

Dinius preliminary hearing's second day yields surprises

Contributed by Harold LaBonte
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THIS STORY HAS BEEN UPDATED, WITH CLARIFICATION ON THE TESTIMONY REGARDING THE BOAT'S LIGHTS. LAKEPORT ‐ The second day of a preliminary hearing to determine if a Carmichael man will face trial for vehicular manslaughter and boating under the influence relating to a fatal 2006 boating collision continued in Lake County Superior Court Wednesday.

The testimony revealed some surprises, including one investigator's admission that he had based his conclusions largely on statements made by a sheriff's official involved in the crash and not on actual interviews with other witnesses.

Bismarck Dinius, 39, is facing the possibility of trial in connection with the April 29, 2006 boating collision involving a boat he was steering and a speedboat driven by Lake County Sheriff's Chief Deputy Russell Perdock. Lynn Thornton, 51, of Willows died as a result of the collision.

The hearing's second day began with defense attorney Victor Haltom's cross-examination of Sgt. Dennis Ostini, who supervises the sheriff's office Boat Patrol division and was on duty the night of the crash. Ostini spent several hours on the stand on Tuesday.

During the morning court session Ostini testified to details regarding the transport of both of the vessels involved in the April 2006 collision.

Ostini indicated that civilians who had responded to the crash scene brought both boats to shore. Perdock's powerboat, after being brought to the docks at Bayshore Marina, was transported via the owner's trailer to the sheriff's boat barn located near Buckingham. Ostini indicated that Perdock's boat was under his observation from the time it was trailered and secured at the sheriff's boat facility.

Under cross-examination Ostini answered questions that explained why he did not arrest either Perdock or Dinius at the shoreline scene despite a suggestion from Sgt. James Beland, who felt that Dinius was under the influence of alcohol. Ostini testified that he felt it better to rely on blood tests taken at the hospital and have the District Attorney's Office act on those results.

Other testimony during the day revealed that at the dockside the sailboat's owner, Mark Weber of Willows, pointed at Perdock and yelled that he was the one who should be arrested.

Prosecutor John Langan's main witness for the day was Lt. Charles Slabaugh, Sacramento County Sheriff's Marine Services Unit investigator, who was brought in to work on the investigation.

Purported to be an authority on marine collision investigations and brought in at the request of the Lake County Sheriff's Office, Slabaugh testified that he had more than 27 years experience in law enforcement but had only investigated five boating collision cases and had reviewed a total of 20 to 25 other boating-related incidents.

Slabaugh offered testimony to the condition of both vessels. He had observed and described in detail the damage to each, which was detailed in his preliminary findings and in a followup report previously submitted into evidence.

He spent several hours on the stand before Haltom began questioning his recollection of specific details of reports allegedly provided to him by other local sheriff's officials as well as from at least two outside investigators.

When Haltom pressed him on details of his investigation, Slabaugh indicated that his understanding of the situation was that he was called on to investigate and provide a studied recreation of the collision, and submit a report and recommendation to the District Attorney's Office.

He also indicated that he was told by an unidentified individual within the Lake County Sheriff's Office that the agency would handle the personal interviews of those involved and that he should concentrate on the physical aspects of the investigation.

Haltom challenged Slabaugh on his expertise as a boating and waterway investigator before questioning him regarding the speed of Perdock's power boat and the status of the navigation lights on the sailboat just prior to the collision.

He also queried Slabaugh on specific details from Ostini's preliminary report that included Perdock's initial declaration of the readouts of his dashboard gauges just moments before the crash.

Perdock told Ostini that his gauges were pointing straight up. Based on that statement, Slabaugh had estimated Perdock was traveling at about 40 miles per hour. However, pictures of the gauges supplied by the defense showed that if the gauges were pointing straight up the boat would have been traveling at about 60 miles per hour.

Slabaugh stated that the conclusions made in his reports to the District Attorney's Office and in earlier testimony were based on an interview with Russ Perdock. His conclusions didn't take into account any direct information from anyone on shore or in boats in the near vicinity of the collision, nor those aboard the sailboat. Slabaugh also indicated that he made no effort to interview several of these potential witnesses.

He did, however, testify to receiving a copy of the reports made by Ostini and other sources but indicated that he did not consider all the information included within those reports while making his final conclusions.

A key point of contention in the case, and a reason cited for charging Dinius, is that the boat's lights reportedly were not on. During cross-examination Slabaugh indicated that a cabin light toggle switch was in the "on" position. When Haltom asked him if he brought this to the attention of the sheriff's office or investigated it further, Slabaugh said no. When asked why he didn't pursue the matter, Slabaugh said he couldn't recall.

Slabaugh returns to the stand for further examination by the defense at 9 a.m. Thursday, with Haltom planning on calling other defense witnesses as well.

Lawyers from both sides hope to conclude the preliminary examination Thursday afternoon. If they don't, the case may not return to court until as early as June 10.

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