

[Cite as *In re Copen*, 2005-Ohio-2582.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: ANGEL L. COPEN	:	Case No. V2004-61144
DAWN R. HYVARINEN	:	<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 the December 14, 2002 murder of Angel Copen. On August 17, 2004, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(F) and In re Dawson (1993), 63 Ohio Misc. 2d 79 asserting that the decedent engaged in felonious drug use at the time of the criminally injurious conduct, which contributed to the criminally injurious conduct. The Attorney General stated that the decedent tested positive for cocaine on a hospital toxicology screening. On September 30, 2004, the applicant filed a request for reconsideration. On October 28, 2004, the Attorney General denied the applicant’s claim once again. On November 18, 2004, the applicant filed a notice of appeal to the Attorney General’s October 28, 2004 Final Decision. Hence, this appeal came to be heard before this panel of three commissioners on February 10, 2005 at 10:35 A.M.

{¶ 2} The applicant’s attorney and an Assistant Attorney General attended the hearing and presented brief comments for the panel’s consideration. The Assistant Attorney General stated that she recommends the Final Decision be reversed and the claim be remanded to the Attorney General for economic loss calculations and decision. The Assistant Attorney General

explained that the hospital toxicology report indicates that the decedent had cocaine in her system, but the coroner's toxicology report does not indicate the presence of cocaine in the decedent's system. Applicant's counsel raised no objections to the Attorney General's recommendation.

{¶ 3} From review of the file and with full consideration given to all the information presented at the hearing, this panel makes the following determination. We find that the applicant did not engage in felonious drug use at the time of the criminally injurious conduct. Therefore, the October 28, 2004 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for economic loss calculations and decision.

{¶ 4} IT IS THEREFORE ORDERED THAT

{¶ 5} 1) The October 28, 2004 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;

{¶ 6} 2) This claim is remanded to the Attorney General for economic loss calculations and decision;

{¶ 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.

THOMAS H. BAINBRIDGE
Commissioner

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CLARK B. WEAVER, SR.
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\1-dld-tad-021805

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

Filed 4-8-2005
Jr. Vol. 2256, Pgs. 176-178
To S.C. Reporter 5-25-2005