

Fatal boating accident case takes surprising twist: Judge McKenney recuses himself from proceedings

by *Lisa Hinton-Valdrighi*

LANCASTER—There were gasps, a few mumbled words of disappointment and some tears from the family members of the late Graham McCormick last Wednesday when, in a shocking move, Judge R. Michael McKenney recused himself from hearing the case against John Randolph “Rand” Hooper of Richmond.

Hooper appeared in the Lancaster County Circuit Court last Wednesday morning on charges of involuntary manslaughter while operating a boat under the influence of alcohol or drugs and failure to render aid.

The charges stem from a boating accident in August 2017 which resulted in the death of 31-year-old McCormick of Georgia. He had been visiting with Hooper and other friends at the Irvington home of Hooper’s parents, Gary and Lucy Hooper. His body was found in Carter Creek and it was later determined by the state medical examiner he had died as a result of a boating accident.

Although Hooper was scheduled to enter a plea in the case, according to Lancaster County Commonwealth’s Attorney Jan Smith, several witnesses and family members were expected to deliver emotional testimonies. There was a heavy police presence as over 80 people crammed into the courtroom.

The normally punctual Judge McKenney arrived 10 minutes late and delivered his own emotionally-charged opening statement.

After reviewing victim impact statements, Judge McKenney said he kept returning to one written by Benjamin M. “Chip” Woodson of Weems. Woodson, who owns the property where McCormick’s body was found, referenced a conversation he had had with Smith and understood the Commonwealth’s Attorney and [Judge McKenney] had determined there was not enough evidence to convict Hooper and that a plea agreement would be the best way to resolve the case.

Judge McKenney calmly but ada-

manly denied he encouraged Smith to reach a plea agreement and said he had not seen nor did he know the evidence in the case.

“The idea I was engaged in or made a decision about the evidence troubles me,” he said.

Judge McKenney quoted Woodson’s letter as stating “I was shocked when the Commonwealth’s Attorney told me that you and he had determined that there was not enough relevant information to convict Mr. Rand Hooper in a jury trial, and therefore, a plea agreement was reached.”

Judge McKenney said his integrity and his reputation had been called into play and after much deliberation on the matter and after consulting numerous other judges, he had to recuse himself.

At times Judge McKenney looked obviously shaken, closing his eyes frequently.

He said he did not come to this decision easily and apologized to all

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parties involved, saying he was truly sorry “it has come to this juncture.”

“I’m sure everyone wished for a resolution today,” he said. “I hope in doing this today that it returns some integrity to the system.”

Although Judge McKenney did not admonish Smith directly, he did emphatically say “I was not engaged in a plea agreement. I did not encourage a plea agreement.”

Smith could not be reached for a statement immediately after the hearing and a call to his office Friday went unreturned.

The case has been transferred to Judge Herbert M. Hewitt. Hooper will appear in Lancaster County Circuit Court on Friday, July 12, to have a new trial date set.

The McCormick family has alleged a cover up of the boating accident and filed a civil lawsuit in November 2017. It was settled in April 2018 for \$4 million.

The lawsuit alleged that Hooper fled the scene of the crash, returned the boat to his parents’ home about a mile away on Carter Creek and seemed surprised the following morning when his friend was not at the house. The suit claimed he even

helped to look for McCormick, who others suspected had fallen off the dock that night.

McCormick, formerly of Richmond, was found dead around 11:30 a.m. on August 11, 2017. An initial report by the state medical examiner concluded drowning as the cause of death. However, a few days later, detectives with the Lancaster County Sheriff’s Department noticed damage to a 1999 Boston Whaler at the Hooper home. Reconstruction at the crime scene determined the boat had hit a bulkhead on Woodson’s property where McCormick was found.

The medical examiner then determined he drowned as a result of the accident.

McCormick family addresses Smith’s statement on Hooper court proceedings

by *Lisa Hinton-Valdrighi*

LANCASTER—The family of a man who died two years ago following a boating accident on Carter Creek is speaking out against statements made recently by Lancaster County Commonwealth’s attorney Jan Smith.

Graham McCormick, 31, of Georgia and formerly of Richmond, drowned in August 2017 as a result of trauma sustained in a boating accident. His friend, John Randolph “Rand” Hooper, 33, of Richmond has pleaded guilty to involuntary manslaughter and failure to render aid in the boating crash.

McCormick was visiting Hooper and other friends at Hooper’s parents’ home in Irvington on August 10, 2017. Following dinner and drinks at a nearby restaurant and more drinks at the house, McCormick and Hooper took the family’s Boston Whaler out for a late-night ride on Carter Creek. McCormick’s body was found the next morning over a mile away from the Hooper home.

The legal proceedings surrounding the case have been fraught with controversy since and have drawn statewide attention.

McCormick’s parents, J. Burke McCormick and Sallie T. Graham, filed a civil suit against Hooper in November 2017 and five months later were awarded \$4 million in a settlement.

Hooper was indicted on two felonies in July 2018 and nearly a year later, in June 2019, appeared before Lancaster Circuit Court Judge R. Michael McKenney to enter a plea agreement. Judge McKenney stunned the packed courtroom by recusing himself after reading a witness impact statement which alleged he had prior knowledge of the agreement and had even encouraged it.

Judge Herbert Hewitt was appointed to take over the case and in July dismissed a motion by the McCormick family asking to have Smith disqualified as the prosecutor for a number of reasons including the appearance of impropriety and incompetence.

Two weeks ago, Judge Hewitt deferred ruling on a guilty plea agreement entered by Hooper’s attorneys and Smith pending another hearing on evidence in the case and the completion of a pre-sentencing report. The McCormick family has expressed concern the plea agreement, which has Hooper serving one year with 14 sus-

pending, would not adequately punish him.

Following the hearing on August 19, Smith released a statement to the Rappahannock Record, saying “the family informed me that the first objective in this case was to secure two felony convictions. That has been done.”

McCormick’s brother, Gordon McCormick, contacted the paper in follow-up to Smith’s comments.

“It was never our family’s intent to make a public statement and we preferred to allow the judicial process to run its course. However, in light of the statement recently issued by Commonwealth’s attorney Jan Smith, where facts were misrepresented and distorted in a clear attempt to manipulate public opinion, we felt an obligation to correct the record,” said Gordon McCormick.

He said Smith’s statement that the family told him “the first objective in this case was to secure two felony convictions is a lie.”

According to Gordon and Burke McCormick, they, along with three other family members and Howard C. “Toby” Vick Jr., a former Commonwealth’s attorney in Henrico County, met with Smith in June to discuss the terms of the plea agreement. Smith explained the agreement included two felony convictions with one of the initial charges reduced for one year incarceration with 14 years suspended.

“The sales pitch Smith gave to us was, ‘So don’t worry, we’ll get him next time [he breaks the law],’” said Gordon McCormick. “We cannot begin to express the grief in hearing such a callous justification, as it inherently devalues the life our beloved son and brother, who does not seem to be worthy of adequate justice. Nonetheless, Smith made sure to emphasize the fact that he was getting two convictions out of the deal, which he stated over and over again was his number one priority.”

The McCormicks said they told Smith they would be satisfied with a single conviction on the lesser charge if it meant a longer period of incarceration.

“Smith looked us in the eye and said, ‘Luckily, I don’t care what you think.’ It was apparent to us that all Smith cared about was securing convictions regardless of the punishment,” said Gordon McCormick. “In his own words: ‘I don’t care about time served. I care about convictions.’” Plausibly alluding

to his personal score card for his re-election campaign.”

The McCormick family again asked if Smith would consider bringing in another prosecutor to assist in the trial.

“Visibly irritated, he rebuked the suggestion,” said Gordon McCormick. “Reminding us again that it would hurt his chances at re-election, a horrific thing to say to any grieving family.

“So we pointed out the obvious: that his constituents would likely share in our sentiment, and may even assume the worst, given the leniency of the plea deal and the amount of damning evidence. If it was optics that concerned Smith, then it would be wise for him to consider every perspective,” said Gordon McCormick.

After hearing this, he said “Smith lost all control. Suspecting that we were accusing him of malfeasance—which we were not—he became emotional.”

Gordon McCormick said Smith then began swearing at the family and declared the meeting over then stormed out.

“Aside from a phone call to apologize for the outburst and another to tell us that the plea deal was finalized, we have had almost no direct contact with Smith since,” he said.

In his statement on August 20, Smith contends he “[does] not engage a judge in any part of a case except for what is said in open court. I never spoke to the judge about the facts of this case or garnered any opinion he might have as to the case. There may have been a miscommunication.”

The McCormicks also disagree with that statement.

“As for [his] assertion that he never conveyed any pre-trial communication between himself and the judge over the plea deal, that statement is equally deceptive.”

Gordon McCormick said Smith told his father he had pre-trial communication with the judge and Burke McCormick advised the rest of the family to refrain from expressing any dissent at the sentencing hearing.

Gordon McCormick said because of Smith’s “lack of candor and his repeated attempts to exonerate himself of wrongdoing by impugning the integrity of innocent people, including Judge McKenney, we could not remain silent.

“The suffering our family has endured over the past two years from the deception of a heartless individual is beyond words, and nobody understands the facts and details of that suffering better than Jan Smith. For him to exacerbate that suffering with lies of his own, as the man entrusted with such a significant responsibility, speaks volumes about his character,” he added. “Our disappointment in the administration of justice on this matter cannot be overstated. The people of Lancaster County deserve to know the truth.”

The Record contacted Smith for a response to the McCormick family’s statements but he declined to comment.

“As I said, we are through with the guilt phase and what remains is the sentencing, said Smith. “This is still an active case and I cannot comment further. My sympathies are extended to the family.”

The Hooper matter is set to come before Judge Hewitt later this month. At that time, a date will be set for him to act on the pre-sentencing report.

Judge Hewitt could approve the plea agreement and impose its sentence, or reject it. If rejected, Hooper could withdraw his guilty plea and decide whether to take the case to trial before another judge. According to Smith, the plea agreement contains an “agreed upon, not recommended” sentence and a stiffer penalty could not be imposed by Judge Hewitt.

“The outpouring of support has been heartwarming,” said Burke McCormick. “Really it’s been what’s keeping us going. A lot of people, especially in Richmond, believe an injustice has been done.”

Texas ‘Top Female Trooper’ has local ties

by Lisa Hinton-Valdrighi

When Dani Basye decided on a career in law enforcement, she wanted to be in one of the best departments in the nation. Now she’s one of the best of the best.

Trooper Basye has earned the highest score for women in the statewide Department of Public Safety (DPS) Javier Arana Jr. Top Trooper competition in Texas.

Trooper Basye is the daughter of Greg and Laurie Basye of Lottsburg and the grand-daughter of Louis Basye of Lottsburg.

She recently was presented a plaque and dress guard during a DPS meeting in Austin, Texas.

“I was shocked and honored,” she said. “It was pretty cool.”

Trooper Basye underplays the honor. She competed at the Texas DPS Tactical Training Center in Florence with 83 troopers from across the state. She concluded the four-day competition with the highest score for females. The competition is designed to test physical conditioning, firearm proficiency, driving skills and job knowledge. Competitors were subject to an interview before a board of Highway Patrol field supervisors and challenged with job-related questions.

“I had to do an interview with my superiors, and at the time I’d only had a year and 10 months on

Everybody has a story



Texas Department of Public Safety Trooper Dani Basye (right), winner of the Texas “Top Female Trooper” honor, is congratulated by her supervisor, Highway Patrol Sgt. Richard Medina.

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Trooper Dani Basye displays winning form in the Texas Department of Public Safety Javier Arana Jr. Top Trooper competition.

‘Top Female Trooper’

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the job, and I knew I was competing against others with a lot of experience,” said Trooper Basye. “So I was pretty nervous about that.”

Trooper Basye was a shoo-in to win the physical condition portion of the competition.

After graduating from Northumberland High School in 2005, she received a degree in kinesiology from Longwood University, worked as a trainer at the Northern Neck Family YMCA in Kilmarnock for a year, then as an athletic trainer in southern Maryland for six years.

In 2016, she decided she wanted to pursue law enforcement and in February 2017 moved to Texas to attend the DPS academy.

“The Texas department has a nationwide reputation as one of the top agencies in the country,” she said. “It’s an elite department and I wanted to become a part of that.”

Trooper Basye has been with the DPS Highway Patrol for two years and has been stationed in Gatesville.

The Top Trooper Competition began in 2012. Trooper Javier Arana Jr. participated in the first competition and a month later was killed in the line of duty. As a tribute to his sacrifice, the competition was named in his memory.