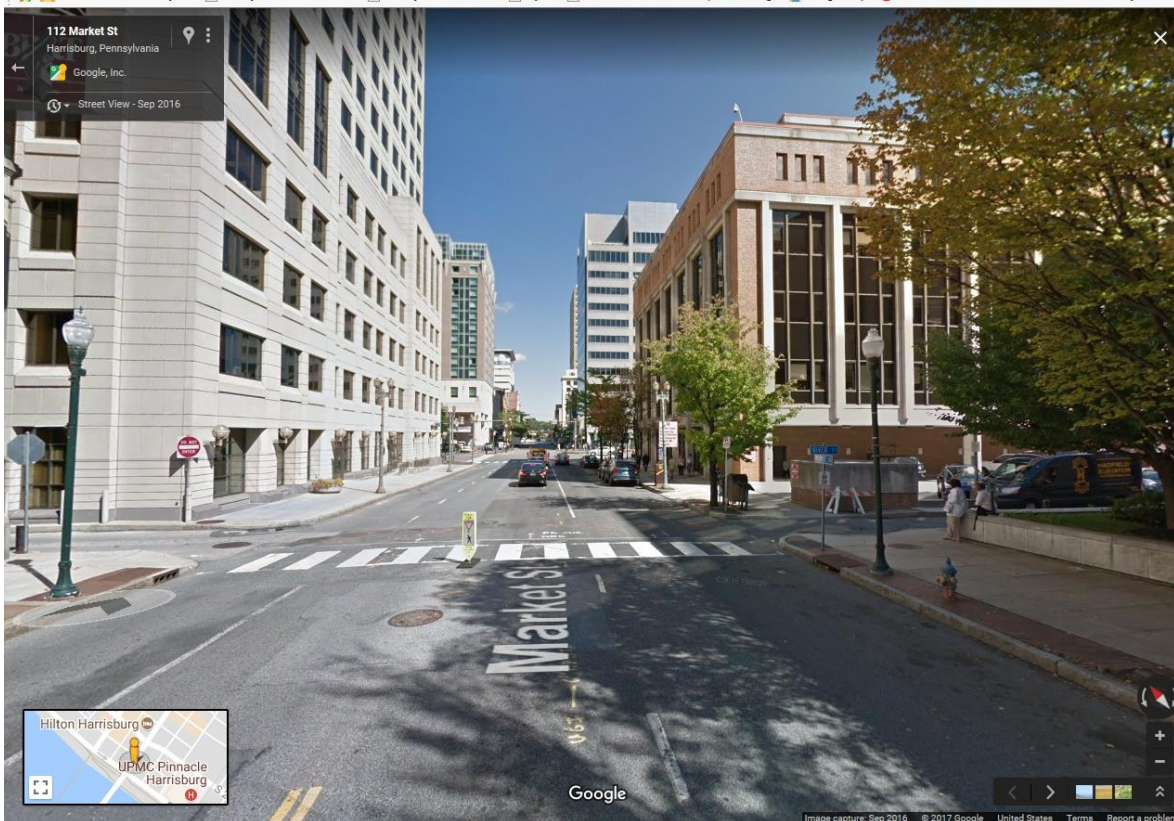


## Factual Scenario for CLE

Earlier in the day on December 31, 2017, Parson Wentz decided that he would call up his buddy Kendall Smallwood to see if Smallwood wanted to go see the strawberry drop that evening in Harrisburg to ring in the new year. Always wanting run to join Wentz, Smallwood readily agreed. Wentz offered to drive his father's car that night, and pick Smallwood up at 10:45 p.m. so they could get downtown in plenty of time to park and get to the Hilton for the count down. On the way out of the door, Wentz's father, Jason Lurie shouted, "Be careful son and remember to stay off your phone when driving!"

Wentz always on time, picked Smallwood up in his green mustang at Smallwood's house in Camp Hill. The pair headed downtown for the night's festivities. Wanting to avoid the crowd gathered near the Hilton, Wentz intended to cross the river via the Market Street Bridge and turn right on Front Street, turn left on Chestnut Street and park at the 4<sup>th</sup> Street Garage. Smallwood had other ideas. Smallwood wanted to drive by the crowd and video it as they passed by to watch it later.

Smallwood convinced Wentz to change route, and drive down Market Street, past the Hilton so he could take his video. Just as they neared the end of the Market Street bridge, Wentz received a text on his cell phone which was sitting in the center console. Wentz picked up his phone, to look at the text. It was Wentz's uncle, Duggie Peterson, reminding Wentz that he better be home around 1:00 a.m. given his game day curfew. As Wentz passed by the courthouse, Smallwood started the video camera on his phone to get a nice long video, panning in and out on the groups of people walking on the sidewalk. However, as they approached the intersection with 2<sup>nd</sup> Street, Wentz failed to notice Jack Prescott who was crossing Market Street at the cross walk located in between Front and Second Street.



Unfortunately, Wentz struck Prescott, seriously injuring him, with the center front bumper of his vehicle. Following the impact, Wentz immediately stopped the vehicle. By that time, multiple party-goers had stopped to assist.

A crowd of New Years Eve revelers quickly formed around the accident scene. Some begin yelling at Wentz saying he was not paying attention and looking at his phone when he struck Prescott. A friend of Prescott, Pez Bryant, charged Wentz in an attempt to fight. By this time, Members of the Harrisburg Police Department responded to the accident. Officer Ted Hochuli attempted to restrain Bryant. An onlooker, Sarah Spielberg recorded the encounter with her cell phone. Officer Rodger Badell, directed Spielberg to stop recording using verbal commands and physical force.

At the scene, Officer Robert Raft tried to interview Wentz. Wentz smelled of alcohol and after failing a field sobriety test, Officer Raft arrested Wentz, and seized his cell phone pursuant to a search incident to arrest.

Back at the station, Officers Badell and Raft attempted to sort out the events of the accident. Officer Badell interviewed Smallwood at his desk. About halfway through the interview, Badell realized that Smallwood was surreptitiously recording the interview on his cell phone. Badell was enraged and charged Smallwood with violating the Pennsylvania Wiretaping and Electronic Surveillance Act.

While logging Wentz's cell phone into evidence, Officer Raft notices that Wentz keeps getting a call from a person named "Shady". Believing this to be the same "Shady" McToy wanted by the Harrisburg police for committing a crime, Raft, accessed Wentz phone and finds Shady's number. With the help of his friend, Phil Belichek, Raft correlated the phone number with an address. Shady was taken into custody the next day at the same address.