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90-00217

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Executive Director  
Alabama Crime Victims  
Compensation Commission  
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Crime Victims Compensation  
Act--Victims--Crimes and  
Offenses--Funds

An application for compensation  
to the ACVCC may meet  
eligibility for compensation  
based solely on the criminal  
offense of violating § 32-10-1,  
leaving the scene of an  
accident, depending on the  
circumstances of the case.

Dear Ms. Morgan:

This is in response to your request for an opinion from the  
Attorney General regarding compensation of victims injured in  
automobile accidents as a result of which the charge of leaving  
the scene of an accident was filed against a person involved in  
that accident.

QUESTION

Is the criminal offense of leaving the scene  
of an accident capable of causing or  
resulting in criminal injurious conduct  
thereby making a victim of the accident  
eligible for compensation from the Alabama  
Crime Victims Compensation Commission?

FACTS, LAW AND ANALYSIS

Section 32-10-1(a), Code of Alabama 1975, prescribes that:

"The driver of any motor vehicle involved in an accident resulting in injury to or the death of any person, or in damage to a motor vehicle or other vehicle which is driven or attended by any person, shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall then forthwith return to in every event and remain at the scene of the accident until he has fulfilled the requirements of Section 32-10-3."

Further, Section 32-10-2, Code of Alabama 1975, imposes duties to give information and render aid to persons injured in such accidents.

The penalty for a violation of Section 32-10-1 is contained in Section 32-10-6 and provides for punishment by a fine of not more than \$5,000.00, or by imprisonment in the county or municipal jail or hard labor for the county for not less than 30 days or more than one year, or by imprisonment in the penitentiary for not less than one nor more than five years, or by both such fine and hard labor or imprisonment. Upon a grand jury indictment, leaving the scene of an accident in violation of the noted section may be punished either as a misdemeanor or as a felony. Kennedy v. State, 30 Ala. App. 676, 107 So.2nd 913 (1958).

Section 15-23-2(a), Code of Alabama 1975, defines criminally injurious conduct as:

"An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed; . . ."

Thus, in order to properly answer the question posed, the conclusion must be reached of whether the act of leaving the scene of an accident meets the first prerequisite of the definition of criminally injurious conduct by resulting in serious personal injury or death to a victim of the accident in question.

While on one hand it might be argued that the offense of leaving the scene of an accident (LSA) must, by definition, be committed after the accident has occurred and, therefore, the

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commission of this offense could not logically cause injury to another party to the accident, such a narrow construction of both the LSA and Crime Victims Compensation Acts would thwart the intent of both statutes. For various reasons, there appear to be occasions in which the only criminal offense charged in certain motor vehicle accidents is LSA. If a victim is seriously injured or even killed in such a situation, public policy, given the legislative intent of the ACVCC Act appears to dictate that the innocent victim not be penalized because the evidence points to one criminal charge over another. Further, while LSA may not be a direct "cause" of injuries, it appears clear that significant exacerbation of what otherwise would be minor injuries to a victim in such a case "result," if the immediate aid contemplated by the statute is not rendered by the would-be offender to the victim. Since public policy makes it a crime not to render such aid, that same public policy would tend to dictate that injuries developed from committing this crime should be compensable.

Therefore, there are instances when a victim compensation claim arising out of a leaving the scene of an accident charge may be compensable. As in the case of claims made under other criminal statutes, crime victims will be better served by such determinations being made in the discretion of Alabama Crime Victims Compensation Commission on a case-by-case basis.

#### CONCLUSION

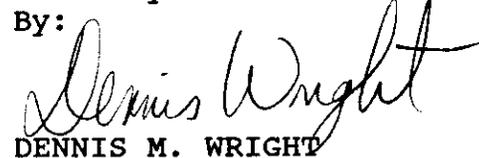
It is the opinion of the Attorney General that an application for compensation to the Alabama Crime Victims Compensation Commission, which is based upon the criminal offense of leaving the scene of an accident, may be an eligible claim. Claims under the LSA statute, as under other criminal statutes, should be examined on a case-by-case basis, in the normal course, by the Commission.

I hope this response sufficiently answers your question. If this office can be of any assistance, please do not hesitate to contact me.

Sincerely,

DON SIEGELMAN  
Attorney General

By:



DENNIS M. WRIGHT  
Assistant Attorney General