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## **Woman charged in fatal crash**

By PATRICK McARDLE Herald Staff

BENNINGTON — "Why did I try to pass him? Why did I try to pass him?" Mary Fasciana asked on Sept. 19, according to a police affidavit, but the man Fasciana had tried to pass was now dead.

Arthur J. Johnson was driving south on Route 7 in Shaftsbury around 5:20 p.m. when Fasciana, who was driving north, pulled into the southbound lane. Police said Johnson was declared dead at the scene.

On Tuesday, Fasciana, 27, of Bedford Hills, N.Y., was charged in Bennington District Court with a felony count of grossly negligent operation of a motor vehicle resulting in a fatality. The charge is punishable by up to 15 years in prison.

Manchester attorney Bradley Myerson, who represented Fasciana, said it was her first criminal offense and that there was no indication that drugs or alcohol were involved.

Bennington County Deputy State's Attorney Michael Munson said the state wanted the court to order Fasciana not to drive while her trial was pending. Myerson said because she was licensed in New York, he didn't believe a Vermont judge had that power.

Judge John Wesley said he would decline the state's request after reviewing the affidavit.

"Other than a moment of inattentiveness, which had terrible consequences, there is no indication that she presents a danger to the community. ... I do not believe revoking her right to drive would be consistent with the presumption of innocence," he said.

The state did not request bail.

In an affidavit, Vermont State Police Trooper William Deveneau said he came across the crash while on patrol on Sept. 19.

Deveneau said he first approached Fasciana who was still in her 1994 GMC Yukon sport utility vehicle.

"She was bleeding from her face and her shirt was covered with blood. She was hysterically crying, asking, 'Did I hit someone?' and 'Did I hit something?'" Deveneau wrote.

Deveneau said when he approached Johnson inside his 1999 Toyota Corolla, he found Johnson unresponsive and couldn't find a pulse.

Medical examiners pronounced Johnson dead at 6:30 p.m. on Sept. 19.

Fasciana was taken by helicopter for treatment of her injuries, but Deveneau said he spoke to her before she was taken away and that she said she couldn't remember anything about the crash.

With witness statements and investigation by accident reconstruction experts, police were able to develop a theory of the crash.

Police said they believed Fasciana was driving north, the second car among a cluster of five vehicles.

When Fasciana moved into the southbound lane, she was driving between 65 and 73 mph, according to police, while Johnson was driving about 49 to 54 mph.

Police said Johnson applied his brakes, slowing down to about 33 mph, and moved into the southbound breakdown lane, but there was no indication that Fasciana tried to slow down.

On Tuesday evening, Myerson described his client as a very well-educated young woman who had graduated magna cum laude from Wheaton College in Massachusetts. Myerson said she worked in sales and marketing for a large limousine company in New York.

Myerson said Tuesday's arraignment marked the beginning of preparing for the case which he said would involve having his own expert review the accident reconstruction data.

"Anytime a criminal offense is based on a collision, the way a crash is analyzed is important. We have to make sure what the state is alleging is true," he said.

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