



## Rod Underhill, District Attorney

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### **MAN PLEADS GUILTY TO CARELESS DRIVING FOLLOWING DEADLY CRASH**

Today, Multnomah County District Attorney Rod Underhill announced the negotiated settlement in a case involving Ryan Michael Gawick, 34, who had been charged in connection with the September 25, 2017 vehicular death of Rekey Frank Agee.

Upon initial review of this case, a Multnomah County grand jury indicted Gawick with one count of criminally negligent homicide. Under Oregon law, criminal negligence means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

According to a probable cause affidavit filed in this case, Mr. Agee was walking to work while wearing a reflective safety vest when he was struck by the defendant's vehicle. Gawick was also on his way to work when the crash occurred at approximately 6:15 a.m. on Monday September 25, 2017 at the intersection of North Columbia Boulevard and North Interstate Place. Police determined Gawick failed to stop at a red light as he drove westbound on North Columbia Boulevard when he struck Mr. Agee who was in the crosswalk as he walked northbound across North Columbia Boulevard.

"After completing the investigation in this case, which included additional investigation beyond what was initially learned at the time of the crash that resulted in the loss of Mr. Agee, the State has concluded that there are potential legal impediments to proceeding to trial on the charge of criminally negligent homicide," said Multnomah County Deputy District Attorney Elisabeth Waner, who prosecuted this case. "Of particular interest to the State were the cellphone data records belonging to the defendant at the time of the crash. The records we received were inconclusive as to whether or not Mr. Gawick was actively manipulating his phone at the time of the crash. In order to proceed with a charge of criminally negligent homicide, the law requires the State have evidence to show the defendant should have been aware of a problem with his driving, such as swerving, inattention or near a collision before the ultimate crash. At trial, the State would need to prove beyond a reasonable doubt that Mr. Gawick had prior knowledge that he was driving in a way that would have resulted in the death of Mr. Agee."

The investigation also determined that at the time of the crash, the defendant was not violating the speed limit.

"What is clear in this case, no matter the cause, Mr. Gawick's inattentiveness behind the wheel resulted in the tragic loss of life of a husband and father," Waner said. "The death of Mr. Agee will be deeply felt by many for several years to come. This was a senseless death that easily could have been avoided had Mr. Gawick adhered to the duties each and every one of us has when we get behind the wheel of a vehicle."

As a result of those facts, the defendant appeared before Judge Michael A. Greenlick on June 18, 2018 and pleaded guilty to one count of careless driving, which contributed to the death of a vulnerable road user. The defendant received a sentence of one year probation. He was ordered to perform the maximum of 200 hours of community service, which must focus on driver improvement and public education on traffic safety. Additionally, the defendant will have to complete a traffic safety course. As part of his sentence, the defendant's driver's license was suspended. A fine of \$12,500 was imposed. If the defendant completes his community service, the Court will waive the fine within one year. The charge of criminally negligent homicide was dismissed.

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