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 Vol. 25, No. 14 - April 17, 2017

Case Name: [William Joe Rhomer v. The State of Texas](#)

- OFFENSE: Felony Murder, Intoxication Manslaughter, and Manslaughter
- COUNTY: Bexar
- C/A CASE No. 04-15-00817-CR
- DATE OF OPINION: April 12, 2017 OPINION: [Chapa, J.](#)
- DISPOSITION: Conviction Affirmed
- TRIAL COURT: 290th D/C; Hon. Melisa Skinner
- LAWYERS: [Jim Bruner](#) & [Dayna Jones](#) (Defense); [Nathan Morey](#) (State)

(Background Facts): There is no dispute that on the night of the accident Appellant was driving his car on Colwick Street coming from the Coco Beach Bar, a few blocks west of the accident site. Colwick curves into and intersects with Nakoma Drive, and Nakoma has both eastbound and westbound lanes. Travelling from the bar, Appellant turned from Colwick into the eastbound lane of Nakoma. The decedent, Gilbert Chavez, was travelling on his motorcycle in the westbound lane of Nakoma. Mario Negrón and Kenneth Ferrer testified they were driving their vehicle in the westbound lane of Nakoma when they came upon the accident at around 3:00 a.m. on May 2, 2012. They both testified they drove over pieces of metal on Nakoma. They stopped their vehicle at the accident scene, and both testified Chavez was breathing heavily and his body was contorted, with bones sticking out. Appellant also was at the scene, stumbling around. Appellant approached Negrón and Ferrer, who were with Chavez, and said, “Oh, he looks ok.” Appellant told two of the police officers at the scene that Chavez drove into Appellant’s lane of traffic. Appellant told one of the officers that Chavez “pulled out in front of” him, and that Chavez “had gone around him as if [Chavez] was traveling in the same direction as [Appellant] and hit [Appellant] on his right side” Chavez was transported to a hospital where he died from his injuries.

 **301.01 Witnesses / Expert Witnesses / Qualifications:** Appellant asserts the trial court erred in admitting the testimony of Detective John Doyle, who opined the accident happened because Appellant drove into the decedent’s lane of traffic. Appellant asserts the trial court erred by allowing Detective Doyle to testify as an accident reconstruction expert because he was not qualified and because his testimony was not reliable. Appellant’s specific complaints about Doyle’s qualifications are that Doyle agreed motorcycle reconstruction was different from vehicle reconstruction, he had no training or special education involving motorcycle accident reconstruction, and a collision involving a motorcycle involved different physics, and different scientific and mathematical principals. Appellant also asserts Detective Doyle’s opinion was not reliable because

he had no training in reconstructing a motorcycle accident and he applied no scientific theory to reconstruct the accident.

Holding: Although Doyle admitted he had not taken any accident reconstruction course that involved motorcycles and he admitted different physics/scientific/mathematical principles were involved, Doyle also testified motorcycle reconstruction was somewhat similar to a reconstruction involving pedal cyclists because the heightened center of gravity of the riders “is very similar.” He also stated, “there are distinct similarities” between a car/motorcycle collision and a car/bicycle collision, and he had received training in bicycle and pedestrian crashes. This accident involved only two vehicles, one hitting the other, and the disputed issue was in which lane the accident occurred -- Chavez’s lane or Appellant’s lane. Doyle possessed the practical experience and specialized training to measure the accident scene using a Sokkia instrument; create a scaled diagram showing all tire marks, curb strikes, curvature of the road, and debris; and identify the debris left by the motorcycle and the car, and the damage to the motorcycle and Chavez’s body. Based on this experience and training, Doyle formulated a conclusion that the point of impact occurred in Chavez’s lane of traffic. We conclude, on this record, the trial court did not abuse its discretion in determining Detective Doyle was qualified to offer an expert opinion on this issue.

§ 301.041 Witnesses / Expert Witnesses / Qualifications / Reliability of Methodology or Theory: Appellant questions Doyle’s testimony as reliable because he applied no scientific theory to reconstruct the accident and he had no training in motorcycle accident reconstruction.

Holding: [It] appears Appellant relies solely on the Kelly test. However, we are not persuaded that Kelly should be applied in this case, rather than Nenno. *** We believe, in the context of this accident, the Nenno test is the appropriate test to apply because Doyle’s accident reconstruction was not dependent upon a scientific inquiry (such as the speed of a vehicle) and was based on his experience and training. *** Therefore, in this case, we conclude (1) the field of accident reconstruction is a legitimate one, (2) the subject matter of Detective Doyle’s expert testimony was within the scope of that field, and (3) his testimony properly relied upon and/or utilized the principles involved in the field. *** Accordingly, we conclude the trial court did not abuse its discretion by finding Detective Doyle’s expert opinion to be reliable.

§ 301.02 Witnesses / Expert Witnesses / Opinion Testimony by Lay Witnesses: San Antonio Police Officer Sean Graham also was dispatched to the scene of the accident. Graham testified that no one with whom he spoke witnessed the accident and he could not remember whether he obtained anyone’s name or information. Graham said Chavez was lying on the ground on his back, there was blood around Chavez’s head, his legs appeared broken, and he was unresponsive. Graham also identified Appellant as the driver of the car. After speaking with Appellant, Graham concluded Appellant was intoxicated. Graham said Appellant told him that Chavez “ran into him.” Graham said he did not believe Appellant’s account of how the accident occurred based on what Graham observed at the crash scene. On appeal, Appellant contends the trial court erred by allowing Graham to offer his lay opinion because he had no background in accident reconstruction.

Holding: In this case, Graham observed a vehicle that had driven into a building, a motorcycle in a parking lot, and several people surrounding a man lying on the ground. Both vehicles were in a parking lot adjacent to the westbound lane of Nakoma. He said Appellant told him he was on Colwick coming from the Coco Beach Bar, and Appellant turned from Colwick into the eastbound lane of Nakoma. Graham said the accident debris was all located in the lane opposite from the lane where someone would be driving from the bar. In other words, the debris was in the westbound lane of Nakoma, Chavez was traveling in the westbound lane of Nakoma, and Appellant was in the eastbound lane. Officer Graham based his opinion on his observation of the location of the accident debris in Chavez’s westbound lane and his knowledge that Appellant was travelling in the eastbound lane. Although Graham admitted he was not qualified to perform accident

reconstructions, he stated he regularly writes crash reports as a patrol officer and had received years of training on how to investigate and document a crime scene. On this record, we conclude the trial court did not abuse its discretion by allowing Officer Graham to testify he did not believe Appellant's version of how the accident occurred.