



IOWA STATE PATROL
OFFICE OF TECHNICAL INVESTIGATION
AND RECONSTRUCTION

DPS #: 2021018816 FILE: 21-086

SUBJECT: Two Vehicle Collision, Single Fatality
DATE / TIME: Wednesday, August 4th, 2021, at 2135 Hours (9:35 pm)
LOCATION: Interstate 35 NB-141 MM, Hamilton County, Iowa
DRIVER #1: Nessa, Anthony Roger DOB: 11/19/1959 (61)
1675 210th St SEX: Male
Webster City, IA 50595 DL#: IA 540XX6646 (IA)
VEHICLE #1: 2007 International 4300 SBA, White
IA LIC: DJX140 VIN: 1HTMMAALX7H469549
OWNER #1: Tony's Tire Service Inc
340 Closz Dr
Webster City, IA 50595
DRIVER #2: Bergert, James Alfred DOB: 11/15/1962 (58)
3160 220th St SEX: Male
Williams, IA 50271 DL#: IA 222CC1406
VEHICLE #2: 2000 Suzuki Grand Vitara, Red
IA LIC: EQV563 VIN: JS3TD62V2Y4128436
OWNER #1: Bergert, James
3160 220th St
Williams, IA 50271
VICTIM #1: Rizzo, Joanna Joyce DOB: 06/16/1970 (51)
3160 220th St DL#: IA 301WW6858
Williams, IA 50271 POSITION: Vehicle #2, Front Seat Passenger
ORIGINAL INVESTIGATOR: Trooper James Monroe #163
Iowa State Patrol, District 8
ASSISTED BY: Trooper Colby Mooers #247, Iowa State Patrol, District 7
Trooper Kyle Kluender #367, Iowa State Patrol, District 7
Sergeant Brett Lewis #147, Iowa State Patrol, District 8
Sergeant Jeremy Schaffer #380, Iowa State Patrol, District 9
Trooper Justin Parman #308, Iowa State Patrol, District 7
Sergeant Killpack #T280, Department of Transportation, MVE
Officer Lindell #T375, Department of Transportation, MVE
TECHNICAL ASSISTANCE: Trooper Ben Miller #113
Iowa State Patrol, District 8

TECHNICAL COLLISION INVESTIGATION
215 East 7th Street
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PEER REVIEW:
CASE REVIEW: R. Bulver

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**OFFICER'S INVESTIGATIVE REPORT**

On August 4<sup>th</sup>, 2021 I, Trooper Miller #113, an Iowa State Patrol Collision Reconstructionist, was off duty when I was contacted by Sgt. Lewis reference a two vehicle motor vehicle collision. I was informed the collision occurred on Interstate 35 near the 141 Mile Marker in Hamilton County. I was requested to complete a Technical Collision investigation.

I arrived on scene at approximately 10:50 PM. When I arrived on scene, Troopers, Deputies, Fire Department and EMS were already on scene. I was informed by Troopers on scene a tow truck was northbound on Interstate 35 when it got rear-ended by a northbound SUV. I was informed the SUV came to rest in the median. The tow truck had left the scene initially, but then returned. I was informed the tow truck was now parked on the side of the roadway, in front of the fire trucks. The driver of the tow truck was seated in the truck, along with a male passenger. I was also informed one person was killed as a result of the collision and the deceased female was still in the SUV. The male driver of the SUV had been transported to the hospital. I started my initial walkthrough of the scene. I started from the final rest of the SUV, a red Suzuki Grand Vitara. I observed the Suzuki had heavy front end and passenger side damage. Walking south through the median I did not observe any tire marks from the Suzuki. In the inside lane of Interstate 35, there were several skid marks in the roadway, indicating the Suzuki was rotating as the vehicle entered the median. I continued walking southbound through the scene and observed 2 parallel tire marks. The marks started in the center of the roadway and continued in the inside lane. North of the 2 parallel tire marks in the outside lane of Interstate 35 was another set of parallel tire marks, followed by 3 short skip skids. After I completed walking through the scene and gathering information from other Troopers on scene, I painted ground control points throughout the scene to be used later. I then set up the Trimble R4 GNSS Total Station and Trooper Monroe #163 mapped the scene. I removed the DJI Mavic 2 Pro sUAS from my vehicle. I obtained aerial photography of the scene using the sUAS.

After I was finished obtaining aerial photography of the scene I was informed by Trooper Monroe the driver of the tow truck was now saying he was not driving at the time of the collision and somebody else was driving. I asked Trooper Monroe to determine who was driving the tow truck at the time of the collision. Trooper Monroe talked to the passenger of the tow truck and Trooper Mooers talked to the driver who was sitting in the tow truck. Mark Jurgensen informed Trooper Mooers Tony Nessa was the original driver of the truck at the time of the collision. The passenger of the tow truck also confirmed the driver of the tow truck at the time of the collision was Tony Nessa. Tony Nessa eventually returned to the scene of the collision. He returned to the scene of the collision approximately 3 hours post-collision. Tolle Automotive arrived on scene to remove the vehicles from the scene. I asked Trooper Monroe to return to Tony's Tire in Williams and obtain a

statement from Tony Nessa. I cleared from the scene once the vehicles were removed.

On August 5<sup>th</sup>, 2021, I made a video request through the Iowa Department of Transportation. There were several traffic cameras located on Interstate 35 near the scene of the collision. One traffic camera was located at the 140 MM. another traffic camera was located at the Interstate 35 and Highway 20 interchange. The scene of the collision was near the 141 MM northbound. The collision occurred at approximately 9:35 PM. After reviewing the video footage the collision was not captured on the traffic cameras. At 9:39 PM a tow truck, with a silver truck on the flatbed can be seen traveling northbound on Interstate 35. The tow truck was consistent with the truck Tony Nessa was driving the night of the collision.

On August 9<sup>th</sup>, 2021, Trooper Monroe and I arrived at Tolle Automotive in Webster City to complete vehicle exams on the International and the Suzuki. Trooper Monroe photographed the exterior and interior of the Suzuki, followed by taking pictures of the International. As Trooper Monroe was taking pictures of the Suzuki I set up the Carlson Robotic Total Station. I utilized the total station to take measurements of the Suzuki. After taking measurements, we removed the Airbag Control Module from the vehicle. Measurements were then taken of the International tow truck. The hold for the Suzuki was released, but the hold for the International was still active for DOT MVE Sgt. Killpack to complete an inspection.

On September 26<sup>th</sup>, 2021, I interviewed Mark Jurgensen in reference to his involvement in this case. I asked Mark to take me through his day. Mark said him, his daughters, and his wife were out for a ranger ride and got back about 8. Mark stated that Tony called him at 8:20 PM and asked if he wanted to go up to the cities. Mark told Tony he didn't care. Tony asked Mark when he could be down there and Mark told him as soon as he can. Mark said he got down to Williams about 9:20 PM. Mark said Tony came into the yard about 10 minutes later, with the Dodge pickup on the back of the International flatbed tow truck, with the customer in the passenger seat and pulls up by the building. Mark said Tony got out of the truck and he went over and talked to Tony. Mark said Tony told him, I think something might have happened, but I'm not sure. Mark said he asked Tony what and Tony said I don't know. Mark said at that time, ambulance and firetrucks from Williams went by the shop. Tony told Mark to jump in the truck and he was going to grab the other roll off, because he saw the tire was blown out. Mark said he went out to the scene and the first conversation he had, was with somebody when he was on the southbound side, right across the road from it. Mark said a Trooper on scene told him to turn around and park in front of his car and then was told to park in front of the fire truck. Mark said the Trooper then came up and talked to him about half an hour after that. I asked Mark if there was a reason he wrote the statement saying he was the one driving. Mark got defensive and said he never said he was driving. I told Mark in his statement he wrote, he said he was driving. Mark said he doesn't remember what it said. Mark said he didn't sign it. I asked

Mark if Tony said anything about knowing something hit him. Mark said Tony told him, I'm not sure but I think something might have happened. Tony told Mark he pulled over on the shoulder and got out and looked around and didn't see anything, no lights. Mark said Tony then drove to the shop. Mark said when he was talking to Tony in the lot, they were talking at the back of the truck. Tony said to Mark, well shit the lights are bent in, the tire is blown out, and that's all they saw at the time. Mark then said he went back out there. Mark said he went out there to see what was going on. He asked Mark if Tony said anything to him about taking the blame and saying he was the one driving. Mark said that's kind of what it sounded like. Mark said Tony told him to just go out there. Mark said he was thinking, why doesn't Tony go out there. I asked Mark if there was a conversation between him and the passenger of the truck about what happened. Mark said the passenger made a motion in his seat on what he felt. Mark said the passenger told him he thought his truck fell off the truck. I asked Mark if he has talked to Tony since then and he said he still works for Tony. I finished my interview with Mark and told him if he has questions he can get a hold of me.

On December 7<sup>th</sup>, 2021, I made contact with Luis Pena Cervantes, the passenger of the tow truck at the time of the collision, via telephone. I asked Luis what happened the night he had to have a truck towed. Luis said his wheel bearing got locked and overheated and his wheel came off and went into the ditch. I asked Luis who he called to come pick him up and he said it was Tony's Towing. I asked Luis if he remembered who picked him up and he said it was Tony. I asked Luis what happened after the truck was loaded. Luis said Tony came back into the truck and turning on some lights on top and started to accelerate on the side. Luis said once Tony got to around 30 to 40 MPH he got onto the highway. Luis said within 10 seconds of being on the highway, that's when they felt the bump in the back. I asked Luis what he thought the bump was and he thought it was his truck because he saw in the rearview mirror a vehicle flying by the side and he thought it was his truck. Luis said he looked back and his truck was still there. I asked Luis if Tony said anything. Luis said that Tony was like "what is that" and he started looking back and he pulled over. That is when Tony got out and inspected the tow truck and looked back at the road, and that is when Tony said a car just hit them. I asked Luis if Tony knew a car hit him and Luis said yes. I asked Luis what happened after that. Luis said he came back into the truck and took Luis to his shop. Tony told Luis they were going to transfer him from the tow truck they were in, to another tow truck. Before they could switch he sent somebody else back to the accident to see what happened. I asked Luis if Tony gave a reason for leaving. Luis said he doesn't remember Tony saying anything. I asked Luis if they were wearing their seatbelts and he said they were. I asked Luis if Tony said anything to the other driver. Luis said he doesn't know because he was in the tow truck by himself. Luis said he did not hear them talking to each other. I asked Luis if Tony ever said anything to him about being the driver. Luis said Tony didn't speak to him. This concluded my interview with Luis.

## **SUMMARY OF COLLISION**

Vehicle #1, a 2007 International flatbed tow truck, driven by Anthony Nessa, was northbound on Interstate 35, getting up to speed after loading a disabled vehicle. Vehicle #2, a 2000 Suzuki Grand Vitara, driven by James Bergert, was also northbound on Interstate 35. Vehicle #2 swerved to avoid Vehicle #1, but was unable to avoid Vehicle #1. Vehicle #2 struck Vehicle #1 on the rear driver's side. After striking the tow truck, Vehicle #2 continued northbound in the roadway, rotated, and entered the median, eventually coming to rest in the median against the guardrail. Anthony Nessa left the scene of the collision. Mark Jurgensen returned to the scene of the collision and stated he was driving Vehicle #1 at the time of the collision. After some time passed, Mark Jurgensen recanted his statement and said he was not driving the tow truck at the time of the collision, instead, Anthony Nessa was driving. Anthony Nessa returned to the scene approximately three hours after the collision and admitted he was driving Vehicle #1. Joanna Rizzo, front-seat passenger of Vehicle #2, died at the scene as a result of her injuries.

## **GATHERING OF EVIDENCE**

- MARS report completed by Trooper Monroe #163
- Scene mapped by Trooper Miller #113 and Trooper Monroe #163
- Scale diagram completed by Trooper Miller #113
- Photographs were taken by Trooper Monroe #163 and Trooper Kluender #367
- Witness statements obtained by Trooper Mooers #247
- Tow reports completed by Trooper Mooers #247
- Supplemental Report completed by Sgt. Lewis #147
- Supplemental Report completed by Sgt. Schaffer #380
- Supplemental Report completed by Trooper Parman #308
- Supplemental Report completed by Trooper Kluender #367
- Supplemental Report completed by Trooper Monroe #163
- Supplemental Report completed by Trooper Mooers #247

## **WITNESS STATEMENTS**

- Michael and Maya Van Voorst witnessed the collision and provided a statement.
- Luis Pena-Cervantes provided a statement to Troopers on scene.

## **WEATHER**

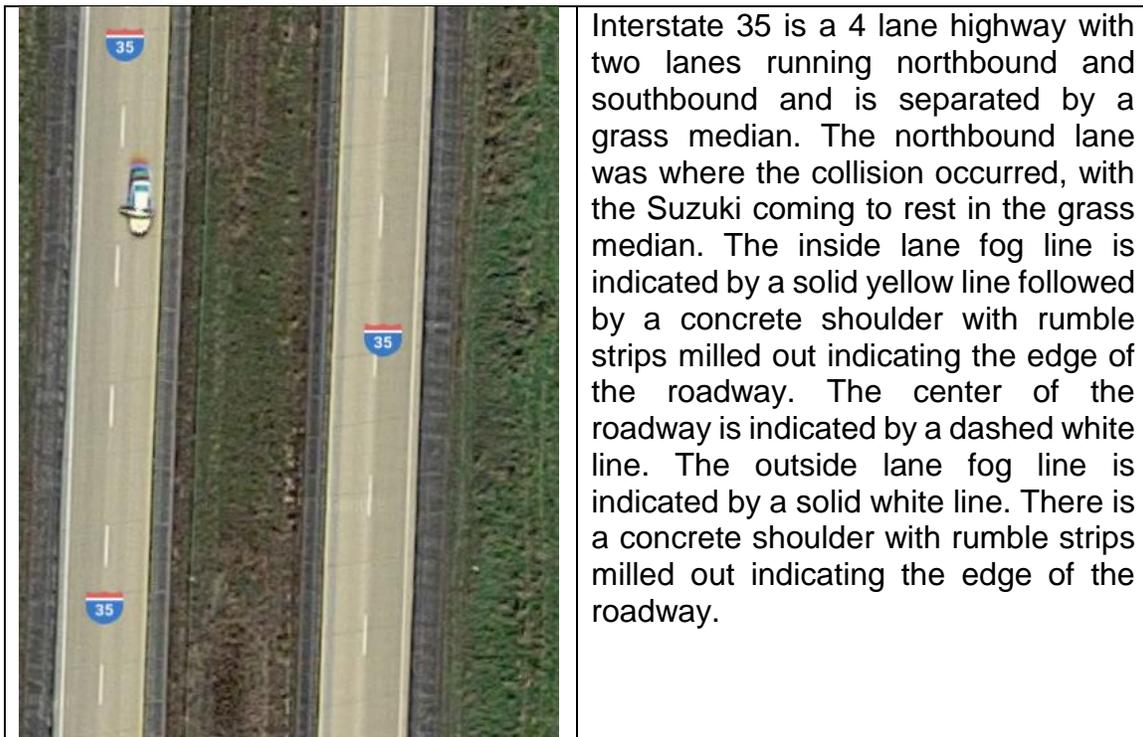
The National Weather Service Observation site near the collision was located at the Webster City Municipal Airport (KEBS). According to the observations near the time of the collision at 2135 hours: Temperature was 66°F, Dew Point was 63°F,

Relative Humidity was 88%, Wind Speed was 6 MPH at 150 Degrees, Pressure was 28.85 inHg, and clear skies with 10 mile visibility.

### LOCALE

The collision occurred on Interstate 35 northbound at approximately mile marker 141 in Hamilton County. The location is approximately 15 miles east of Webster City, the county seat of Hamilton County.

### ROADWAY



### ROADWAY EVIDENCE

All roadway evidence was photographed and recorded using the GNSS Total Station and the DJI Mavic 2 Pro sUAS. In the outside lane of Interstate 35 there were 2 parallel tire marks, followed by 3 short skip skids left by the 2007 International flatbed tow truck after getting hit. The Suzuki left 2 parallel skid marks starting in the outside lane, then crossed the centerline into the inside lane. The tire marks continued down the inside lane of Interstate 35, eventually separating and starting to rotate. The Suzuki then entered the median and came to rest in the median.

**COLLISION CHAIN OF EVENTS**

- A 2007 International flatbed tow truck was northbound on Interstate 35, getting up to speed after loading a disabled vehicle.
- A 2000 Suzuki Grand Vitara was northbound on Interstate 35 in the outside lane.
- The driver of the Suzuki swerved to avoid the tow truck, but was unable to avoid the tow truck. The Suzuki struck the left rear end of the tow truck.
- After striking the tow truck, the Suzuki continued into the median, coming to rest against the cable barrier.

**TOWING & STORAGE**

The Suzuki and the International flatbed tow truck were removed from the scene by Tolle Automotive. Both vehicles were stored in a locked facility until vehicle exams were completed.

**VEHICLE EXAMINATION #1**

<b>Vehicle:</b>	2007 International	<b>Examination date and time:</b>	Aug 9 <sup>th</sup> , 2021, at 1000 hrs
<b>VIN:</b>	1HTMMAALX7H469549	<b>Examination location:</b>	Tolle Automotive 140 2 <sup>nd</sup> St Webster City, IA 50595
		<b>Examiner(s):</b>	Trooper Miller #113 Trooper Monroe #163

**TIRE INFORMATION**

	Driver's Front		Pass. Front	
Manufacturer	Toyo		Toyo	
Model	M143		M143	
Size	285/70R19.5		285/70R19.5	
	Driver Rear Outside	Driver Rear Inside	Pass Rear Outside	Pass Rear Inside
	Bridgestone	Bridgestone	Goodyear	Bridgestone
	M729	M729	G124	M729
	245/70R19.5	245/70R19.5	245/70R19.5	245/70R19.5

**DAMAGE DESCRIPTION**

All the damage to the tow truck occurred to the rear of the vehicle. The left side of the vehicle is where the damage occurred. The rear outside tire on the driver's side was flat and the seal was broken from the rim. The tire was also punctured and had a hole in the tire. There was paint transfer on the rim from the Suzuki. There was also paint transfer on the flatbed on the driver's side. The taillight assembly

was bent forward and several lights were broken. The gear box with the levers that control the flatbed was bent and twisted forward. There was blood on the corner of the bed, both on top and underneath the flatbed.

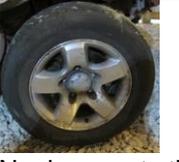


Paint transfer from the Suzuki.

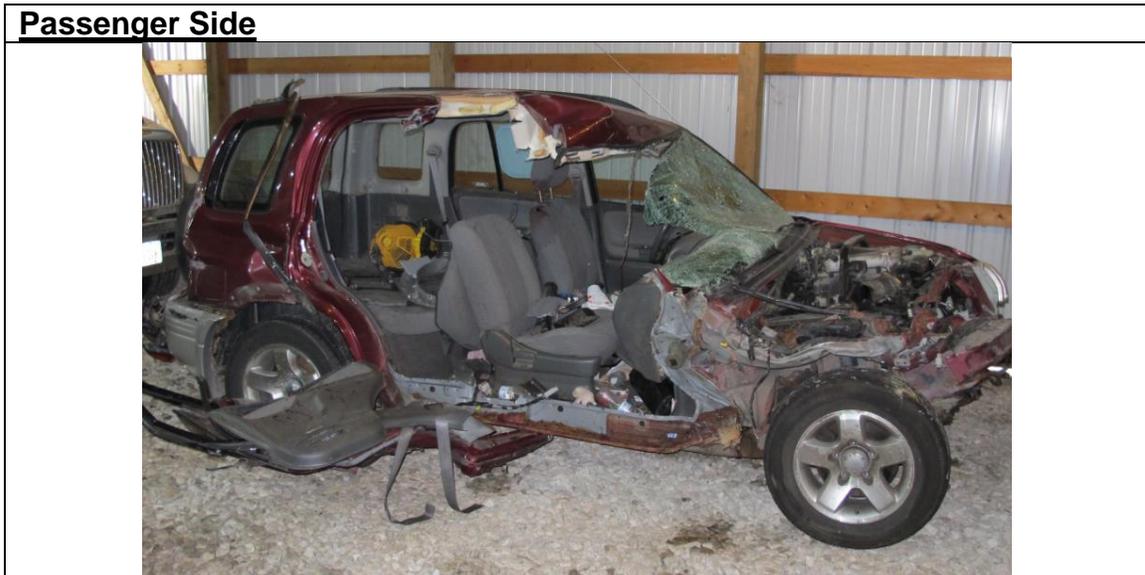
**VEHICLE EXAMINATION #2**

<b>Vehicle:</b>	2000 Suzuki Grand Vitara	<b>Examination date and time:</b>	Aug 9, 2021, at 1000 hours
<b>VIN:</b>	JS3TD62V2Y4128436	<b>Examination location:</b>	Tolle Automotive 140 2 <sup>nd</sup> St Webster City, IA 50595
		<b>Examiner(s):</b>	Trooper Miller #113 Trooper Monroe #163

**TIRE INFORMATION**

	Driver's Front	Driver's Rear	Pass. Front	Pass. Rear
Manufacturer	Uniroyal	Uniroyal	Uniroyal	Uniroyal
Model	Tigerpaw Touring A/S	Tigerpaw Touring A/S	Tigerpaw Touring A/S	Tigerpaw Touring A/S
Size	235/60R16	235/60R16	235/60R16	235/60R16
Tread depth	n/a	n/a	n/a	n/a
	 No damage to the tire or the rim.	 The seal between the tire and the rim was broken.	 No damage to the tire or the rim.	 There were several scratch marks on the rim. No damage to the tire.

**DAMAGE DESCRIPTION**





There was extensive front-end and passenger side damage to the Suzuki. The hood and front fender were torn from the vehicle. The flatbed of the tow truck cut through the windshield and the A-Pillar. The passenger side front and rear doors were removed from the vehicle as a result of the flatbed of the truck cutting through the vehicle.

### **SPEED DETERMINATION**

A speed on either vehicle was unable to be determined. James Bergert, driver of the Suzuki, stated he was going approximately 70 MPH. The passenger of the tow truck, Luis Pena-Cervantes, stated the tow truck was traveling 30 to 40 MPH when the truck entered the roadway and was struck.

### **DRIVER / OCCUPANT POSITION DETERMINATION**

- Anthony Nessa, driver of the 2007 International flatbed tow truck Luis Pena-Cervantes, passenger of the International flatbed tow truck
- James Bergert, driver of the Suzuki, was wearing his seatbelt at the time of the collision.
- Joanna Rizzo, front-seat passenger of the Suzuki, was wearing her seatbelt at the time of the collision.

### **SEAT BELT DETERMINATION**

- Anthony Nessa was wearing his seatbelt at the time of the collision.
- Luis Pena-Cervantes was wearing his seatbelt at the time of the collision.
- James Bergert was wearing his seatbelt at the time of the collision.
- Joanna Rizzo was wearing her seatbelt at the time of the collision.

### **ALCOHOL / DRUG DETERMINATION**

- There was no reason for on-scene investigators to believe James Bergert was under the influence of drugs or alcohol.
- On-scene investigators had no probable cause to believe Anthony Nessa was under the influence of drugs or alcohol at the time of the collision.

### **DISTRACTIONS / ELECTRONIC DEVICES**

- No distractions or use of electronic communication devices were identified as a contributing factor to this collision.

### **INJURIES**

- Anthony Nessa was uninjured during the collision.
- Luis Pena-Cervantes was uninjured during the collision.
- James Bergert suffered minor injuries during the collision.
- Joanna Rizzo suffered fatal injuries as a result of the collision.

### **CONCLUSION**

After a complete and unbiased evaluation of all evidence and circumstances surrounding this incident my opinions concerning the matter, including causation and violations of applicable Iowa Code are as follows:

1. Vehicle #1, a 2007 International Flatbed tow truck, was northbound on Interstate 35 and was struck by a 2000 Suzuki Grand Vitara.
2. Tony Nessa, the driver of the International, failed to remain at the scene of the collision and returned to his shop in Williams.
3. Tony Nessa left the scene of a fatality collision, in violation of Iowa Code Section 321.261



/s/ Trp. B. Miller #113  
Collision Reconstructionist  
Iowa State Patrol

Cc Distribution List (Internal Use Only)

NAME	ADDRESS / E-MAIL	PHONE