

Justice For Berkey

Letter from Linda , Article from the paper, name and contact information on the DA

Hi all... thought you would want to know what has been going on with the young lady who killed Don. Below is what has been going email wise since January 12th when she went before Magistrate Shaner in upper Fayette County where Don had the collision. Linda Berkey.

Sent to Linda Lee Saturday...

On Friday it was in the paper about the girl, Diana Miller, who pulled out in front of Don, you can read it below. I found on the internet that she has many priors. She has so many suspended license priors and other things involving her driving a car it isn't funny. I don't know how Linda Codura, assistant DA for Fayette County, who is doing the case on Don's behalf, didn't know that she had this many offenses against her. If they don't call me Monday morning I am calling them. I highlighted things that I was never told when the DA called. She was still driving as if nothing happened after she hit Don. I know on one of the news stations the following Monday morning after his collision, she along with her father, were saying it wasn't her fault. It was the bush on the property next door that caused the collision to occur because it blocked her view. I look at it this way, if she would have not been driving because that was the condition of her license being suspended in March of 2009 then she wouldn't have been in that drive way and Don wouldn't have hit her. So I am going to call the DA's office on Monday and find out, did Linda Codura know about all the priors, like it says in the paper. When the DA called on January 12th asking me if I agreed with the plea bargain she was going to offer her, but I am wondering did she know about the priors. I want that young lady to spend time in jail for what she did. I have prayed to GOD about this and I have had a bad nights sleep and not feeling so good over it since she called me on the 12th. She told me that she would let me know what was going on and if I had any questions at any time to call her and she gave me her phone number. So I am going to call them, if they don't call me first. Jim Eicher told me that for her to not spend any jail time for all those past priors before and after Don, who does the family know, she pleads guilty, pays her fine and goes on driving her merry way around town not caring about any one or any thing. So what is going on.

From Linda Lee today:

Don's sister Linda Lee in AZ is not happy about the article below either. She told me to call the DA's office and let them know I am not happy about what is going on and neither is she. At first I was going to just let them go ahead with the plea agreement but knowing that after killing Don she was out driving as always I just don't understand it. I would be looking at what happened as a wake up call that I need to stop doing what I have been doing up till then about my driving and do what the courts say. Once I have satisfied the, no driving while it is suspended time then I would go back to driving but not until then but then she has never done what the courts told her to do. Linda Lee told me that if the courts won't listen to me and they still give her the nice plea agreement then it will be up to GOD to do something about her not caring about the people she drives among in the world.

My answer to questions from a retired CO that Don worked with:

Well, I did call Linda Codura today Asst. DA's boss DA Heneks Jr. but they are out to lunch. I will call after 1PM. I did leave a message on his answering machine to call me because of the newspaper article. Ms. Miller needs 'tough love' and if it means being charged with Homicide by Vehicle then so be it. If they still give her the plea bargain even after I tell them NO!!! then it is on them and GOD will be the one to do something about her.

Civil court, I would have to spend money to get nothing. The father has everything that should be in his name in his good wifes name. The home, the assets, everything is in her name. I found out from Edgar Snyder's lawyer that they were going to go after Mr. Bailey the father and get money from him but they found out he has nothing personally but the car which she was driving that day. I was told by my lawyer as long as Mrs. Bailey the good wife has it all in her name they can't touch her or get any money. My lawyer told me that her father Mr. Bailey (he is either her father or step father) was a smart man to do that with what the family does have but also was told that he has priors about driving with a suspended license. The apple doesn't fall far from the tree. The day she drove him to Cavanaugh Trucking to get his pay check was because he had his license taken from him. Ms. Miller has nothing either because she and her 2 year old are having to live with her folks and the lawyer told me between she and her father there isn't anything but \$15,000 which is from her dad's insurance on his car. Edgar Snyder doesn't want to accept the \$15,000 until they know if there is a case against the folks with the bush. Edgar Snyder did accept \$15,000 from Don's motorcycle insurance company but again they have on hold the \$15,000 from her dad's cheap insurance company (that is all they have in insurance). The folks with the bush I don't know if they are going to be able to persue any thing there, it depends on so many things but they are going to give it a try. I know it will take time because they have to sue Ms. Miller so they can get the re-enactment paper work from the State Police along with any and all photos from that day especially showing the bush in relation to the road way.

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Proposal in Fayette would avert jailtime in fatality
By Liz Zemba
TRIBUNE-REVIEW
Friday, January 22, 2010

A Fayette County woman accused of hitting and killing a motorcyclist while driving with a suspended license -- only to be charged five months later for continuing to drive on a suspended license -- has entered into a tentative plea bargain in which she will avoid jail.

Diana J. Miller, 20, of 143 Smiley Road, Uniontown, is charged by state police at Belle Vernon with homicide by vehicle, accidents involving death or personal injury while not properly licensed and driving on a suspended license.

In a criminal complaint filed with Smock District Judge Dwight Shaner, police allege Miller was pulling out from Cavanaugh Trucking on Everson Valley Road in Upper Tyrone Township at 3:30 p.m. May 30 when she collided with a westbound motorcycle driven by Donald Berkey, 60, of Scottdale. Police said Berkey braked, but he could not stop in time to avoid a collision.

Berkey, who was thrown from his bike after hitting Miller's driver's side door, died June 14 at UPMC Presbyterian in Pittsburgh of injuries suffered in the crash, according to the complaint.

Miller told police she was under suspension, but she said she looked both ways before pulling out and never saw Berkey. Berkey was not interviewed because of the extent of his injuries, according to the complaint.

Police said a review of Miller's driving history found her driver's license had been suspended 29 days earlier.

The suspension is for one year, but court records show Miller was charged five months later with another count of driving on a suspended license. The citation, filed Oct. 30 by state police before McClellandtown District Judge Randy Abraham, indicates Miller was driving in German Township at the time.

Miller has pleaded guilty to the Oct. 30 offense, which included a separate citation for a suspended vehicle registration. She was assessed fines totaling \$1,034.

In addition, court records indicate Miller in 2007 entered a guilty plea to driving without a license. In an incident from February 2009, she was found guilty following a summary trial of running a stop sign and driving on a suspended license, according to court records.

This month, court records indicate, Miller entered into a tentative plea agreement with prosecutors that calls for her to receive probation in the homicide case. The records indicate that Miller will plead guilty to accidents involving death or personal injury. In exchange, prosecutors will drop the homicide by vehicle charge.

The tentative deal calls for a term of probation to be set by a judge, with the first 60 days to be served on house arrest with electronic monitoring. According to the plea sheet, Berkey's wife, Linda, is in agreement with the plea bargain.

District Attorney Jack Heneks yesterday said the assistant district attorney (Linda Cordaro called me on the 12th before going in to give her the plea) who offered the deal may not have been aware of Miller's other traffic offenses. He said he will review the case and talk to Berkey's wife (I still didn't get a call, yet) before deciding whether to let the tentative plea stand.

Miller is free on \$10,000 bail.

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Just thought you would want to know the following:

The Assistant Fayette County DA Linda Cordaro called Thursday around noon to let me know that she wasn't ignoring my phone messages it's just that she isn't in office very much during the week. She also told me if I change my address or phone numbers I need to call their office and let them know.

She wanted me to know the case against Diana Jo Miller has just begun, it is not done by a long shot, her words. DA Jack Heneks Jr. (her boss) got my letter but has not read it but he will. The letter was put in

the Miller file and some time down the road they are going to bring me in to DA Heneks office and explain to me what they are doing with the case against Diana Jo Miller, how they are going to do things and any offers they will make to her. They also want to know what I have to say about it all and they want to know how this has affected me.

I told her that when I saw the article in the newspaper I thought that was the end of it all and that she got a slap on the wrist and she told me, "Oh no, this is just the beginning." What was in the paper was just a paliminary hearing.

She told me that Diana Jo Miller's driving with a suspended license is a summery offense and that a summery offense is the least of crimes. She will be given a sentence for that, usually 60 days house arrest with a monitor. She told me that Ms. Miller did plead guilty to the summery offense of driving with a suspended license so she wouldn't have to go into a court room. She told me that they have nothing for habitual offenders when it comes to them continually driving when they are not suppose to. But then she did mention that there kinda is a law for habitual offenders but it is for those who just start being habitual and that law would put them in jail for a few weeks but nothing more. She told me you can only keep putting some one in jail for so long and it doesn't do any good.

So they will be in touch down the road. The Assistant DA Linda Cordaro told me that the Homicide by Vehicle is a whole differant matter all together and she still has to go through that.

I have to be patient and wait for them to call me. Not jump the gun like I did with writing the letter which is below if you haven't gotten it already. So we wait.

Linda Berkey

Dear DA Jack Heneks,

My name is Linda S. Berkey, widow of Donald R. Berkey Sr. former Corrections Officer of SCI Greensburg and Vietnam veteran.

As per your comment to reporter Liz Zemba of the Tribune-Review, He (District Attorney Jack Heneks) will review the case and talk to Berkey's wife before deciding whether to let the tentative plea stand. I still haven't received a phone call from you or Linda Cordaro in response to your office having found out that Diana Jo Miller has multiple driving violations or priors.

When Assistant DA Linda Cordaro called me at 2:12pm on January 12th to tell me of the plea agreement that she was going to be offering to Diana Jo Miller of 143 Smiley Road, Uniontown I was in agreement but now knowing that there are multiple driving violations or priors I can no longer agree to the plea agreement you want to offer her.

Did DA Linda Cordaro know when walking into the hearing to give Ms. Diana Jo Miller the plea agreement that Ms. Miller had so many driving violations or priors and was picked up during a drug sweep of Fayette County as well? That Nancy Vernon states in the newspaper article that the drug sweep was necessary to show "we are not going to put up with dope dealers in Fayette County ." Diana Jo Miller was arraigned on drug charges along with so many others according to the article in The Valley Independent dated April 15, 2009 and Ms. Miller's most recent driving violation of October 30, 2009 exactly 5 months to the day since killing my husband Don Berkey Sr. it states she was stopped by a State Trooper for running a stop sign while still having the suspended license against her that she had when she pulled out in front of my husband.

I am no longer in agreement with what your office wants to offer her. I don't want her pleading guilty, paying a fine and going on her merry way still driving on her suspended license. She seems to flaunt the fact that your office or any law official can not stop her from driving with a suspended license or even no license, should you take it off her. I know that according to the laws of this land she can get jail time up to if I am remembering right 5 years for Homicide by Vehicle. I would hope that if she spends time in jail and can't drive she will realize that driving is a privilege extended to you by the State you live in as long as you abide by the laws governing the use of the license and the roadways; it is not a right you are born into.

I know that if Ms. Miller would have followed the rules of her conviction for a suspended license which was before the collision with Don, our Don would still be alive and riding his motorcycle on nice warm days, even in the winter that is how much he loved riding and taking our son Don Jr., 28 years of age now, running to stores and seeing friends when they both had the same days off or early morning hours before Don Sr. went to work doing his outside security patrol at the institution. When they went out it was in the pickup most of the time. What happens in the pickup stays in the pick up as Don always told our son as he would jab him in the ribs with his elbow and give him that big smile and the twinkles in his eyes that told Don Jr. that he loved him so much. We miss Don so much and still are having problems coming to terms about this whole situation that Diana Jo Miller has thrust upon us. On a daily bases Don Jr. and I are going through mental anguish or some kind of suffering because of her actions of that day.

I thank you for taking the time to read this letter and please don't let her just walk away with out some `tough love' called, jail time.

Sincerely,

Linda Berkey

FYI/DA Called Thursday Saturday, January 30, 2010 4:45 PM

I spoke to Linda and she said she doesn't mind if any of us write to the DA's office showing our support for her and her family. So I wanted all of you to know that in case you would also like to do that. Here is one of the newspaper articles Linda mentioned in case you would like to read it:

http://www.pittsburghlive.com/x/pittsburghtrib/news/s_663541.html#

Also, here is the DA's address:

Jack Heneks Jr.
Fayette County Courthouse
61 East Main Street
Uniontown, PA 15401