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Driver in fatal wreck charged with misdemeanors

By **Gary Harki**
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About a year after Kanawha County paramedic Tennille Davis died in a car accident in Boone County, prosecutors say they do not have enough evidence to charge the woman involved in the wreck that took Davis' life.

Deborah Baber, 27, was recently charged with failing to stay on the right-hand side of the road and driving on a suspended license, said Parker Bazzle, an assistant prosecutor in Boone County. Both are misdemeanors.

On Jan. 13, 2007, Baber was driving a Ford Explorer SUV when she crossed into Davis' lane on W.Va. 3 and struck her head-on, according to police. Baber, who was severely injured, and her two young children survived the crash.

Davis was on the way to teach an emergency medical class. She died at Charleston Area Medical Center General Hospital the next day.

Baber was given a drug test at the hospital, Bazzle said, but investigators discovered that the test didn't quantify how much of any substance was found in her system. That meant prosecutors couldn't say whether she was impaired by anything or not, he said.

No alcohol was found in her system, Bazzle said. Baber later acknowledged taking the anti-anxiety medication Xanax, but she said she didn't take it the day of the accident, he said.

"We do not have sufficient evidence to proceed and make a case for a DUI type of charge," Bazzle said. "We had a big meeting and looked at all the evidence and that's [the decision] we reached."

Boone County sheriff's deputies, who handled the accident, didn't request more tests because there was not probable cause to suspect Baber was impaired, said Sheriff Rodney Miller.

The officers had no way to know about the drug test already given to Baber because of patient privacy laws, he said.

In a lawsuit filed in March in Kanawha Circuit Court, Tennille Davis' husband alleges Baber was speeding on her way to get to a methadone clinic in Charleston. The suit contends that Baber was reckless and negligent as she hurried to the Charleston Treatment Center on Greenbrier Street.

Prosecutors also looked at charging Baber with negligent homicide, but a state Supreme Court ruling last year made getting a conviction on that charge much harder than in the past, Bazzle said.

Being across the center line by about 2 feet, as Baber was in this case, is not enough evidence, Bazzle said.

Baber was on probation at the time of the accident for pleading guilty to delivery of a controlled substance in July of 2005. Because she admitted taking Xanax without a prescription and to driving on a suspended license, her probation was revoked. She is in jail serving one to five years for the 2005 charge.

The fact that Baber is in jail is little comfort to Gary Davis, Tennille Davis' husband.

"I am relieved she is but it's not so much what I lost but what my two kids lost. They will have to grow up without their mom," Davis said.

He believes that if the wreck had happened in another county, more would have been done. Davis said he learned of Baber's misdemeanor charges not from police or prosecutors, but from a Gazette reporter.

"I wanted to be able to face her in court and look at her and say, 'Look what you did,'" he said.

Miller said the law can only be enforced as it is written.

"Personally the guys in the department are not particularly satisfied with what we were bound to do by law," the sheriff said. "We certainly, at least in the onset of the investigation, anticipated more. But the law and court rulings are what they are.

"Unfortunately, in this case that is the way it is. We're stuck."

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