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Jury finds Buckner guilty

Wacoan convicted in manslaughter case

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A 54th State District Court jury of 10 women and two men deliberated 1½ hours Friday before finding Dennis Elgin Buckner guilty of involuntary manslaughter in an auto accident in which one person was killed.

The punishment phase of the trial will begin about 9 a.m. Monday, said 54th State District Judge George Allen.

Janet Leigh Dieterich, 32, was a passenger in Buckner's vehicle when his car and a tractor-trailer rig collided about 6:30 p.m. on Dec. 21, 1984, at La Salle and Eighteenth. She died as a result of injuries received in the accident.

Allen allowed defense attorney Dick Clark to reopen his case Friday after two people called Clark Friday morning to tell him the traffic lights at La Salle and Eighteenth were malfunctioning the day of the accident.

Kay Frazier, 33, and Kelly Ewing, 36, who work in different businesses near the intersection of La Salle and Eighteenth, testified they called Clark Friday morning after reading an account of the trial in the *Tribune-Herald*.

Both testified that they had not been contacted by any attorney or police officer about the accident or the traffic lights. However, both said the lights had a tendency to malfunction, with the lights not changing for a period of time.

Ms. Frazier said, "When I have a green left-turn light, I couldn't see the lights from the other direction, but the cars were still coming through the intersection so I knew it was green for them."

Ewing also testified that the lights did not change properly. "They would go green on La Salle and Eighteenth at the same time," he said. "Everybody would have a green light."

The lights would not malfunction on a regular basis, he said, but would work properly for a few days and then malfunction for a while before working again.

Buckner testified Thursday that he was westbound in the middle lane of La Salle and had a green light. "When I was coming up to the intersection, the light was green and I was about a block away."

Tommy Moore testified Thursday that he was driving about seven car lengths behind Buckner when the accident happened. He said he did not remember what color the light was before the accident, but added, "I don't remember slowing down for a red light, so it must have been green."

Oklahoma truck driver Jack Douglas Moore

Please see **JURY**, Page 4B

Jury finds Waco driver guilty of manslaughter

□ From Page 1B

testified Tuesday that he was eastbound on La Salle and was turning north onto Eighteenth, and had a green, protected turn signal when he entered the intersection.

To counter the two surprise defense witnesses, assistant McLennan County District Attorneys David Deaconson and Dennis Garvey called two police officers who investigated the accident, and Richard Wayne Charlton, the director of traffic operations for the city of Waco.

Both police officers said the traffic lights were functioning properly the day after the accident.

Charlton testified that his office received a complaint that the lights at the intersection were "hung" on Dec. 24, but that the cause was a defective car detector on Eighteenth immediately south of the intersection. The detector is what triggers the light cycle for traffic on Eighteenth, he said.

Charlton also testified that there was no way the turn signal and the lights for on-coming traffic could be green at the same time.

Buckner, 35, testified he drank five beers in two hours but was not drunk when he was involved in the accident.

"At five (beers), I am not intoxicated," Buckner testified. He said it takes six or seven beers before he starts to feel the effects of the alcohol and about 12 before he is "beginning to get drunk."

When Deaconson asked him how many beers it would take to get him "drunk," Buckner said, "18."

Department of Public Safety chemist Charles Mott testified Wednesday that a test he conducted on a sample of Buckner's

blood indicated a blood-alcohol level of 0.24 percent. A test run by a Providence Hospital lab technician indicated a blood-alcohol level of 0.31.

Under state law, a person is considered legally intoxicated with a blood-alcohol level of 0.10 percent.

Five people who were with Buckner a few minutes before the accident testified that he did not appear drunk or affected by alcohol.

Involuntary manslaughter is a third-degree felony punishable by two to 10 years in prison and a fine of up to \$5,000. Clark said Buckner is eligible for probation.