

CASE SUMMARY OF FWNE16OFF003472 FATAL BOATING ACCIDENT

SYNOPSIS

On April 1st, 2016 a single vessel crash occurred on the St. Johns River near the City of Welaka within the boundaries of Putnam County, FL. The vessel (V-1), a 2003, 14' fiberglass open motorboat, was occupied by two adults, one female and one male. V-1 was traveling northbound on a plane when it struck a channel marker. The female occupant was ejected out of V-1 either striking part of the vessel or the channel maker prior to landing in the water. She was not wearing a life jacket. The male occupant was thrown down into the vessel from the impact. The male occupant called 911. A search to locate the missing female occupant ensued. At approximately 1345 hours the following day, the deceased body of the female occupant was located at a depth of 15' underwater. The body was turned over to the Office of the Medical Examiner District 23, Investigator Kenneth Moore.

INVESTIGATION

INVESTIGATION CHRONOLOGY

Friday, 04/01/2016

- 0448 hrs: FWC Dispatch notified of vessel incident by Putnam County Sheriff's Office (PCSO).
- 0646 hrs: FWC Officer Mike Florence on scene.
- 0719 hrs: FWC Officer Kurt Harris on scene.
- 0720 hrs: FWC Lt. Dan Dickson on scene with side scan sonar.
- 0722 hrs: FWC Investigator Brandon Lasher on scene.
- 0759 hrs: FWC Officer Eric Meade on scene.
- 0818 hrs: FWC Investigator Mike Fischer on scene.
- 0826 hrs: FWC Investigator John Brechler on scene.
- 0827 hrs: FWC Captains Byron Smith and Gregg Eason on scene.
- 0955 hrs: FWC Officer Ed Barber on scene.
- 1431 hrs: FWC Investigator Brandon Lasher inventoried the vessel and followed a tow truck hauling the vessel to Ocala Office.

- 1819 hrs: FWC Officer Josh Greenier on scene.
- 1845 hrs: FWC Officer Lee Lawshe on scene.

Saturday, 04/02/2016

- I arrived on scene and conducted a neighborhood check for witnesses.
- I interviewed Bridge Tender, Joe Kelly, at Buffalo Bluff Bridge.
- Divers from Jacksonville Sheriff's Office locate body of Brandee Smith.
- M.E. Investigator Moore notified.

Monday, 04/04/2016

- At 0900 hours I attend the autopsy of Brandee Smith.
- I learned that the owner of V1, Phillip John, invoked his right to council.
- I met with Brandee Smith's family.

Tuesday, 04/05/2016

- I arrived at the St. Johns County Sheriff's Office (SJCSO) Major crimes Unit to prepare a Court Order for the two cell phones that were on the vessel at the time of the incident.

Thursday, 04/07/2016

- I made contact with the Putnam County Court House in reference to the Court Orders for the cell phones that were on the vessel at the time of the incident. No one was available on this date.

Friday, 04/08/2016

- I arrived at the FWC Office in Ocala, FL to review the damage to the vessel (see Vessel Description and Damage).

Monday, 04/11/2016

- Investigator Brandon Lasher and I met with Assistant State Attorney Jason Lewis at the Putnam County Court House. Judge Patti Christensen signed

the Court Order for the two cell phones for the cell phones that were on the vessel at the time of the incident.

- I arrived at the SJCSO substation on Mickler Road in Ponte Vedra Beach, FL. I was able to FAX the Court Orders to Sprint and AT&T.

Tuesday, 04/12/2016

- I spoke with John Lyon, brother-in-law of Brandee Smith. He described the relationship between Brandee Smith and Philip John as “two peas in a pod.”

Thursday, 04/14/2016

- I met with and conducted a follow-up interview with Valerie Manuel at her condominium in Welaka, FL.

VESSEL DESCRIPTION

V-1 is a 2003 14'4" in length, 5'2" beam, Palmer Critchfield Boat a V-hull fiberglass skiff. V-1 is powered by a 20 hp Mercury tiller outboard motor with an aluminum 3 blade propeller. The inner hull is white and the outer hull is light blue with dark blue stripes on the side. It displays Florida registration number FL 6344 RX, Hull Identification Number (HIN) CXRC3044F303. The registered owner is Phillip William John of 108 Waterway Dr., Satsuma, FL 32177. V-1 has a rear fiberglass bench seat with a single compartment. There is one live well compartment on the port side mid ship and one fiberglass storage compartment on the starboard mid ship. V-1 has one forward fiberglass casting deck. The capacity plate is rated for 3 persons or 450 lbs., 750 lbs. persons, motor and gear, 25 horsepower maximum rating.

V-1 had a 6 gallon fuel tank with $\frac{1}{4}$ tank remaining. There is a 5 gallon portable spare fuel container. The navigational lights were clip on bow light and clip on stern light and they were functional at time of inspection.



V-1

DAMAGE

The initial impact damage leading edge begins approximately 11" from the bow, on the port side rail. The trailing edge of initial impact is 2'5" from the bow on the port side rail. The initial impact is a 1" compression damage to the aluminum rub rail with rubber insert, and fiberglass crushing damage. The 2nd impact damage leading edge begins approximately 8'5" from the bow on the port side rail. The trailing edge of 2nd impact is 9'6" from the bow on the port side. Wood from a creosote pole is embedded inside the thru-hole fitting. The port rub rail screw at the stern has wood transfer embedded in it. Linear scratches down the port rub rail appear to be fresh.

OPERATOR/OCCUPANTS

V-1 Registered Owner/Operator

Phillip William John (DOB) 04/11/1985 W/M 5'10" (Uninjured)

108 Waterway Drive

Satsuma, FL 32177

FL D.L. # J500-679-85-131-0

V-1 Operator

Brandee Marie Smith (DOB) 12/23/1980 W/F (Deceased)

REDACTED

REDACTED

REDACTED

INJURIES

Brandee Smith sustained fatal injuries in the incident after being ejected and drowning. Dr. Predrag Bulic of the District 23 Office of the Medical Examiner's Office determined the cause of death to be drowning associated with contusion of the right cheek, fracture of C6 vertebra with contusion of spinal cord, deep soft tissue hematoma of the neck associated with C6 fracture, and focal subarachnoid hemorrhage over left parietal lobe of the brain. The Toxicology Report associated with the Medical Examiner Report reported a positive finding of the Blood Alcohol Concentration (BAC) of Brandee Smith to be 0.162 g/100mL.

INTERVIEWS

Friday, 04/01/2016

At approximately 0832 hours, Phillip John agreed to participate in a recorded interview with FWC Investigator Mike Fischer and I near the Sportsman Drive boat ramp. The following information was obtained;

- Phillip John was read his Miranda Warnings and he said he understood his Miranda Rights and agreed to talk to us.

- Phillip John agreed to give a consensual blood draw and the blood draw was completed on scene by Putnam County Fire Rescue personnel witnessed by Inv. Lasher.
- Phillip John stated “First and foremost I failed my job as a navigator and that’s why we hit it. I failed my job. It’s one hundred percent my fault. I was navigating, there was no light. It’s my fault.”
- Brandee Smith was his girlfriend for almost 10 months.
- They left his house around 10:45 pm on March 31, 2016.
- Brandee Smith did not operate the vessel in the canal. She always operated out of the canal and has done it many times, but not many times at night time.
- They would go out on the boat three to four times a week.
- They cruised on and off from the time they left the house and idled around the Buckman Locks.
- There was an extra five gallons of gas and Brandee Smith said let’s go for an adventure.
- They went parallel to the Ocala National Forest past Little Lake George to a trail Brandee Smith wanted to see and explore.
- They had never been that far.
- Philip John said around 3:30 am to 4:00 am they decided to head back home.
- Brandee Smith drove back and it was the first time she drove all the way and that made it a big deal.
- On the way back, Phillip John said he was teaching her about the channel markers, how to stay between the green and the red.
- The vessel was on a plane and estimated speed was 20 mph.
- Phillip John stated “I failed, I failed, my job was to look out and stuff.” “I was looking down, I did not see that, I did not see that, I did not see that, I did not see that.”
- Phillip John said the running lights were on and functioning.
- Phillip John said he was looking down, wasn’t paying attention because I was looking for the lights and he would glance up and down now and again.
- Brandee Smith freaked out and jerked or turned the vessel hard right and the left front of the bow hit the marker.
- Her head hit the boat and she got ejected.
- The motor shut off and the vessel did a 180.
- Phillip John immediately dove in the water yelling and looking for Brandee Smith.
- He found her beanie (hat).

- Swam back to the vessel, looked for Brandee with the flashlight and called 911.
- Leash (lanyard) was attached to Brandee Smith's wrist when she was ejected shutting off the motor.
- They had a 12-pack of Corona (beer) when they left Phillip John's house.
- There were two to four beers left and they discarded the empty bottles into the water as they drank them.
- Phillip John said he was supposed to be her navigator and he didn't see it (Marker 46).
- Phillip John said he and Brandee Smith were not fighting and she is the most amazing woman in his life. She is probably one of the most well respected Deputies here.
- Brandee Smith was sitting on the port side on the bench seat using her right hand to operate the boat.
- Brandee Smith switches hands on and off.
- Phillip John does not feel he or Brandee were under the influence of alcohol at the time of the accident, but buzzed. Not inebriated.
- Phillip John would use a flashlight on and off to look for channel markers, but did not keep it on because it ruins your night vision.

This concluded interview of Phillip John.

I spoke with PCSO Deputy Alfie Stinson at the Sportsman Drive boat ramp area. Deputy Stinson said she had been trained by Deputy Brandee Smith and indicated Brandee Smith and Phillip John were in a stable and healthy relationship.

FWC Investigator Brandon Lasher said he spoke to Phillip John when he arrived on the scene. Investigator Lasher said Philip John told him he was looking down on his phone at the time of the accident.

Saturday, 04/02/2016

I recorded an interview at approximately 1043 hours with Joe Kelly, the bridge tender at the Buckman Bluff Railroad Bridge. The following information was obtained:

- At approximately 2300 hours Joe Kelly heard the engine coming from the east, looked out the window and sees the red bow light of the vessel approaching.
- Only boat he had that night, no other boats came through.

- Light on bridge illuminates vessels passing through the bridge.
- Looks to be the same vessel as the one he saw on the news (the internet).
- She was operating the boat.
- He was telling her how to get through the bridge, as if he was training her.
- He did not see life jackets.
- He saw no fishing gear.
- The two were sitting in the back of the boat beside each other. She was on the starboard side, he was on the port side.
- He heard the engine go off on the west side of the bridge and didn't hear the engine come on for a couple of hours.
- Hears engine come on after a couple of hours and goes like full throttle headed west upriver.

This concluded interview with Joe Kelly.



View from Buffalo Bluff Rail Road Bridge Office (daytime)

At approximately 1725 hours I spoke with Valerie Manuel, a part time resident at the Sportsman's Lodge Condominiums, on the telephone. Ms. Manuel said she was awake on the morning of 04/01/2016. She said around 4:00 am to 4:30 am she heard boat coming from Georgetown flying down the river. She said it was dark and could not see anything. Ms. Manuel said she heard an engine motor shut off

and heard something hit wood. She said she heard someone yell hey several times and heard emergency sirens shortly thereafter.

Tuesday, 04/12/2016

I spoke with John Lyon, brother in law to Brandee Smith on the telephone. I asked him about Phillip John and Brandee Smith's relationship. Mr. Lyon told me they were like two peas in a pod.

Thursday, 04/14/2016

I recorded an interview at approximately 1002 hours with Valerie Manuel at her condominium located at the Sportsman's Lodge Resort Condominium unit 1206. The following information was obtained;

- On Friday 04/01/2016 at approximately 0330 hours her dog woke her up.
- Her sliding glass door was open.
- She heard a boat come whizzing down river.
- She heard the engine shut off and a heavy thud.
- She heard a male person talking from the river.
- She heard someone from the land side say hey 5- 6 times.
- She heard emergency vehicles arriving.
- It was too dark to see anything from her balcony.

Tuesday 04/19/2016

On Tuesday 04/19/2016 I received a Written Statement for PCSO Deputy Abbott. In his statement, Deputy Abbott advises;

- On March 1, 2016 (obvious error, should be April 1, 2016) at approx. 0442 hours he responded to Sportsman Drive in Welaka, FL in ref. to a boating crash.
- Upon arrival he saw a small vessel with a small light on.
- Deputy Abbott shined his flashlight at the vessel and vessel sped towards him.

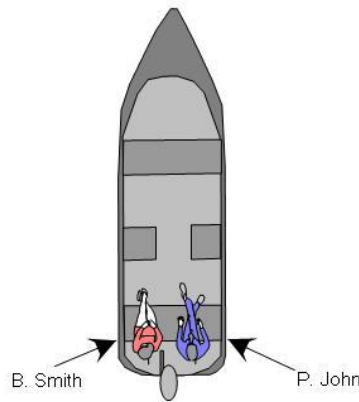
- Phillip John operated vessel to meet Deputy Abbott where he first made contact.
- Deputy Abbott said Phillip John was wet.
- Phillip John told Deputy Abbott he and his girlfriend, Brandee Smith, were traveling northbound on the St. Johns River heading towards Dunn's Creek.
- Phillip John said Brandee Smith was operating the vessel.
- Phillip John said he was sitting beside Brandee Smith and as they traveled north the vessel struck an unlit channel marker (Marker 46) which caused Brandee Smith to be thrown from the vessel.
- Phillip John said the vessel motor shut off because the "kill switch" was attached to Brandee Smith.
- Phillip John told Deputy Abbott dove into the water in an attempt to locate her but was unable to find her.
- Phillip John told Deputy Abbott he searched for approximately ten minutes before calling 911.
- Deputy Abbott boarded the vessel with Phillip John and proceeded to Marker 46.
- Deputy Abbott saw several fresh scratch marks on the south side of the marker.
- Deputy Abbott conducted a search of the area in an attempt to locate Brandee Smith until a Fire Department vessel arrived.
- After returning to the boat ramp Phillip John made statements the he and Brandee had been exploring and looking for arrowheads.

ACCIDENT ANALYSIS

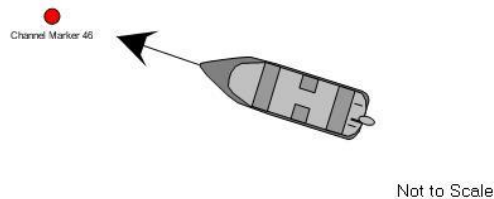
PRE-ACCIDENT

On March 31st 2016 from 10:00 pm to 10:45 pm, boyfriend and girlfriend Phillip John and Brandee Smith left in Phillip John's 14' Palmer Critchfield V-hull fiberglass skiff displaying Florida registration number FL 6344 RX from his residence located at 108 Waterway Drive, Satsuma, FL. The two headed down the St. Johns River on a recreational cruise to explore trails they had found on Google Earth and look for arrowheads. On the return trip home Ms. Smith was operating the tiller and Mr. John was navigating. John was seated on the starboard side in the position traditionally occupied by the operator, Smith was seated on the port side, where a passenger would be more likely to ride. They headed north on the St.

Johns River, Mr. John looked down at his phone and when he heard Ms. Smith yell, he looked up. V1 was being turned hard to the starboard by Ms. Smith as it was about to strike a channel marker. Mr. John did not see it because he was looking down.



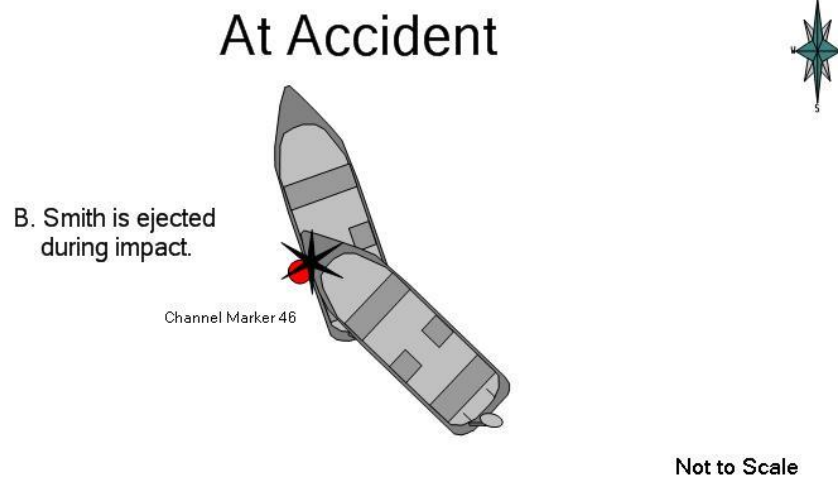
Pre-Accident



AT ACCIDENT

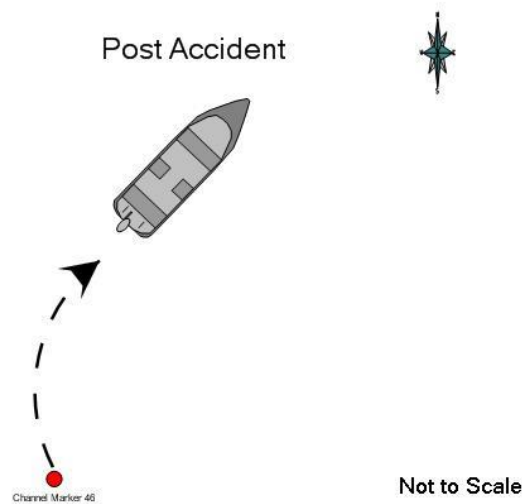
V1 struck the channel mark just off center bow portside and Ms. Smith impacted the vessel or marker causing her to be ejected into the water. Mr. John was thrown forward by V1 impacting the marker and he landed in the front portion of V1. Smith was ejected because she was seated on the port side, impact occurred on the port side, V-1 has low gunwales with a high seating position relative to the side height and V-1 was in a starboard turn. John was seated on the starboard side, he

remained inside V-1 because the impact forced him to the port side and gravity pushed him downward at the same time. He was close to the deck before reaching the port side. V-1 continued forward and in a starboard turn, after a bounce at initial impact, V-1 contacted the marker on the port side again further toward the stern.



POST-ACCIDENT

V1's engine shut off and V1 came to rest 180 degrees from the direction of its initial forward motion. Mr. John could not see or hear Ms. Smith in the water, he jumped in and found her beanie hat floating and that was all. He entered V1 and called 911 and a search was initiated.



CONCLUSIONS

After reviewing the information and evidence gathered to date, I have concluded the following: Mr. Phillip John and Ms. Brandee Smith were both in V1 at the time of the incident and they both were operating V1 by Florida Statutes Definition of operator; *“Operate” means to be in charge of, in command of, or in actual physical control of a vessel upon the waters of this state, to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon the waters of this state, or to control or steer a vessel being towed by another vessel upon the waters of the state.*

Ms. Smith was operating V1 by the fact she was in control of the tiller and controlling the speed and direction of V1. Mr. John admitted he was operating by the act of navigating and stating post Miranda, *“First and foremost I failed my job as a navigator and that’s why we hit it. I failed my job. It’s one hundred percent my fault. I was navigating, there was no light. It’s my fault.”* He also stated, *“I failed, I failed, my job was to look out and stuff.” “I was looking down, I did not see that, I did not see that, I did not see that, I did not see that.” “I was supposed to be her navigator”*. Mr. John directed Ms. Smith on how and where V1 was to proceed. Mr. John shared the responsibility in the safe operations of V1. Additionally, Mr. John was the registered owner of V-1 and most familiar with its operation, was more experienced in vessel operation in general and was in the traditional seating position for the operator of this type of vessel.

Violations

I find that Mr. Phillip John and Ms. Brandee Smith violated the following Florida Statutes and Federal Navigation Rules during their operation of V1 on the morning of April 1st, 2016.

Ms. Brandee Smith did commit the following violations:

- **BUI**
- **Operate a vessel in a careless manner**

- **Operate a vessel violation of navigational rule resulting in a boating accident, to wit: Violation of Navigational Rules 5 Look-Out, and 7 Risk of Collision.**

Florida Statutes reference the above listed violations:

327.35 Boating under the influence; penalties; “designated drivers.”—

(1) A person is guilty of the offense of boating under the influence and is subject to punishment as provided in subsection (2) if the person is operating a vessel within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

I The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$500 or more than \$1,000 for a first conviction.

b. Not less than \$1,000 or more than \$2,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

However, the fine imposed for such fourth or subsequent violation may not be less than \$2,000.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vessel; and

I Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 327.353, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits BUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(II) The person failed to give information and render aid as required by s. 327.30.

327.33 Reckless or careless operation of vessel.—

(1) It is unlawful to operate a vessel in a reckless manner. A person is guilty of reckless operation of a vessel who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure any person. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). Any person who violates a provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in a manner described in this subsection constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection commits a noncriminal violation as defined in s. 775.08.

(3) Each person operating a vessel upon the waters of this state shall comply with the navigation rules.

(a) A person who violates the navigation rules and the violation results in a boating accident causing serious bodily injury as defined in s. 327.353 or death, but the violation does not constitute reckless operation of a vessel, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who violates the navigation rules and the violation does not constitute reckless operation of a vessel commits a noncriminal violation as defined in s. 775.08, punishable as provided in s. 327.73.

I Law enforcement vessels may deviate from the navigational rules when such diversion is necessary to the performance of their duties and when such deviation may be safely accomplished.

(4) Unless otherwise provided in this chapter, the ascertainment of fault in vessel operations and boating accidents shall be determined according to the navigation rules.

The following navigational rules were violated in reference to this boating accident investigation:

—INLAND—

Steering and Sailing Rules
PART B—STEERING AND SAILING RULES
Subpart I—Conduct of Vessels in Any
Condition of Visibility

Rule 5 – Lookout

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 7 – Risk of Collision

- (a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.
- (b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.
- (c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.
- (d) In determining if risk of collision exists the following considerations shall be among those taken into account:
 - (i) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change.
 - (ii) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

Mr. Phillip John did commit the following violations:

- **Allowing impaired person to operate vessel.**
- **Operate a vessel in a careless manner.**
- **Operate a vessel violation of navigation rule resulting in a boating accident, to wit: Violation of Navigational Rules 5 Look-Out, and 7 Risk of Collision.**

Florida Statutes reference the above listed violations:

327.34 Incapacity of operator.—

It is unlawful for the owner of any vessel or any person having such in charge or in control to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such vessel under the prevailing circumstances. Nothing in this section shall be construed to prohibit operation of boats by paraplegics who are licensed to operate motor vehicles on the highways.

327.33 Reckless or careless operation of vessel.—

(1) It is unlawful to operate a vessel in a reckless manner. A person is guilty of reckless operation of a vessel who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure any person. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). Any person who violates a provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. The failure to operate a vessel in a manner described in this subsection constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection commits a noncriminal violation as defined in s. 775.08.

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(a) A person who violates the navigation rules and the violation results in a boating accident causing serious bodily injury as defined in s. 327.353 or death, but the violation

does not constitute reckless operation of a vessel, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who violates the navigation rules and the violation does not constitute reckless operation of a vessel commits a noncriminal violation as defined in s. 775.08, punishable as provided in s. 327.73.

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(4) Unless otherwise provided in this chapter, the ascertainment of fault in vessel operations and boating accidents shall be determined according to the navigation rules.

—INLAND—

Steering and Sailing Rules **PART B—STEERING AND SAILING RULES** **Subpart I—Conduct of Vessels in Any** **Condition of Visibility**

Rule 5 – Lookout

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- (a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.
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See letter from Assistant State Attorney.

END OF REPORT