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Judge clears pilots in '03 crash

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Verdict contradicts earlier NTSB report of fatal accident

By Denise Nix, Staff Writer
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A deadly midair collision of two helicopters at Torrance Municipal Airport in 2003 was caused by error, negligence and carelessness by the air traffic controllers, a federal judge has found.

U.S. District Court Judge Florence-Marie Cooper's verdict, issued late Monday, contradicts an early National Transportation Safety Board report that blamed pilot error for the crash that killed two people.

Jim Pocrass, who represents a pilot who survived the Nov. 6, 2003, collision, said there were different findings because the NTSB didn't have all the information the plaintiffs' lawyers had regarding the air traffic controllers' actions.

"When we got into the litigation and took depositions under oath and questioned them the way they should be questioned, it became absolutely clear that the air traffic controllers became confused and weren't doing the job the right way," Pocrass said.

Pocrass represents Gavin Heyworth, a 26-year-old former Marine sniper who returned from Iraq about three months before the crash.

Heyworth, a student pilot, was flying alone in a Robinson R-44 helicopter around 3:30 p.m.

In a Robinson R-22 helicopter were Robert Bailey and 36-year-old Brett Boyd, who owned a Mesa, Ariz., flight school. Both died in the crash.

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Bailey, 55, worked as a certified flight instructor for Torrance-based Robinson Helicopter for 34 years. Bailey flew helicopters as a soldier for the Army during the Vietnam War, according to his family's attorney, Erik Traut.

Heyworth, along with Boyd and Bailey's families, sued the U.S. Department of Transportation's Federal Aviation Administration in February 2006, claiming negligence.

Boyd's wife previously settled with the government for \$900,000, Traut said.

The two remaining claims went to trial April 22 on the sole issue of liability.

After a week of testimony, Cooper issued her 11-page ruling that laid out step-by-step activity inside the tower in the moments leading up to the collision.

On the day of the crash, the tower was staffed by three air traffic controllers, one fewer than normal.

Some time before the crash, controller Cynthia Issa went on break, leaving two in the tower.

Meanwhile, Heyworth said he arrived at the airport, met with his instructor, and listened as his teacher called the tower and advised the controllers a student was flying solo.

After finishing his training exercises, Heyworth was given instructions to land.

At about the same time, the controller in charge noticed that his co-worker, Edward Weber, was getting overwhelmed with traffic and called Issa back early from her break.

When she returned, the controllers conducted an incomplete briefing regarding the position of both aircraft, according to the judge.



Torrance firefighters survey the runway at the airport after the Nov. 6, 2003, collision that killed two people in one helicopter and injured the pilot of the other craft. (File photo)

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Weber gave Heyworth instructions to cross midfield - a common practice - then told him to wait.

However, it appeared Weber had changed his plan for where he wanted Heyworth to land, but didn't communicate that to Heyworth, the judge found.

"But for that unfortunate communication, the accident never would have occurred," the judge wrote.

In addition, he and Issa, who was instructing the R-22 with Boyd and Bailey, didn't coordinate the directions they were giving.

Weber gave Heyworth, who was traveling at 65 knots 500 feet above ground, two urgent instructions seconds apart to turn right.

Heyworth complied. Then, there was 16 seconds of silence on the radio as Weber turned away to check on other aircraft.

He turned around a moment before the impact and gave a fruitless warning to the R-22 to "caution for the heli "

He's heard making an exclamation as the pilots, who had no way of seeing each other, crashed their helicopters into each other.

The judge cited 10 ways the air traffic controllers violated their duty "to prevent a collision between aircraft operating in the system."

Among their violations was the failure to properly separate the aircraft, brief each other and keep an eye on the runways to "the maximum extent possible."

The judge also said they "negligently and carelessly failed to maintain adequate vigilance and positional/situational awareness of the air traffic at and around Torrance airport" and "failed to issue clear and concise instructions to" Heyworth.

The parties will return to court in a couple of months for a trial to determine damages.

Weber, reached Tuesday at the Torrance airport tower, where he continues to work, declined to comment.

Ian Gregor, a spokesman for the FAA, also said he could not discuss pending litigation.

However, Michael Foote, president of the union that represents the air traffic controllers, said incidents like this will continue to happen with understaffed control towers.

"The controller is up there working all the airplanes and what happened to him is what we call 'losing the picture,'" Foote said. "It's just too much for him to handle by himself."

Heyworth's attorney said he hopes this verdict is a "wake-up call to the FAA."

The flying public needs to know that air traffic controllers are capable of doing their jobs, Pocrass said.

"They didn't do that in this case, they didn't do their job," he added.

Heyworth, a Los Angeles resident, suffered head and back injuries, as well as broken bones, as a result of the crash. Pocrass said he expects to seek upwards of \$10 million in damages.

Traut said he also expects to ask for a "seven-figure" award for Bailey's family, which includes his wife, Melanie, 52, two adult children and a 15-year-old daughter who live in Beaumont.

Although the NTSB concluded that Heyworth caused the collision by failing to comply with the controller's instructions, at least one FAA investigator initially found the instructions "confusing" and "unusual."

Gary Lackey's report, which Traut called the "smoking gun" of the case, said he was called by the tower to investigate the crash because the controllers believed the student pilot did not obey their instructions.

Instead, he found "airport procedures are in need of improvement," according to his report, which the plaintiffs received a week before trial.

Traut said that had the government turned Lackey's findings over earlier, four years of litigation could probably have been avoided.

An NTSB spokesman also said he could not comment, but added that it is not unusual for two investigations of the same incident to result in different conclusions.

A message left for the NTSB investigator who looked into the crash was not returned.

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