



**MICHAEL J. SATZ**  
**STATE ATTORNEY**  
SEVENTEENTH JUDICIAL CIRCUIT OF FLORIDA  
BROWARD COUNTY COURTHOUSE  
201 S.E. SIXTH STREET  
FORT LAUDERDALE, FL 33301-3360

PHONE (954) 831-6955

**CLOSE-OUT MEMORANDUM**

**To:** File

**From:** Michael Horowitz  
Assistant State Attorney

**Re:** Joshua Tullis  
Paul Peterman (deceased)  
CS16-006675  
Leaving Scene of Crash with Death

**Date:** April 18, 2017

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Detective Frank Randazzo of the Coral Springs Police Department present his investigation for consideration of a charge of Leaving the Scene of a Crash with Death against Joshua Tullis involving the death of Paul Peterman. The facts are summarized as follows:

On October 13, 2016 at approximately 8:05 am Paul Peterman was driving his silver Ford F-150 truck west on Atlantic Boulevard. Joshua Tullis was also driving west on Atlantic Boulevard in the City of Margate around the area of Rock Island Road. Peterman changed lanes in front of Tullis which angered Tullis. Tullis followed Peterman and recorded his cellphone them driving as he narrated. Peterman changed lanes on two occasion in order to allow Tullis to pass. Tullis did not pass and changed lanes to stay behind Peterman. Peterman on a few occasions applied sudden braking as Tullis tailgated. Tullis continued to follow Peterman.

At the intersection of Riverside Drive there are two left turn lanes to turn south on Riverside Drive. Peterman was in the furthest inside left turn lane and Tullis pulled up next to him on the left side in the other left turn lane. When the light turned green both trucks proceed to turn left and Peterman changed lanes to move in front of Tullis. Immediately after turning south on Riverside Drive Peterman pulls off to the shoulder of the road out of the flow of traffic and stops his truck. Tullis pulls next to Peterman's truck and stops in the right lane of traffic. Tullis puts down his passenger-side window and continues to video Peterman as he was sitting in the driver's seat of his truck with his window up, which is tinted. Peterman is seen raising his middle finger at Tullis. Tullis does not disengage the situation and continues to video. Suddenly, Peterman exits his vehicle and jumps into Tullis' truck through the open passenger window. Peterman's upper-body is inside Tullis' truck grabbing for Tullis and/or his phone. Peterman is heard

making unintelligible sounds. Peterman is a deaf mute and is unable to verbally communicate. At this point Tullis' engine is heard revving as if attempting to accelerate but is not in drive. At this point the video ends. As Tullis drives forward Peterman becomes disengaged from the truck and lands on the ground suffering fatal injuries. Tullis drives away from the scene. Several witness at the scene call 911 and stop to provide aid to Peterman.

At 3:24 Detective Randazzo receives a call from an attorney representing Tullis and advised that his client would like to speak to Detective Randazzo and had a video showing that Peterman was the aggressor. Detective Randazzo met with Tullis and his attorney at the attorney's office. Tullis provided a copy of the video and a statement to Detective Randazzo.

Tullis stated he is a BSO firefighter and provided details regarding the video and the reason he recorded Peterman was because of Peterman's driving pattern and thought he was going to cause an accident. He stated he did not want Peterman to get behind his truck because he might be able to find out where he lived. When he pulled next to Peterman he put down his window to yell at him but Peterman stayed in his truck and was giving him "the bird". He stated Peterman opened the door of his truck and dove into his truck through the open window. Peterman grabbed his phone and was clawing, swing his arms and grabbed his wrist. His thought was to get out of there and he accelerated as Peterman was attacking him. During the struggle he believes his truck had slipped into neutral. He does not believe he ran over Peterman with his truck and never looked in his rearview mirror as he drove away. He drove to his house and did not call the police because he thought the incident was over. Later he learned through the media about the injuries to Peterman and he contacted his attorney. He allowed law enforcement to photograph his truck and himself. He had no visible injuries. There was no visible damage to the truck or any visible trace evidence of the truck striking or running over Peterman.

Florida Statute 316.027(2)(c). Crash Involving Death or Personal Injuries, states: The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. §316.062 F.S.

The jury instruction for Leaving the Scene of a Crash Involving Death or Injury requires the State to prove the following four elements beyond a reasonable doubt:

1. The Defendant was the driver of a vehicle involved in a crash resulting in injury to death of any person.
2. The Defendant knew that he was involved in a crash or accident
3. The Defendant knew, or should have known from all of the circumstances, including the nature of the crash, of the injury to or death of the person.
4. The Defendant willfully failed to stop at the scene of the crash or accident or as close to the crash or accident as possible and remain there until he had

given "identifying information" to the injured person and to any police officer investigating the crash; or the Defendant willfully failed to render "reasonable assistance" to the injured person if such treatment appeared to be necessary.

As to the first legal element under §316.027, the State is required to prove Tullis was the "*driver of a vehicle involved in a crash*." In a factually similar case to this investigation, the Florida Supreme Court in Gaulden v. State, 195 So.3d 1123 (Fla 2016), held that when a passenger separates from a moving vehicle and collides with the roadway or adjacent pavement, but the vehicle has no physical contact with the passenger, after the passenger exit, or any other vehicle, person, or object, the vehicle is not "*involved in a crash*" and the driver may not be held criminally responsible for leaving the scene under §316.027.

In Gaulden the evidence showed that in the early morning hours of December 19, 2010, the decedent walked over to a truck, spoke to the driver, and the driver waved the decedent into the vehicle. The decedent got in, and the truck drove away. Approximately ten minutes later the truck returned and stopped in the roadway. Petitioner admitted that he and the decedent began fighting. As they fought, the decedent opened the passenger door, and the interior light came on. The truck suddenly accelerated and swerved, and the passenger door slammed shut. The decedent was no longer in the truck. Although the truck was moving when the decedent exited the vehicle, Petitioner did not think the truck was traveling fast enough to seriously hurt the decedent. The decedent's body was found on the ground adjacent to the roadway. His body evidenced road rash consistent with tumbling across the surface of the road, lacerations from blunt force trauma, contusions of the brain, and a fractured skull. Gaulden was convicted of leaving the scene of a crash that resulted in death. Id at 1124.

The Florida Supreme Court held that the operative phrase "*any vehicle involved in a crash*" means that a vehicle must collide with another vehicle, person, or object. Applied to the facts of Gaulden the Court found no vehicle was involved in a collision within the meaning of the Leaving the Scene of a Crash Involving Death or Injury statute and reversed the Gaulden's conviction.

In this particular investigation, during the traffic dispute Peterman dove into Tullis' truck through the passenger-side window and grabbed at him and Tullis drove away. Peterman fell from the truck and suffered fatal injuries. There is no evidence that Peterman was struck by the truck or that he was run over. Witness Estephanie Morales describes Peterman jumping into Tullis' truck window and Peterman fell from the truck onto his face. Joshua Kinchen stated he did not see if there was any impact and only saw Peterman after he was rolling down the street. The witnesses do not describe the truck striking Peterman, they described Peterman falling from the truck. Officer Schaut was on his police motorcycle and was driving by and stopped at the scene when he saw people stopping in traffic and standing by Peterman. In his report Schaut stated that he "did not observe any tire marks (possible skid), any broken parts or pieces of a car (items related to a crash/car parts) or any signs that the subject on the ground had been

run over (no signs of dirt or tire marks) on the subjects backside." He did not make any observations of the front of Peterman.

Tullis allowed police to inspect his truck that was parked in the driveway of his residence. Crime Scene Investigator Joyce inspected and photographed the truck. Investigator examined the passenger-side, wheels, and undercarriage of the truck for possible trace evidence but none was observed. Tullis was photographed and his hands and arms were examined for possible injuries but none were observed.

According to the Medical Examiner's report Peterman died as a result of multiple blunt force injuries. The manner of death was determined to be an accident. This Assistant State Attorney met with Associate Medical Examiner Iouri Boiko, MD. Dr. Boiko stated he could not determine if the injuries to Peterman were caused by being struck by the truck or from striking the ground as he fell from the truck.

Based on the facts of this investigation, Peterman falling from Tullis' truck and Tullis driving away from the scene does not meet the legal requirements of the first element of Florida Statute 316.027(2)(c), as it does not qualify as a "*vehicle involved in a crash*" as defined by the Florida Supreme Court.

Base on the failure to satisfy the first element required under 316.027(2)(c) Tullis cannot be charged with Leaving the Scene of a Crash with Injuries or Death.

The second and third required elements of the statute are problematic as well based on the facts of this investigation. The second elements requires evidence that "*the defendant knew he was involved in a crash or accident.*" The Florida Supreme Court has held the State must prove beyond a reasonable doubt that the driver had actual knowledge of the crash, an essential element of the crime of leaving the scene of a crash. State v. Dorsett, 158 So.3d 557(Fla. 2015). The Court held a defendant cannot willfully, intentionally, or purposefully leave the scene of a crash without actually knowing that the crash occurred. Id. citing to Cahours v. State, 147 So. 3d 574, 577 (Fla. Dist. Ct. App. 2014). There is little evidence in this investigation to support Tullis's actual knowledge of the crash. Tullis stated that he drove away to escape the attack from Peterman. He never stopped or looked back to check the status of Peterman. Tullis was driving away from the conflict when Peterman exited the truck. There was no evidence to show there was contact between the truck and Peterman that would have alerted Tullis of a crash. While it may be argued that Tullis should have known of the crash based on the circumstances, that argument is speculative and would not satisfy the required knowledge element. This situation was addressed by the Court in Cahours v. State, 147 So. 3d 574, 577 (Fla. 3<sup>rd</sup> DCA 2014), when it addressed the required knowledge element of the statute. The Court warned:

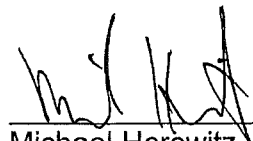
We acknowledge, however, that a defendant could attempt to escape criminal liability through deliberate indifference to circumstances that would lead a reasonable person to know that an accident occurred. In other words, we are concerned that a driver who reasonably should have known a crash

occurred will continue to drive without stopping in order to avoid obtaining the requisite knowledge. However, because the statute as written by the Legislature requires willfulness, the jury instructions cannot permit a conviction based on mere constructive knowledge of the crash.

Cahours v. State, 147 So. 3d 574, 577 (Fla. 3<sup>rd</sup> DCA 2014).

The third element under section 316.027 requires proof that "*The Defendant knew, or should have known from all of the circumstances, including the nature of the crash, of the injury to or death of the person.*" State v. Mancuso, 652 So. 2d 370, 372 (Fla. 1995). There is no evidence that Tullis had knowledge of the injury to Peterman. As a paramedic it could be argued that Tullis should have known that based on the circumstances that there may have been injury to Peterman but there is no other evidence to support his knowledge of the injury. When Tullis drove away there is no evidence that he struck Peterman with his truck or ran over him. Tullis drove away to escape the attack and did not look back. He drove home and once he learned of injury to Peterman he contact an attorney and cooperated with law enforcement. There is insufficient evidence to substantiate that Tullis had knowledge of the injury or reasonably should had knowledge based on the nature of the accident.

Since there is insufficient evidence to meet the legal elements necessary for the charge of Leaving the Scene of a Crash with injury or Death it is not necessary to address the potential affirmative defenses of Necessity and Stand Your Ground. Therefore, based on the above stated reasons no criminal charges will be filed in this matter.

A handwritten signature in black ink, appearing to read 'Michael Horowitz', is written over a horizontal line.

Michael Horowitz  
Assistant State Attorney