

# Jury Applies No Penalty to Speeding Driver For Killing Cyclist Jake McDonough

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[Streetsblog New York City: Jury Applies No Penalty to Speeding Driver For Killing Cyclist Jake McDonough](#)

**by Ben Fried on October 28, 2011**

A Brooklyn jury has found defendant Michael Oxley not guilty of criminally negligent homicide in the 2010 death of Jake McDonough, [the Post reports](#).

Oxley was speeding behind the wheel of a Dodge Caravan when he ran down cyclist McDonough at the intersection of Flatbush Avenue and Duryea Place last April. The investigation and prosecution were unusual for a vehicular violence case — police followed up with witnesses, and the Brooklyn District Attorney applied a felony charge. But the jury cleared Oxley of homicide as well as reckless driving, a misdemeanor. A closer look at the case is in order.

At 9:20 a.m. on the morning of April 14, Oxley was driving on Flatbush when he struck and killed McDonough, who was bicycling eastbound on Duryea. Oxley, 28 at the time, was observed traveling at an excessive speed, and a witness saw him run a red before killing McDonough, according to court documents [\[PDF\]](#). He was driving with a suspended license and according to the Daily News had racked up three license suspensions for failing to pay fines for speeding and improper turns.

McDonough was 18. He was dragged for half a block after impact and pronounced dead at the scene.

In their verdict, the jury convicted Oxley of speeding and driving with a suspended license, while clearing him of the two charges stemming from McDonough's death — the felony homicide charge and the misdemeanor reckless driving charge. The sentence from Judge Raymond Guzman: an \$800 fine and 10 days in jail.

According to the Post, a key factor in the jury's decision was a surveillance tape from a nearby restaurant that indicated Oxley didn't run the red. (They also cleared him of a red light running infraction.)

Accepting that explanation, the following facts are still not in dispute: Oxley was speeding, and he was violating the law just by driving. If he had obeyed the law, Jake McDonough would still be alive. Yet the jury did not even find

that his conduct met the standard for reckless driving, defined in state law as operating a vehicle “in a manner which unreasonably interferes with the free and proper use of the public highway, or unreasonably endangers users of the public highway.”

What led the 12 men and women on the jury to this verdict? The analysis of **Bob Mionske**, an attorney who writes the “[Road Rights](#)” column for Bicycling Magazine, comes to mind.

Based on his experiences with cases in the Portland area, Mionske says that public perception of cyclist fatalities is inseparable from the way such cases are treated by police and the media. Police tend to leak information about crashes that faults cyclists, and those are the details that get into the news cycle. When information later surfaces that indicates motorist culpability, the press has lost interest and the public never hears about it.

The Oxley case, on its own, doesn't fit the pattern — police shared information from witness interviews and coverage reflected Oxley's misconduct. But overall, the coverage of bike and pedestrian fatalities in New York is saturated with [police statements that blame the victim](#).

“This just poisons the mind of the public, and the public is who is empaneled in juries,” Mionske [told an audience at the National Bike Summit](#) a few years back. “What you see is, anti-cycling bias starts with cops, is reinforced by the media, and is perpetuated in the courts.”