

Witness says Higbee Followed Police Procedure

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Retired State Police Lt. Col. Frank Rodgers testifies that "Trooper Higbee was doing exactly as he had been trained to do."

Photo by: Dale Gerhard

CAPE MAY COURT HOUSE — Retired State Police Lt. Col. Frank Rodgers told jurors that State Trooper Robert Higbee was following State Police procedure in the moments before the fatal crash that killed Jacqueline Becker, 17, and her sister, Christina Becker, 19. During questioning by defense attorney D. William Subin on Friday, Rodgers said Higbee was following the agency's vehicular pursuit policy as he attempted to close the distance between his police car and a speeder traveling north on Stagecoach Road in Marmora just before 10 p.m. on Sept. 27, 2006. Higbee failed to stop at the intersection with Tuckahoe Road and crashed into the Beckers' minivan. They died at the scene. Rodgers told jurors in Higbee's vehicular homicide trial about sections of the pursuit policy that were relevant to the case. "To diminish the likelihood of a pursuit, a police officer intending to stop a vehicle for any violation of the law shall, when possible and without creating a threat to public safety, close the distance between the two vehicles prior to activating emergency lights and an audible device." Higbee, who was traveling at 65 mph at the time of the crash, was not using his

emergency lights and sirens prior to the collision. "Closing the distance is not a pursuit," Rodgers said after being deemed an expert in police policies and procedures. A pursuit, Rodgers explained, takes place when a law enforcement officer is using emergency lights or sirens to stop a vehicle that is "resisting apprehension" by increasing its speed or trying to elude police. "Trooper Higbee was doing exactly as he had been trained to do, exactly as he was expected to do," Rodgers said. During his cross-examination, First Assistant Prosecutor J. David Meyer asked Rodgers about what priority the State Police place on maintaining the public's safety. Rodgers said the public's safety is synonymous with an officer's own safety. "But sadly, not always," Meyer said. "That's correct, sir. We have accidents as well," Rodgers replied. Meyer also noted that the pursuit policy includes the qualifier "when possible and without creating a threat to public safety" and that troopers know they are not exempt from obeying stop signs or stoplights. Rodgers said that between 2005 and 2007, State Police issued more than 287,000 speeding tickets, and "every time we write a speeding ticket ... we have to close the distance in order to do that." During that same time period, the State Police engaged in 415 pursuits, he said. Rodgers also testified that from his review of the case, he found that Higbee was not trying to be deceptive when he told investigators, three weeks after the crash, that he remembered stopping and looking both ways. Rodgers said Higbee qualified those statements with phrases like "to the best of my recollection" and that he had no independent recollection of stopping. "Trooper Robert Higbee does not remember whether he stopped at that intersection or not," Rodgers said. Rodgers added that it was common knowledge among police that the cars they drove contained event data recorders and that Higbee would have known that prior to giving his statement. Meyer asked Rodgers about Higbee's actions in the seconds before the collision when his foot hovered over the brake, then touched the accelerator then returned to the brake in the last second or so before impact. "Shouldn't

a reasonable trooper substantially reduce his speed,” Meyer asked of Higbee’s approach to the intersection after he would have seen a sign warning of the upcoming stop sign. Rodgers said it was opinion that Higbee saw only the next stop sign at Roosevelt Boulevard. But Meyer noted Higbee did not seem confused in his statement to police. “Does he ever say I didn’t see that stop sign?” Meyer said. Jurors in the case must determine if Higbee acted recklessly that night. In this case, the judge has defined recklessness to mean a conscious disregard of a substantial and unjustifiable risk of serious bodily injury or death that requires a gross deviation from action that a reasonable law enforcement officer would take under the circumstances. “No rational police officer is going to drive through a stop sign,” Rodgers said. Testimony in the trial will continue Monday morning. The defense is expected to finish presenting its case sometime next week.

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