

[Cite as *In re Folk*, 2005-Ohio-2058.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: BARBARA J. FOLK	:	Case No. V2004-61098
BARBARA J. FOLK	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to an April 5, 2004 assault incident. On August 23, 2004, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(D) asserting that the applicant’s economic loss has been or may be recouped from collateral sources. The Attorney General also denied the claim pursuant to R.C. 2743.60(F) asserting that the applicant engaged in substantial contributory misconduct since there is evidence that she initiated the fight. On September 3, 2004, the applicant filed a request for reconsideration. On October 25, 2004, the Attorney General denied the claim once again pursuant to R.C. 2743.60(D). On November 2, 2004, the applicant filed a notice of appeal to the Attorney General’s October 25, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on January 26, 2005 at 10:30 A.M.

{¶2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented testimony and oral argument for

this panel's consideration. The Assistant Attorney General stated that the applicant has yet to file a Bureau of Workers' Compensation claim with respect to the April 5, 2004 assault incident. The Assistant Attorney General also noted that the applicant qualifies for the Ohio Hospital Care Assurance Program. The Assistant Attorney General indicated that if the applicant is denied Bureau of Workers' Compensation benefits, then the applicant should file a supplemental compensation application seeking her losses.

{¶3} From review of the file and with full consideration given to all the evidence presented at the hearing, this panel finds that the October 25, 2004 decision of the Attorney General shall be affirmed without prejudice. Should the applicant obtain evidence that she incurred economic loss as a result of the criminally injurious conduct then that would be an appropriate basis for filing a supplemental compensation application.

{¶4} IT IS THEREFORE ORDERED THAT

{¶5} 1) The October 25, 2004 decision of the Attorney General is AFFIRMED without prejudice;

{¶6} 2) This claim is denied and judgment is entered for the state of Ohio;

{¶7} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

{¶8} 4) Costs are assumed by the court of claims victims of crime fund.

GREGORY P. BARWELL
Commissioner

JAMES H. HEWITT III
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

ID #\1-dld-tad-020105

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Carroll County Prosecuting Attorney and to:

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To S.C. Reporter 4-29-2005