

Words Escape Me

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By [Rick Bernardi](#)

What does one say, in the middle of the night, when once again, a cyclist lays dead and our system of injustice gives us its grotesque *pro forma* ritual of shifting the blame to the cyclist, and exonerating the driver? What does one say, when over and over again, the justice we receive is nothing but a mockery of justice? What does one say, when all one feels is a cold fury at the lies that perpetuate our system of injustice? What does one say when there are no words? What does one say?

I will try to find the words.

David LeClair was 23, a 2011 magna cum laude graduate of [Bentley University](#). An employee of athenahealth for the past two years, and member of the athenahealth cycling team, David had barely started out in a life that was full of promise, his future stretching out before him.

That future was cut short five days ago, when David fell beneath the rear wheels of a tractor-trailer truck a few miles into the first day of the [Trek Across Maine](#), a charity ride for the American Lung Association. David was killed instantly, the victim of blunt force trauma to his head. The driver believed to be involved, Michel Masse-DeFresne, 24, of Quebec, [didn't even know that a cyclist had been hit](#) until police stopped him some 14 miles down the road. Given the size of the truck he was driving, it is not considered unusual that he was unaware that a cyclist had fallen beneath his wheels.

And then the mockery of justice began.

Within days, Maine State Police announced that it was [unlikely that the driver would face charges](#). The investigation determined that as the tractor-trailer was passing David, he ["veered into the path of \[the truck\] while sipping water."](#) Well, isn't that tidy. You see? The fatal crash was the cyclist's fault. He was taking a drink of water. ["He only had one hand on the handlebar."](#)

Never mind all of that other, inconvenient eyewitness evidence. Never mind that the truck passed David at about 3-4 feet distance, and that David was sucked under the rear wheels by the turbulence of the passing truck. Never mind that the truck passed ["close and pretty fast."](#) State Police Lt. Walter Grzyb acknowledged that ["witnesses said they felt a draft when the truck went by, and it seems plausible, but we just can't know for sure."](#) What do the witnesses know? "He pulled his water bottle out and he's taking a drink of water. He has the left hand on the handlebar, a little less stable than two (hands)," [Lt. Grzyb explained](#). David was trying to take a sip of water, so of course, he was to blame.

Now let's talk about what really happened, based on what we know. A tractor-trailer began passing hundreds of cyclists on a charity ride on a two-lane road. [Traffic was in the oncoming lane](#), so there was no room for the driver to move into the oncoming lane to pass. Furthermore, the driver was in a no-passing zone, so under Maine law, [it was illegal to pass the cyclists unless it was safe to do so](#). The speed limit drops from 55 MPH to 40 MPH just before the site of the fatality. Maine police are unsure of the truck's speed, because there was no collision with the bike, but eyewitnesses say that the truck was passing "close and pretty fast." How close? Everybody agrees that the truck was about 3-4 feet to the left of the cyclists as it passed. Under Maine law, [the minimum distance for passing a cyclist is 3 feet](#). That is not the maximum distance. Maine law also requires that passes be made at a safe distance; this means that conditions and safety considerations may require a passing distance greater than 3 feet. Under the conditions present that morning, the driver was required to pass the cyclists at a speed and distance that were safe, and was prohibited from passing unless it was safe to do so.

And we know that the driver did not pass at a safe speed and distance. We know this because an eyewitness said he passed "close and pretty fast." How fast? How close? Fast enough and close enough for the air turbulence to pull David under the truck's rear wheels. No, David did not "veer into the path of the truck." He was sucked into the path of the truck, and the water bottle in David's hand does not mean that the driver is absolved of his responsibility to pass at a safe speed and distance.

But in our American system of injustice, drivers are routinely absolved of all responsibility, routinely exonerated, and in the rare instances when they are held accountable, routinely slapped on the wrist. In our American system of injustice, police routinely overlook the laws and the evidence and base their "investigations" on noticing irrelevant things like the cyclist taking a sip of water. In our American system of injustice, the District Attorney will receive the shifting-the-blame police report, and make a decision. While we might expect justice, do we believe that David will have justice?

Look, I get that this was an "accident." I get that the driver didn't mean to kill anybody that morning. I get that prosecuting the driver won't bring David back. But I also get that drivers have a responsibility to operate their vehicles safely. I get that justice demands that we stop pretending there's nothing we can do when negligent driving takes a life. I get that doing nothing when a life is negligently lost sends the wrong message to every other driver on the road. I get that shifting the blame to the victim sends the wrong message to every negligent driver on the road. So yeah, I get it.

Does the D.A.?

We've seen this play out so many times before. When a cyclist dies, the cyclist must be at fault, so the justice system bends over backwards to exonerate the driver. Otherwise, drivers who negligently kill would have to be held accountable for the kinds of negligent actions that everybody commits every day. And nobody wants that. [There, but for the grace of God, drivers on juries, in our court system, and in uniform reflect, go I.](#)

So yeah, the cyclist gets blamed, and yeah, negligent drivers are routinely given the kid glove treatment, and yeah, I'm fed up. And I'm not alone. We have to stop accepting this "blame the victim" system of injustice. We have to stop accepting this "bend over backwards to exonerate drivers who kill" system of injustice. We have to stop accepting this "slap on the wrist" system of injustice. We have to stop accepting excuses.

[We have to start demanding justice.](#)