

<p>MUNICIPAL COURT LITTLETON, COLORADO</p> <p>2069 W. Littleton Blvd. Littleton, CO 80120</p>	<p>▲ COURT USE ONLY ▲</p>
<p>CITY OF LITTLETON,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>SHANNON MILLER,</p> <p style="text-align: center;">Defendant.</p>	
<p>For the Plaintiff:</p> <p style="padding-left: 40px;">Tricia McCarthy, Esq. Littleton City Attorney 2255 W. Berry Avenue Littleton, Colorado 80120 Telephone: 303-795-3725</p> <p>For the Defendant:</p> <p style="padding-left: 40px;">Geoffrey Pearson, Esq. Pearson Law Office LLC 2205 W. 136th Avenue, 106-128 Broomfield, CO 80023 Telephone: 720-523-0725</p>	
<p>The matter came on for hearing on February 15, 2017 before the HONORABLE ETHAN FELDMAN, JUDGE of the Littleton Municipal Court, and the following proceedings were had.</p>	

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1 MS. BELLIS: (Indiscernible).

2 THE COURT: Okay. Did you want to address the
3 Court?

4 MS. BELLIS: If I may, please.

5 THE COURT: You may. Counsel, if you and your
6 client would please have a seat.

7 All right. Please state your name.

8 MS. BELLIS: My name is Katrina Louise Bellis
9 (phonetic).

10 THE COURT: All right. What would you like the
11 Court to consider in this matter?

12 MS. BELLIS: First of all, that, you know, I
13 appreciate Your Honor letting me speak. I do have dash cam
14 footage of the incident in question of where my two-year-old
15 son was barely missed by the car. This has impacted my life
16 daily. I am up to and past about \$25,000 in medical currently
17 and I'm ongoing treatment. I do have the dash cam footage
18 with me if you would like to see that, Your Honor.

19 THE COURT: I don't know if I -- do you have the
20 means of showing it?

21 MS. BELLIS: It's on my phone.

22 THE COURT: Okay. Has counsel seen it and the City
23 Attorney seen it?

24 MS. MCCARTHY: I have seen it. I'm not sure --

25 MR. PEARSON: I have not.

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1 MS. MCCARTHY: -- if you got it.

2 THE COURT: Why don't we have Mr. Pearson take a
3 moment to see it?

4 MS. BELLIS: So show it to the attorney?

5 THE COURT: Yeah.

6 MS. BELLIS: Unfortunately there's about five
7 minutes --

8 THE COURT: Why don't we pass this matter briefly?

9 MS. BELLIS: I'm actually really familiar with the
10 tape so I can put it right where we need to put it.

11 MS. MCCARTHY: It's right there.

12 MS. BELLIS: Can you just press play? That's her
13 car and if you watch right here, you'll see my (indiscernible)
14 which is in the back, the (indiscernible) with our son and me
15 crossing. And this was given to me and my attorney by a Good
16 Samaritan that took the footage and he even filed a police
17 report with Littleton. Would you like to see it, Your Honor?

18 THE COURT: Yes, please.

19 MS. BELLIS: May I approach?

20 THE COURT: Yes, please.

21 MS. BELLIS: The red car is the -- and then
22 (indiscernible) and (indiscernible).

23 THE COURT: Could you cue that up for me one more
24 time, please? Okay.

25 MS. BELLIS: Thank you.

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1 THE COURT: Thank you. I would assume because of
2 the nature of the disposition and the fact it was not a no
3 insurance charge that the Defendant was fully insured?

4 MS. BELLIS: She did have insurance according to the
5 police report. Unfortunately my attorney could not be present
6 today. She had a prior engagement. She is going, speaking to
7 Progressive. There is also going to be a claim on my
8 uninsured motorist because since my medical bills is greater
9 than the 25K that's on her policy, I'm having to go against my
10 vehicle in my underinsured and uninsured motorist coverage
11 which I have and carry on my vehicle personally.

12 THE COURT: But her policy did comply with state
13 law?

14 MS. BELLIS: As far as I know everything is moving
15 forward and complying but medical care with it being ongoing,
16 like currently, for example, I'm seeing a chiropractor because
17 from the accident and the impact that you saw in the video, my
18 spine is now curved. I do not have a straight spine anymore.
19 Right now I'm trying to do everything possible to straighten
20 it without having surgery. I tried to ride a bike a week ago
21 and it put me in great amounts of pain. I have to drive from
22 pretty much Littleton, middle of Littleton up to Denver for my
23 son so driving my vehicle also puts me in great amounts of
24 pain.

25 It's impacted me and my fiance's daily life of how

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1 many times we've come to court for this and it be either
2 postponed or whatever it may be. I'm not wanting revenge of
3 any sort but community service would be appreciate because
4 especially since I was the one impacted and hit by the car,
5 hearing that the charge of me being hit is being dropped is
6 kind of dumbfounded in a way, just for the fact of I was hit
7 by this car. I have the pictures of the bruising and still
8 living ongoingly with this issue and right after it happened,
9 I couldn't take custody of my son because of how much pain I
10 was in so I lost parenting time with my oldest son because of
11 this.

12 Like I said, you know, I'm not seeking jail time but
13 taking a four point violation down to a one or two is very
14 disheartening, especially when, when I was taught to drive
15 that you hit somebody, you lose your license pretty much.

16 That's what my mother instilled in me. Also my grandfather
17 was a motorcycle rider so I take a little bit more care of my
18 surroundings, also being on a bike as well, in the right-of-
19 way, in the crosswalk, doing what I'm supposed to be doing and
20 being hit by a car.

21 Also that intersection is very dangerous. No more
22 than a week ago my fiancé was almost hit at the exact same
23 intersection crossing the street to go down to the Platte
24 River Trail so us riders don't like the intersection anyway.

25 I did have damage to my bike and that's being, you

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1 know, compensated by insurance but it's just disheartening
2 that, you know, I understand, you know, it was brought to my
3 attention that she had a clean record. You know, that's
4 great, that's awesome, but I've been hit by a car and my
5 life's still not normal.

6 THE COURT: The child was not hit?

7 MS. BELLIS: He would -- this video, it was five
8 seconds.

9 THE COURT: It was -- he was --

10 MS. BELLIS: No, luckily he didn't see me hit. He
11 was not injured. He was being pulled by my fiancé in the
12 carrier but was a window of five seconds that he was not hit,
13 but he is still enduring, you know, he endured -- he saw what
14 his mom went through and thanks to police and fire, you know,
15 they checked him out first but the Littleton police officers
16 never took a statement, never did anything, from me or my
17 fiancé.

18 THE COURT: All right. Well, thank you. Appreciate
19 your comments and we'll see what the Prosecutor has to say, if
20 anything, by means of a record.

21 MS. BELLIS: Thank you.

22 THE COURT: Thank you.

23 MS. MCCARTHY: Yes, Your Honor. I do have a
24 statement from Ms. Bellis that she prepared and sent me via
25 email that I present to the Court. It pretty much summarizes

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1 what she has said. I have spoken with her on the phone as
2 well as read her written statement. I have had extensive
3 communications with her civil attorney, Ms. Megan Hottman.

4 As I've discussed --

5 THE COURT: She's still here. (Indiscernible).
6 She's still here.

7 MS. MCCARTHY: As I discussed with Ms. Bellis as
8 well as Ms. Hottman, you know, I think we have a bunch of
9 competing interests here. Obviously my role as the City
10 Attorney is I work for the City. I don't work for the victim
11 in the case and my job is to seek justice. Justice comes in
12 all sorts of forms. It is my position and we disagree, Ms.
13 Bellis, Ms. Hottman and I, it is my position that they really
14 are seeking punitive, harsh -- they have a harsh position.
15 They do not want me to extend any sort of plea bargain in this
16 case whatsoever. I have been asked numerous times to have
17 this matter refiled into county court.

18 I had a very long conversation with Ms. Bellis and
19 explained to her if we refiled this in county court, it'd be
20 refiled as a four-point careless resulting in an injury and
21 the same ramifications are going to happen there as they're
22 going to happen here.

23 I think that there needs to be balance. I think
24 that while punishment is an effective way sometimes to change
25 behavior, rehabilitation is equally as important and I think

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1 that is something as my role as a prosecutor that I absolutely
2 must consider in every single case. If I were to punish Ms.
3 Miller, I may get her to change her behavior. If I attempt to
4 rehabilitate Ms. Miller, I believe I will be more successful
5 and that's why I've asked her to take the defensive driving
6 class. I think that case is instrumental in drivers becoming
7 more aware. Clearly I think this situation in and of itself
8 will make Ms. Miller become more aware.

9 I have explained to Ms. Bellis as well as Ms.
10 Hottman that my role is not to be used as a hammer in a
11 pending civil case and not so much with Ms. Bellis. I think
12 Ms. Bellis has presented exactly what she'd like to have
13 happen in this case. She would like no plea. She would like
14 a lot of community service. We talked about the issue of
15 jail. She does not want jail and doesn't think it would be
16 appropriate. Ms. Hottman, though, I do believe unequivocally
17 that she wants me to be an extension of that civil case. She
18 wants us to leave restitution open for as long as the civil
19 case proceeds and that's just not what the courts are going to
20 do.

21 I have explained to both of them that no restitution
22 will be requested. There is full insurance in this matter and
23 as is the standard practice in our court, that we'll let the
24 insurance companies deal with any sort of out-of-pocket
25 expenses, medical bills and things of that nature.

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1 There are lots of different things I considered as
2 is my job. I considered the victim's impact statement that I
3 presented to the Court. I considered the statements of Ms.
4 Hottman, my phone conversation with Ms. Bellis. I've
5 considered her injuries. I also had to consider the
6 information presented by Mr. Pearson, the information that
7 some of which I had immediately. We have a driver who I
8 believe is about 32, 33 years of age. She has never had a
9 traffic violation in her entire driving history. I have to
10 consider that.

11 I have to consider the fact that it is my position
12 that, and while Model Traffic Code violations, they really do
13 apply just to the driver, I also have to consider the
14 mitigation that it's my position that Mrs. Bellis and her
15 boyfriend did violate Model Traffic Code Section 1412. They
16 are required to dismount their bicycle when they reach a
17 pedestrian crosswalk or they're required to follow all the
18 rules and regulations of the road as if they were a vehicle.

19 I don't know if the Court can pull this particular
20 intersection up in the Court's mind but we are headed
21 eastbound on Bowles and this turn is to go northbound onto
22 Federal. There are two left turn lanes as we're headed
23 eastbound to go northbound.

24 What I think is very significant is the way the two
25 left-bound lanes are situated, is you are significantly ahead

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1 of any pedestrian traffic that is coming from over the left
2 corner of the driver, the driver's shoulder.

3 In this particular situation, I've watched this
4 video probably no less than 25 times. It is my position that
5 Ms. Miller did not see the bicyclist coming, did not see them
6 probably until the last minute and that's due to the nature of
7 the road and the curvature of the road and the fact that these
8 pedestrians, bicyclists or bicyclists operating as a
9 pedestrian were coming from behind her and then were
10 travelling at a speed that is much greater than an average
11 pedestrian. There is no factual dispute that there was a walk
12 light illuminated. I don't think the Defendant will dispute
13 that. I just think that due to the nature of the layout of
14 the intersection, that unfortunately there is some mitigation
15 because we have pedestrians on bicycles coming at her much
16 faster than a pedestrian would come at her from behind her
17 shoulder.

18 THE COURT: They were eastbound also?

19 MS. MCCARTHY: They were eastbound also so it would
20 be my position that they either had to, A, dismount per the
21 Model Traffic Code which also mimics the state code or they
22 would have had to have actually been on the road. They would
23 have had to have been on the road on the south side of the
24 intersection as they were traveling eastbound. That is
25 another factor I had to take into account and while it's the

1 Model Traffic Code and we're looking at the behavior of each
2 individual, I think it's mitigation to Ms. Miller's matter, so
3 looking at all of that, I do believe that the reduction to a
4 two point is appropriate. I think the class is extremely
5 appropriate. I think it's more appropriate than any sort of
6 community service. Community service in my mind at this point
7 would be punitive. I think Ms. Miller does understand and
8 appreciate the serious nature of this particular case and I
9 think the class will do more than community service which at
10 this point I believe will just be punitive.

11 I'd ask the Court to consider it. I understand that
12 Ms. Bellis and Ms. Hottman do not agree with me and I'm sorry
13 for that but my job is to seek justice and I believe we're
14 doing so in this case.

15 THE COURT: And Ms. Bellis, you came forward as if
16 you have further comment.

17 MS. BELLIS: May I approach?

18 THE COURT: Please.

19 MS. BELLIS: In regards to Ms. McCartney's statement
20 that she just said if I was walking across the street, my son
21 would have been hit. If we were walking our bikes across the
22 street, my two-year-old son would have been hit or my fiancé
23 on the bike pulling the bike with my two-year-old son would
24 have been hit. We were on a bike path. Through that park is
25 a bike path. If you look it up on Google, it is a bike path.

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1 More bikers use that intersection to cross like you would not
2 believe. I do agree that it's a horrible intersection. It's
3 an intersection that I will probably never cross again on my
4 bike because it is horrible. You're coming from behind. But
5 in defense to that, the person that was in the other lane saw
6 what happened. Somebody in the same vantage point saw what
7 happened. A camera saw what happened. So even though I do
8 agree Ms. McCarthy's point of, you know, she's seeking justice
9 and et cetera, yes, me and my lawyer do not agree that a
10 reduction is the best way to go.

11 Like she stated, I'm not looking for jail. I'm
12 seeking community service, something to disrupt her time like
13 this has disrupted my time. I can't do the things that I
14 enjoy with my family right now because I am injured.

15 With it being us dismounting off the bike, we're
16 trying to get across an intersection. You know, everybody
17 else rides across the intersection. I was doing the right
18 thing by crossing the intersection with the walk sign. Also
19 clearly stated on the sign, yield to pedestrians. Clearly
20 stated and it even shows on the video that sign.

21 THE COURT: Well, it's the law, too.

22 MS. BELLIS: It's also, yeah, but in that
23 intersection especially since the two intersections to the
24 west you have Lowell which has a red arrow for one lane, one
25 turn lane going eastbound or northbound on Lowell. There

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1 should be a red arrow there. All this could have been
2 prevented if there was one red arrow not allowing people, two
3 duals to turn. Most duals, intersections with dual turn lanes
4 I've seen have a red arrow. It's not, yeah. This was also
5 Saturday afternoon at about 5:30 on a nice fall evening, so I
6 get where she's stating but trying to lay fault at my feet
7 that I didn't dismount a bike, yeah, I didn't dismount a bike
8 but we were hurrying across the street so we wouldn't get hit
9 and if I would have dismounted it, my two-year-old would have
10 been hit. It would have been a grave situation we'd be in so
11 if it, if I have two options, my two-year-old and my fiancé
12 being hit or me being hit, I'd rather take part C and nobody
13 be hit but I would take me being hit any day of the week.

14 THE COURT: Thank you for your comments.

15 MS. BELLIS: Thank you.

16 MS. MCCARTHY: And just so the record is crystal
17 clear, I am not attempting in any way to lay fault at the
18 victim's doorstep. I am pointing out to the Court mitigation
19 that I considered, mitigation that I think I have to consider
20 just as I considered Ms. Bellis' statements.

21 THE COURT: And just for the record, Counsel, you
22 are waiving further reading and (indiscernible) factual basis
23 in entering the plea to unsafe vehicle?

24 MR. PEARSON: We are, Your Honor, yes.

25 THE COURT: All right. Matters of mitigation on

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1 your part.

2 MR. PEARSON: Your Honor, I think a lot of
3 mitigation has already been presented but I would like to pass
4 along an apology by Ms. Miller. She is very sorry that this
5 has happened. This has impacted her life as well, maybe not
6 to the same extent as the victim but it has impacted her life.
7 She has become much more cognizant and aware of everything
8 around her. She avoids that intersection altogether. She
9 doesn't want to drive through that intersection or near that
10 intersection at all even though that provides a direct route
11 in her day-to-day living. Because it is a dangerous
12 intersection, she avoids it. Period.

13 This has affected her. She thinks of it every day.
14 She's thankful that the injuries were not worse. There were
15 injuries and that is a terrible thing to have happened but
16 they could have been much worse and they weren't and for that
17 Ms. Miller is thankful but at this point, Your Honor, we'd
18 like to ask the Court for, that the plea offer that has been
19 reached in this case, to accept Ms. Miller's apologies and
20 everybody hopefully can move about their business and close
21 this case.

22 THE COURT: And Ms. Miller, is there anything you'd
23 like to say?

24 MS. MILLER: No, Your Honor.

25 THE COURT: Well, the Court has heard the various

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1 statements and this is a very bad situation what happened, the
2 injuries that Ms. Miller suffered are of course terrible and
3 the silver lining, of course, is that the child wasn't
4 injured. That would have changed the landscape of things
5 immeasurably in so many ways.

6 I did review the video which Ms. Miller was kind
7 enough to show me --

8 MR. PEARSON: Your Honor, just to correct, Ms.
9 Miller's the Defendant.

10 THE COURT: I mean Ms. Bellis. I'm sorry.

11 MR. PEARSON: Yes.

12 THE COURT: Long morning. Thank you. Appreciate
13 the correction. People deserve to be called by their correct
14 names so I apologize for that.

15 But anyway, so as I was saying, it is a terrible
16 situation just in terms of the injuries that were already
17 suffered and it could have been so much worse.

18 The Court has to balance several factors and of
19 course it's all in the context of the legal framework which is
20 that the Prosecutor has the authority to change charges. The
21 Court does not have the authority to change the charges. The
22 Court, if the Prosecutor chooses to pursue a charge and the
23 Defendant accepts the charge, then that's what it'll be and of
24 course it is a traffic infraction which does not carry jail
25 and so the Court is left with thinking about what is the

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1 appropriate penalty for the, for the infraction and I think
2 almost anything really fails to come anywhere near measuring
3 up to the gravity of the situation.

4 On the other hand, of course, it isn't that Ms.
5 Miller was, is a bad driver, just continuing a course of bad
6 driving. She doesn't have a record at all and just looking at
7 the video, it does not appear that she was just barreling down
8 the street but on the other hand, one of the principles of
9 good driving is to expect the unexpected and I would imagine
10 that Ms. Miller did look to see if the crosswalk was clear at
11 some point but failed to look again to see if the situation
12 had changed and at an intersection like that, the traffic is
13 always evolving, the traffic situation is always evolving. So
14 certainly it's justified that a ticket was issued.

15 I think that the matter will be addressed more fully
16 in a civil court. This is just a small piece of what's
17 happening in this matter, that the Court can't begin to
18 address the restitution. I think that's what the Prosecutor
19 is recognizing by not seeking restitution because then we'd
20 have a civil trial here in the Municipal Court and we wouldn't
21 even have the remedies to enforce any judgment.

22 So having said all of that, I am going to order that
23 the Defendant is to do the Little Defensive Driving School or
24 level one through one of the private providers. Do you know
25 which, which it'll be?

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1 MR. PEARSON: The Littleton one, Your Honor.

2 THE COURT: We'll just do the Littleton. That'll
3 make it easier to monitor. Defendant is fined \$300 which is
4 about triple what the usual fine for this offense is, \$25
5 court cost, \$30 surcharge, \$6.75 surcharge, \$30 for the
6 Defensive Driving School and that can be addressed all out at
7 the counter. So thank you.

8 MR. PEARSON: Thank you, Your Honor.

9 THE COURT: Ms. Bellis, thank you for coming in
10 today and I do appreciate your comments very much.

11 MS. BELLIS: Thank you.

12 THE COURT: And, you know, I drive that intersection
13 three, four times a week easily --

14 MS. BELLIS: I --

15 THE COURT: -- and if nothing else you have raised
16 my consciousness on that because --

17 MS. BELLIS: I would --

18 THE COURT: -- half the time when I drive it, I do
19 make the left turn.

20 MS. BELLIS: I lived in -- I lived in that same
21 little community by the school so we go to the bike path,
22 that's what we do, and unfortunately we're avid riders so we
23 try to obey the law and use the crosswalk (indiscernible) but
24 it is insanely dangerous. I know people who have
25 (indiscernible) won't cross there because of that, because

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1 it's just a speedway.

2 THE COURT: Well, I appreciate your comments and
3 like I said, you've raised my consciousness on it so anyone
4 can have an accident.

5 MS. BELLIS: That is the truth.

6 THE COURT: So thank you very much and I hope your
7 health improves. Thank you.

8 MS. BELLIS: Thank you.

9 (Proceeding concluded)

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CERTIFICATE

1
2
3 I, Lesley Fujarczyk, certify that I transcribed this
4 record from the digital recording of the above-entitled
5 matter, which was heard on February 15, 2017, before THE
6 HONORABLE ETHAN FELDMAN, Judge of the Littleton Municipal
7 Court, Littleton, Colorado.

8
9 I further certify that the aforementioned transcript
10 is a complete and accurate transcript of the proceedings based
11 upon the audio facilities of these recordings and my ability
12 to understand them. Indiscernibles are due to microphones not
13 working properly, excessive noises or muffled voices.

14
15 Signed this 24th day of March, 2017, in Loveland,
16 Colorado.

17
18 
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