injuries and did the things that you would traditionally do at a scene. At what point did you learn that the involved, one of the involved vehicles contained Peggy Osowski and Michael Osowski?

JD Um, well I need to be able to, so that you, I mean...

JB Was it soon after you arrived you realized who was there or, or was it some point in time after?

JD It was some point in time after.

JB Ok.

JD Um and that's why I mean, that's you know you have my statement and that's what was going on.

JB Uh huh.

JD We were setting up, detouring traffic, rescue was again on the spot they were right behind us. Did I see a woman in the car injured? Yes. Did I know who? No, didn't have a clue but she was hurt ok we've got one here, where is the other parties, ok there they're set and then that's when as soon as rescue showed up they were requesting the helicopter.

JB Right.

JD So as I was in the process of establishing the, a landing zone by this time we had the um additional, we were able to, I requested additional units from Orange City to come down to try to help with traffic control.

JB Right.

JD And then I see this one private vehicle and it was a uh, like a, what was he driving? I don't know an Isuzu SUV or something along those lines it was just you know it was his private car but all's a remember having to see the parrot head uh tag on the front. But I see this and I was like who is this driving when I had the road dang near blocked and he uh, pulls into the right at the entrance to the turn lane of 17-92 south as you would turn into Glen Abby and parks and subsequently he gets out and then that's when I recognize it was the Captain.

JB Ok was it at some point after that that you realized that he was there because his family members were involved in the wreck?

JD Well as he was approaching again you know it didn't key in because he's Capt. Osowski.

JB Right.

JD He's I mean...

JB He might have been in the area right.

JD ...that's his district.

JB Sure.

JD Um, you know but out of, you know I'm a sergeant you know it was like oh ok, got brass, captain.

JB Uh huh.

JD So I did walk over to him and "Captain what's up?" and then that's when he informed me.

JB Ok.

JD That's my family.

JB So that's how you learned?

JD Yes sir.

JB Ok. So you're coordinating a landing zone for a potential transport and then as I understand the facts the decision was made to transport her to a local hospital to stabilize her, helicopter is cancelled from the scene but my concern is at what point are you aware that Capt. Osowski and his son Michael leave the scene?

JD Um, at what point?

JB Did the point in time come where you realized they weren't there?

JD Yeah but that was I mean we're talking I mean, well the helicopter had already left, the grandmother had already left, at that point it was ok lets (unintelligible) um...

JB So would you...

JD It was several I mean several minutes uh...

JB Ok would you estimate that from the time that Capt. Osowski got to the scene to the time that he left with his son to be 15 to 30 minutes? More than 30 minutes? Just if you can estimate.

JD A solid 30 minutes.

JB Ok.

JD I mean...

JB Give or take but at least 30 or around 30 minutes.

JD Yeah I mean again we can I mean to answer your question or bring it home I know that and that's why its easier just to walk thru and I know you...

JB Ok.

JD ...but you, the helicopter has already landed. In fact, so I mean I actually had to move Capt. Osowski's vehicle. In fact I went over to him and he was standing, and he was standing by an individual but even at that point I mean it was a male but I didn't even know it was his son and while anytime a family member's

involved in an accident with the SO or anyone of significant you've got to start notifying chain of command so all of this is going on and like anything else they start asking a whole bunch of questions and you don't know that answer and you've got to go find these, are you sure it's his son? Yeah it's his well let me check and um, but um, EVAC transported because she goes into cardiac arrest.

JB Uh huh.

JD You can't go in the helicopter, and that's when they take her around to 802 and so it was I mean, I know whatever time the EVAC left and then it was a couple minutes there after that I finally learned that he actually left so.

JB Who did you assign to investigate the traffic accident?

JD Initially it was going to be Dep. Galarza and his trainee but once we realized oh this is more, the accident itself was too much that's when we switched it to Dep. Sawicki to do but, and as it, he would have been able to handle it had it not been the fact that oh wow this is not this, I'm going to err on the side of caution lets just go ahead and do the THI notification.

JB Uh huh.

JD So that's how that played out.

JB So initially Dep. Galarza and his trainee, would that have been trainee James Vickers?

JD Yes.

JB Ok they were originally were assigned to work the accident. Are you aware of who Michael Osowski surrendered his driver's license to?

JD Because of the supplement I know that Dep. Vickers got his information, now whether he surrendered that driver's license to him I don't know that answer.

JB Ok so you don't, were you, did there come a point in time when Alan Osowski and his son left the scene that day?

JD Yes sir.

JB Ok what, were you involved in the circumstances of their departure? Did the Captain talk to you before he left?

JD No sir.

JB Did he talk to any one of your people before he left?

JD I believe it was Dep. Galarza.

JB What did Dep. Galarza tell you?

JD That the Captain said “are we good?” or I don’t know that’s the word well you’ll have to...

JB I’ll talk to him.

JD But it was either “are we good?” or “we’re going to go to the hospital” um, and even whether you want this information or not even there was even some of my command staff asked me did I or see them leave? And the answer is no. But and I even asked Roy “did you see them leave?” and he said “well I saw them walking in that general direction together” well as a prudent person, as a reasonable person if hey I’m going, he doesn’t have a ride his vehicle is damaged I think it’s reasonable to say that both of them loaded up in Capt. Osowski’s vehicle.

JB Ok. The driver of the other involved vehicle was that driver transported to the hospital to your recollection?

JD Yes sir.

JB Ok. So you continued to work the scene, at some point the traffic homicide unit shows up is that correct?

JD Yes sir.

JB Let me see, I’ve got the CAD report here lets see how long you were at the scene.

JD Oh I was there, I mean virtually all night.

JB Lets just verify the times, I’ve just got to find the piece of paper here. Dispatched at 1815, arrived at 1816 and you stayed there till just after 11:00 does that sound right 2310? About five and a half hours, well five hours roughly.

JD Yeah, on, confirm on scene yes, now did I come back? Oh yeah, I came back numerous times.

JB Were you, did you, did you have a conversation with Alan Osowski when he arrived on the scene?

JD Captain, because he was walking across the median, Captain what’s, I mean I think it was a “hello Captain” and he says “that’s my family” “ooh” I walked half way across the 17-92 north bound and he continued on towards where his, after identifying or after learning it was his son and his mother. Turned away, I

mean that was the conversation. As soon as I found out it was his mother um, and son, got on the phone and started calling command um, that was the conversation that I had with the Captain and...

JB Any other conversations thru out the night beyond that one?

JD Not with Capt. Osowski.

JB Ok.

JD But I, you know so that you've got all of it his son I had to actually, I made contact with his son at one point.

JB Uh huh.

JD And the reason for that was I was talking to command and they wanted to verify that was it Mike or I can't remember if the Lieutenant said "was it Michael or Mike?" and because I've never met his family I don't know. Well got to get him an answer so I actually was able to make contact with Michael at the, still at the intersection I shook his hand, I introduced myself and I confirmed that his name was Mike that way I could report back to the Lieutenant that I uh, you know yeah it definitely was his son. And I asked him "are you alright" and he said "yeah" but he was complaining of some right side rib pain um, right under just right here.

JB Was Alan at the scene at that point?

JD Yes sir.

JB Ok.

JD Oh yes, yes.

JB Alright.

JD Now in fairness I can't say he was standing right there when I did the introduction.

JB That's fine.

JD I um, but...

JB Did you have any other conversations with Michael Osowski that day?

JD That was it.

JB Ok any other conversations with Alan Osowski that day?

JD No sir.

JB Were you involved at all that night in efforts to locate Michael Osowski?

JD No sir.

JB Were you aware that there were deputies and investigators attempting to locate Michael Osowski?

JD Yes sir.

JB What are you aware of?

JD I was aware of um, I think it was, I'm not 100% sure but I think it was Lt. Hughes but never the less to answer your question I was aware that they were trying to locate Michael, Michael was not at the um hospital. In fact I was instructed to check to see if he was transported by EVAC and so I contacted dispatch just to make sure that there was not two patients in that ambulance because it did transport and turns out no there was only one and that was the driver of the other vehicle.

JB Ok.

JD Um, so I confirmed this, relayed the information back no according to dispatch, according to EVAC they only took one.

JB Ok.

JD There was some scuttle as to where he was actually located and I did know that they said he was up in Deland. They went to the Deland address, apparently there was no answer at the residence so that's the gist of what I was able to know that they were looking for.

JB So the checked the hospital and residence. Who was assigned to work the traffic homicide? Who was the traffic homicide investigator assigned do you know?

JD I don't.

JB Ok. Have you had a conversation with Dep. Galarza since where he has shared with you his conversation with Alan Osowski?

JD Again I can't give you, I'd have to go back to the, because we were instructed to write out a statement.

JB Yes.

JD And um...

JB I've got your statement here, you verified that this is an accurate, that's an authentic copy of your statement right?

JD Yes sir.

JB Ok.

JD And I made it real clear to all this guys this is one of those cases that just write it up as is and there is you know don't try to do anything just what your job was. In fact Lt. Williams even brought that point home later on prior to this for us come to talk with you.

JB Ok.

JD But um, as far as again I can't I don't remember right off the top of my head what Roy said as far as whether the Captain said "are we good?" or...

JB I'll ask him, that's ok. Did Dep. Vickers ask you at some point thru out the night what's going on?

JD We immediately pulled Dep. Vickers I mean and it was a, Roy because he knew his trainee, no he never necessarily asked what was going on I mean because we immediately assigned him to direct traffic and even at that point he was having difficulties in effectively doing, I don't know if he ever directed traffic but you have to prepare for the worst when these folks are driving and you can't just do a half, you got to be very authoritative...

JB Right.

JD ...command presence. Um, I know that I spoke to him, I tried bringing him up to speed because at the time I didn't know he was going to resign.

JB Uh huh.

JD But I was trying to bring him up to speed as to what was happening because I don't think he's ever seen a traffic homicide before and all that, what has to go on and I did give him instructions about putting up crime scene tape, securing the area.

JB Ok.

JD That type of thing but I don't believe he, I mean you asked a question did he ever ask what was going on.

JB Yes.

JD No, the answer would be no.

JB Ok. Do you remember, is it possible he asked you “is there anything you can tell me?” to which you may have responded “it’s better off you don’t know” does that make any sense does that conversation in or out of context make any sense?

JD Yeah he did and, and, and, because I had already been instructed that because we were unable to locate or they were unable to locate the Captain’s son and when this occurred it didn’t take a rocket scientist to figure out uh oh, something’s wrong here.

JB Ok.

JD And yes that would be a fair, um, in fact yeah that would be very fair.

JB Ok.

JD And you know it’s like anything else there’s certain times you want to know things and there’s other times you don’t.

JB Absolutely I understand that completely.

JD And um while I may have been able to speculate some it was not the time to be speculating.

JB Right I agree, I, and I understand. Were you involved in any follow up investigation the following day?

JD No sir.

JB Related to this? Did you obtain statements or were you asked to obtain statements from anybody?

JD No sir.

JB Were you aware, did you work the next day? Friday.

JD No that’d been Thursday night no because Friday night, that would have been Thursday night we were off that weekend.

JB Ok so that was your last shift for a few days.

JD Yes sir.

JB So essentially when you secured at some time after 11:00 from the scene your roll and responsibility beyond approving reports was done?

JD I don't know necessarily it was done I mean I had to go back around there and I sat with THI for a while, um, one, I was responsible to make sure the Orange City guys, so I kept coming back and fourth we were out there after long after 11:00 sir.

JB Ok.

JD Now maybe my guys, in fact I know my guys are still blocking the intersection had Dep. Ray at one corner and Dep. Sawicki at the other. Roy was the only person that was able to snag calls and I had two visiting Orange City PD's um COP's down.

JB Ok.

JD So I mean while I didn't have direct, and on doing anything as far as a THI...

JB It was a major event in your area of responsibility that night and you kept a thumb on it I understand.

JD And I tried picking some of the guys brains as far as why do you got these all these line ups like this and they would explain to me how the photography would be able to bring it back around.

JB Ok, alright. Is there anything that you think is relevant to the investigation I'm conducting that I've neglected to ask you that you would like to add or any questions that you have of me?

JD I don't have no, I mean again everyone's brought this thing home. This is not, this is a no brainer. It is what it is and that's the beauty of this particular one. We handled it we did what we needed to do so I'm very proud of my guys.

JB Ok.

JD But it is what it is is what it comes down to.

JB Ok alright well I don't have any further questions and I appreciate you coming here today and getting on the record officially and if you have no questions for me then we'll go ahead and terminate the interview.

JD The time now is approximately 9:38 and this will terminate the interview with Sgt. James.

