

On Thu, Nov 10, 2011 at 1:39 PM, West, Robert <RWest@a2gov.org> wrote:
CM Taylor,

Apologies for not responding yesterday but I have been out sick. Don't know if this is still timely but this is what I can come up with on short notice.

A woman named Janice Marchyok was killed on September 11, 2000, when she attempted to cross Glen St. at the intersection of Catherine St. near the UM Hospital campus. She was walking westbound and had a green pedestrian signal, but a bus also traveling westbound also had a green signal and made a right turn across the crosswalk that Mrs. Marchyok was about to enter. The bus had already started into its turn when Mrs. Marchyok stepped off the curb and walked into the side of the bus, whereupon she was run over by the rear wheels.

The driver, a Mr. Cain, was charged with negligent homicide, a felony charge. 15th District Court Judge Elizabeth Hines presided over the preliminary examination. After hearing the testimony she dismissed the charges against Mr. Cain and in so doing ruled that Mr. Cain could not have been negligent because (1) the pedestrian does not establish the right of way in the crosswalk until she actually steps off the curb into the street, and (2) by the time Janice Marchyok established her right of way in the crosswalk, the front part of the bus where Mr. Cain was sitting was already past the point of impact and there was nothing he could have done to avoid the collision.

A copy of the transcript of Judge Hines' ruling is available but I would have to find out where it is stored. We had a copy, but if we still have it, it is also in storage and I would have to make arrangements to retrieve it. I don't know if the judge was specifically interpreting the UTC provision; we would have to review the transcript for that. I can tell you that as a District Court judge, her ruling would not be binding on any other court except the 15th District, and it may not even be binding here.

I hope this sheds some light on that issue. Let me know if you need further info.

Bob West