

Part 3

1.) Attorney Ty Roland knowingly and willfully committed insurance fraud by filing a false or fraudulent insurance claim contrary to the provisions of Fla. Stat. 817.234(1)(a)(1).

Ty Roland was counsel for the King family and was retained for their representation. The King family erroneously concluded that they had a right to civil damages regarding the death of their son who died in a motor vehicle crash while driving his motorcycle. Adam Costello was arrested and charged with Leaving The Scene of a Crash Resulting In Death, Fla. Stat. 316.027(2)(c).

Eye-witnesses Timothy Bernal and Shane Romero stated in sworn testimony that the truck that collided with Adam King was a Dodge Ram 1500 with a camper top, *not* Costello's Toyota Tundra without a camper top. Additionally, sworn testimony by Florida Department of Law Enforcement Expert Witness Laura Marano revealed that *all* paint samples taken from Costello's truck did not include any transfer from Adam King's motorcycle. As a result of such evidence conflicting with the State's narrative, an accident reconstruction was *never* presented, nor was any testimony by any eye-witness presented at any time in the criminal case. In fact, *no* evidence at all of the accident was ever presented by the State, in its attempt to hide the facts of the case. On February 14th, 2023, during an evidentiary hearing, trial court Judge Margaret Steinbeck stated, "*There was no evidence presented with regard to the actual accident itself.*" *See attached transcripts, exhibit #1.*

Despite the aforementioned, Ty Roland sent letters to Costello threatening to file suit for a wrongful death civil claim. Ultimately, Costello's insurance company, Safeco, paid a \$250,000 wrongful death civil claim to the King family prior to conviction.

Upon moving for post-conviction relief, Costello came to understand the exact nature regarding his charge and all of the lies and errors that occurred in the trial court. The Second District Court of Appeals, in a written opinion of its decision reversing the trial court's order of denial of Costello's motion for post-conviction relief, *Costello V. State, 330 So. 3d 1052 (Fla. 2nd DCA 2021)*, stated, "Mr. Costello's claim as to the improper inclusion of victim injury points is not conclusively refuted by the record or the post-conviction court's order. The court did not include any attachments refuting the claim, and the record does not include any information regarding the victim's cause of death." *See attached written opinion, exhibit #2.*

During the evidentiary hearing remanded by the Second District Court of Appeals, trial court Judge Margaret Steinbeck stated that she *never* made a finding that Costello caused death nor did she have any evidence to make such finding. *See attached transcripts, exhibit #1.* Because no such evidence exists showing that Costello was the cause of death of the victim, that fact is central to the nexus of this complaint.

Ty Roland violated the Rules Regulating the Florida Bar 4-3.1 regarding Meritorious Claims and Contentions.

"A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous."

As Costello's charge is *only* the specific intent crime of "willfully" leaving the scene of a crash, he was *NOT* charged with causation of the death, as per the Supreme Court of Florida holding in *Dumas V. State*, 700 So. 2d 1223 (Fla. 1997), "Initially, we must remember that we are focused on a statute that is *not* focused on a person's culpability in *causing* property damage, personal injury or death. The State is obviously free to prosecute a defendant under a number of statutes, including the manslaughter statute, *if* the factual circumstances of the incident justify such a prosecution." Thus, there was no basis in either law or fact that would have allowed Ty Roland to file a civil suit for damages or a wrongful death claim against either Costello or his insurance company, Safeco.

As an attorney skilled in the science of law, Ty Roland should know under the authority of the Supreme Court of Florida's holding from *State V. Williams*, 520 So. 2d 276 (Fla. 1988), that there can be no civil action or any wrongful death insurance claim because there are no damages caused under this specific intent statute. Attorney Ty Roland filed a bad faith insurance claim when no requisite evidence existed to support such claim. If no evidence existed regarding causation of death in the record of the trial court, then certainly no evidence existed in order to demonstrate to the insurance company that Costello was responsible for the death of Adam King.

2.) *Attorney Ty Roland failed to disclose legal authority adverse to the client's legal position or argument contrary to Rule 4-3.1 of the Rules Regulating the Florida Bar.*

Along with bringing a bad faith insurance claim despite there being no basis in law or fact, Attorney Ty Roland did not disclose to the family legal authority or case law adverse to argument and position of the family. Because Ty Roland is an attorney familiar with these types of claims and cases, he is presumed to know the law regarding the types of claims that he represented the King family for. Knowledge can be inferred from these basic principles to be informed through competency, the law underlying the subject matter his representation entails.

As Costello's charge is *only* the crime of "willfully" leaving the scene, it is in no way associated with causation of death, as per the holding from the Supreme Court of Florida in *Sims V. State*, 869 So. 2d 494 (Fla. 2008) "There was no charge involving causation of the death of anybody, *only* leaving the scene of an accident resulting in death". Exactly the same is true here. *See attached fourth amended information, exhibit #3*. And because no evidence exists to support the contention that Costello caused death, therefore, no lawful claim for damages can be sought against him.

Authority for this principle can also be found in the holding from the Supreme Court of Florida in *State V. Williams*, 520 So. 2d 276 (Fla. 1988). It is long standing, well established legal principle that there can be no claim for damages where no cause for damages exists. *See, Diorio V. State*, 359 So. 2d 45, (2nd DCA 1978), "The offense of leaving the scene of an accident in violation of 316.027 did *not* result in or have any relationship to any damage or injury to the victim; Accordingly, it was error to impose a restitution condition on defendant."

Thus, Attorney Ty Roland failed to disclose adverse legal authority involving the claim of the King family. Ty Roland also misrepresented the facts surrounding this claim to the King family. Moreover, Ty Roland continued to perpetuate unfounded and unsupported claims in relation to his fraudulent insurance submissions.

3.) Attorney Ty Roland violated Rule 4-4.1 Regarding Truthfulness in Statements to Others of the Rules Regulating the Florida Bar.

In the course of representing a client, a lawyer shall not knowingly:

- (a.) Make a false statement of material fact or law to a third person.
- (b.) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

In the course of Ty Roland's representation of the King family, Ty Roland misrepresented to Safeco, Costello's auto insurance company, the facts underlying the claim of the King family. There was no evidence connecting Costello to causation of the death of Adam King in the criminal court, as supported by the written opinion of the reversal of the trial court's order of denial of Costello's motion for post-conviction relief by the Second District Court of Appeals. *See attached opinion, exhibit #2.* At the evidentiary hearing remanded by the Second DCA, trial court Judge Margaret Steinbeck stated the same, on the record. *See attached transcripts, exhibit #1.* Furthermore, the fourth amended information did not allege causation of the death by Costello. *See attached fourth amended information, exhibit #3.* Thus, it is certain that in order for Costello's auto insurance company to be held liable for the wrongful death of Adam King, Ty Roland made false statements of material fact regarding such claim.

Based on the foregoing information in the complaint, Ty Roland also violated the Rules Regulating the Florida Bar that govern misconduct under Rule 4-8.4.

Fla. Stat. 817.234(1)(a)(3)(a):

"A person commits insurance fraud punishable as provided in subsection (11) if that person, with the intent to injure, defraud, or deceive any insurer:

- 3.(a.) Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of, or in support of, an application for the insurance of, or the rating of, any insurance policy, or a health maintenance organization subscriber or provider contract, or
- (b.) Knowingly conceals information concerning any fact material to such application;

And Fla. Stat. 817.234(3):

"Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this section or part XI of Chapter 627, or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud, commits insurance fraud punishable as provided in subsection (11).

As the claim that Ty Roland fraudulently secured from Safeco for the King family was \$250,000, under 817.234(11)(c), "... Is \$100,000 or more, the offender commits a felony of the *first degree*, punishable as provided in s. 775.082, 775.083, 775.084."

Ty Roland is thereby a violator of such statutes, and, although has not yet been charged and convicted, has still committed acts which violate Misconduct of Rule 4-8.4(a)(b)(c).

(a.) "A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects."

(c.) "Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

Numerous activities involving illegal conduct reflect adversely on the fitness to practice law, such as offenses involving fraud. It is clear that Attorney Ty Roland violated numerous rules regulating the Florida Bar and engaged in fraudulent conduct unbecoming of a member of the Florida Bar. Costello asserts that an investigation into this conduct will further reveal more fraudulent activity on account of Attorney Ty Roland. He requests that this complaint be investigated, and that relief be granted. Costello requests immediate reversal and recovery of the \$250,000 claim paid by Safeco to the King family. Additionally, Costello requests to be cleared of any fault in any claim submitted by and through the criminal activities of Attorney Ty Roland.

Respectfully Submitted,

Adam Costello – DC #:B16188