

SUPPORTING DEPOSITION (CPL § 100.20)

PAGE ____ OF ____

THE PEOPLE OF THE STATE OF NEW YORK
— VS. —

DEFENDANT(S)

LOCATION OF INCIDENT:

STATE OF NEW YORK _____ COURT

COUNTY OF _____

OF _____

LOCATION OF DEPOSITION:

STATE OF NEW YORK

COUNTY OF ORANGE

OF _____

On DATE: 04/28/21 at TIME STARTED: 1250 I, FULL NAME: Thomas D. Felso

state the following: I was sitting by the picnic area by where the lake is off the chapel and I saw a plane come in above tree level. He was losing altitude. He slowly went out of sight and I heard a loud bang and heard a crumple sound. When I got here I saw one man on the wing.

NOTICE

(Penal Law § 210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this 28th day of April, 2021

-OR-

* Subscribed and Sworn to before me

this _____ day of _____, _____

* This form need be sworn to only when specifically required by the court

(SIGNATURE OF DEPONENT)

X _____

(WITNESS)

DEPONENT

Det. Hefzla

(NAME OF PERSON TAKING DEPOSITION)

WITNESS

TIME ENDED:

1255

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On DATE: 04/28/21 at TIME STARTED: 1255 I, FULL NAME: Lawrence Bastanza

state the following: I was walking by the park and I saw a plane flying in very low and heading towards the woods. I was the first one to come upon the plane. One person, the pilot was in the plane w/ a bleeding head injury and blood in his mouth. He was laying down and sat up in the plane seat with the help of myself and another gentleman (Thomas A. Felsa). I stayed with him until the arrival of police.

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Affirmed under penalty of perjury

this _____ day of _____.

-OR-

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this _____ day of _____.

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(SIGNATURE OF DEponent)

(WITNESS)

TIME ENDED:

1300

(NAME OF PERSON TAKING DEPOSITION)

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COUNTY OF ORANGE

OF _____

On DATE: 04/28/21 at TIME STARTED: 1300 I, FULL NAME: Donald J. Henshaw
 state the following: My brother and I were fishing in the N/W portion of the lake. There was an unusually high amount of air traffic taking off from the airport. The plane took off, and banked to the west. I commented to my brother - "I'm surprised he's not at a higher altitude. I don't think he's going to make it. I think he's in trouble." As he got closer to the lake it looked like he was trying to make the field but I think the tip of the wing being sheared off by a tree forced him down because he went down after that rather abruptly. My brother called 911 and we headed via boat over to the crash site. We saw 2 gentlemen arrive at the site. The plane went down around 12:30 noon. I had glimpsed at my watch. There was no

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this _____ day of _____.

-OR-

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this _____ day of _____.

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(WITNESS)

Defendant / 01

Det Tetzlaff

(NAME OF PERSON TAKING DEPOSITION)

TIME ENDED:

1305

NAME:

Donald J. Henshaw

DATE

04/28/21smoke on fire.

NOTICE PENAL LAW SECTION 210.45

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On DATE 04/28/21 at TIME STARTED: 1305 I, FULL NAME: Michael J Henshaw

state the following: I was fishing on the lake with my brother and looked up and observed a plane that had just taken off and noticed that it was flying low. There was an unusually high amount of air traffic. He crossed the lake towards the south corner of the lake. As we watched the plane he never gained altitude. I saw him begin his final descent, he hit and pitched in and forward as he hit trees and brush to abort his landing right off of the lakes edge. At that point it was approx. 500-600 yards away and we trolled back in. I called 911 but had difficulty (no service) until 5 minutes later.

NOTICE

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Affirmed under penalty of perjury

this 28th day of APRIL, 2021
-OR-

* Subscribed and Sworn to before me

this _____ day of _____

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(NAME OF PERSON TAKING DEPOSITION)
Det Tetzlaff

TIME ENDED:

1310

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On DATE 04/28/21 at TIME STARTED: 1400 I, FULL NAME: Andrew J Bender

state the following: I was taking off to take the plane to a mechanic to look at the flaps. Three quarters of the way along the run way it started to loose power. At that point it was go or no go, and I went. I continued to not have power, I tried to clear the trees on the other end of the lake but it wouldn't do it. At that point I knew it was inevitable I was crash landing so I looked for the best spot to put it down.

5/3/21 [REDACTED]

Good afternoon;

On 4/27/21 at approximately 12:30 pm I decided to take my Mooney 6448U for a flight around the pattern to practice a few take offs and landings. After pulling the plane from the hangar I did a thorough walk around checking the oil and all flight control surfaces. I also visually checked the quantity of fuel(both main tanks over 3/4 full) and sumped the system to check for water. After I completed these checks I got in and performed a static runup on the ground. Magnetos, and prop checked out as well as carb heat. I set my instruments and pulled out onto 21. Back taxied and made a radio call to check the pattern. Advanced throttle to full and at 65mph and 2/3 of runway I rotated. I immediately noticed that I was not producing full power and attempted to push in more throttle. It was then that I realized the throttle seemed as though it was not advancing completely. I nosed the plane down to attempt to stay in ground effect and gain some airspeed. Unfortunately I didn't have enough space before the trees on the opposite side of the lake. I picked a spot between them and reached down to turn the fuel off. At the last moment before I hit I pulled the aircraft into a full stall belly first attitude. That is the last thing I remember before waking up in the ambulance.

Sincerely;
Andrew Bender

Andrew



MEMORANDUM FOR RECORD

Todd Gunther
Air Safety Investigator
Eastern Region

Date: May 17, 2021

Subject: Information Provided by Inspector Luis Luciano (FAA)

NTSB Accident Number: ERA21LA199

According to Inspector Luciano,

The airplane departed from runway 21, at Warwick Municipal Airport (N72), Warwick, New York. The airplane stayed being airborne after departing runway 21, and then impacted on the opposite shoreline of Warwick Lake almost in line with the departure end of runway 21.

Approximately 1/3 of the left wing was found suspended in a tree 30 to 40 feet above the ground. The remaining airplane structure appeared intact. Part of the intact airplane (tail section) was in the water.

The pilot was able to egress from the airplane by himself, and afterwards, the airport manager and a firefighter shutoff the magnetos and fuel selector. The fire department then dragged the aircraft approximately 30 feet away from the impact area (lake shoreline) to avoid fuel leakage into the lake.

The aircraft registration was found in the pilot's seat back rest pouch. The Airworthiness certificate, nor any other aircraft documents could be located.

The airplane had not flown in about 5 weeks prior to the accident flight. The pilot stated he was flying the aircraft to a maintenance facility for a flap problem to be repaired. The pilot also stated that when he was approximately 3/4 down the runway, the airplane experienced a partial loss of power, however the pilot decided to continue the takeoff.

The following items were examined and found to be in satisfactory condition: Magnetos, igniter wires, igniters, pistons compression, engine oil, oil filter, carburetor, and engine wiring plus tubing. During the examination it was noted that the aircraft mixture control, Carburetor heat had continuity and open and close without any issues. The throttle cable however was noted to resist and push back when trying to fully open the throttle and would only move the throttle arm on the

carburetor about 1/2 an inch. Further examination showed that when the throttle was full open, the entire throttle cable would move through the firewall and bulge. After disconnecting the cable from the carburetor, the cable was found to be still under load, until a loose stand-off clamp that connected the throttle cable to the firewall was repositioned, which then allowed the throttle to function properly through its full range of motion.