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## Supreme Court rejects appeals in hazing death case

*Jim Saunders/The News Service of Florida*

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Andrew Coffey, victim of alcohol poisoning, and namesake of Andrew's Law, set to take effect on Tuesday. (WPEC)

TALLAHASSEE, Fla. — The state Supreme Court on Wednesday declined to take up appeals by a former Florida State University fraternity president and two other fraternity members, clearing the way for them to face felony hazing charges in the 2017 death of a pledge who drank heavily at an off-campus party.

Former Pi Kappa Phi Fraternity chapter President Anthony Petagine and fraternity members Luke Klutz and Anthony Oppenheimer went to the Supreme Court in April after the 1st District Court of Appeal overturned a Leon County circuit judge's ruling that dismissed felony charges against them. Attorneys for the men argued, in part, that the allegations against them did not meet the definition of criminal hazing.

The Supreme Court, as is common, did not explain its reasons for declining to hear the cases, which had been consolidated. But the effect of [the decision](#) is to let stand the rulings by the 1st District Court of Appeal.

The three men were charged in the [death of Andrew Coffey](#), 20, a pledge from Broward County who died in November 2017 after drinking a large bottle of bourbon during a party in which pledges' fraternity "big brothers" were revealed.

A panel of the 1st District Court of Appeal, in three 2-1 decisions in January, said then-Leon County Circuit Judge Martin Fitzpatrick improperly dismissed the felony charges. The appeals court gave a full explanation of its reasoning in the case of Petagine, while reaching the same conclusions in the Klutz and Oppenheimer cases.

Petagine did not attend the party that resulted in Coffey's death but had taken part in a meeting before the party in which the danger of pledges becoming intoxicated was discussed, the appeals-court majority opinion said. Also, he had allowed liquor to be served at the party.

"This alone establishes that the state alleged a prima facie case of felony hazing, as underage drinkers are clearly more likely to become dangerously intoxicated in the context of a fraternity party in which that kind of behavior is encouraged and allowed, which is precisely the conduct targeted by the statute," the [appeals court ruling](#) said. "The state presented sufficient facts that Mr. Petagine committed felony hazing by aiding and counseling actions and situations that recklessly or intentionally endangered the physical health or safety of the victim, which resulted in his death."

But in briefs filed at the Supreme Court, attorneys for the men contended that the appeals court had not properly considered the definition of hazing. In part, they pointed to direction that the Supreme Court gave in a 2018 case about interpreting the definition of hazing. That 2018 case, known as *Martin v. State*, involved the high-profile hazing death of a member of the Florida A&M University marching band.

Oppenheimer's attorneys wrote that under the Martin decision, "actions related to the consumption of alcohol would only become criminal hazing under the statute when accompanied by pressured, coerced, or forced consumption." They wrote that prosecutors did not allege that such pressure or coercion occurred in the FSU fraternity case.

"Encouragement to drink alcohol at a celebratory occasion falls short of what is necessary for criminal hazing under the statutory definition," [Oppenheimer's attorneys wrote](#). "The district court's expansive interpretation of the statute would mean any fraternity member could be charged with criminal hazing if underage drinking occurred at a fraternity party."

But Attorney General Ashley Moody's office disputed that a legal conflict existed and urged the Supreme Court to decline to take up the appeals.