

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION
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IN RE: JESSICA L. MUELLER	:	Case No. V2005-80088
JESSICA L. MUELLER	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} On February 25, 2004, the victim filed a reparations application seeking reimbursement of expenses incurred regarding the sexual abuse she sustained from 1984 through 1993, while a minor, by her grandfather. On June 16, 2004, the Attorney General denied the claim under R.C. 2743.56(B), R.C. 2743.60(A) and *In re Lay* (1991), 63 Ohio Misc. 2d 35. The Attorney General stated that the applicant failed to file a reparations application prior to her twentieth birthday. On June 29, 2004, the victim filed a request for reconsideration. The applicant asserted that she suffered from repressed memory of the incident until April 8, 2002 and therefore was unable to file a reparations application by April 8, 2001, her twentieth birthday. On February 25, 2005, the Attorney General denied the claim once again. On March 3, 2005, the applicant filed a notice of appeal to the Attorney General's February 25, 2005 Final Decision asserting that the statute of limitations should be tolled since she suffered from repressed memory. Hence, a panel of three commissioners heard this matter on July 28, 2005 at 10:35 A.M.

{¶ 2} Applicant's counsel and an Assistant Attorney General appeared at the hearing and presented an exhibit and brief comments for the panel's consideration. The Assistant Attorney General stated, in light of having reviewed the applicant's therapy notes, that she now concedes that the applicant suffered from repressed memory and that the claim should be allowed. The Assistant Attorney General suggested the claim be remanded in order to conduct total economic loss calculations. Applicant's counsel raised no objection to the Assistant Attorney General's statements.

{¶ 3} In *In re Michaud*, V92-66356tc (10-28-94) the panel held that the statute of limitations is tolled if evidence is presented, which establishes by a reasonable degree of psychological certainty that the victim had repressed memories of the criminally injurious conduct. The statute of limitations begins to run when the victim recalls the criminally injurious conduct.

{¶ 4} In this case, the victim's counselors presented ample evidence that Jessica Mueller suffered from repressed memory until April 8, 2002, which ultimately delayed her ability to recall her grandfather's sexual assaults from 1984 through 1993. In light of the above information, we find that the victim's February 25, 2004 reparations application was timely filed. Therefore, the February 25, 2005 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for economic loss calculations and decision.

IT IS THEREFORE ORDERED THAT

1) The February 25, 2005 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;

- 2) This claim is remanded to the Attorney General for economic loss calculations and decision;
- 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, under R.C. 2743.68;
- 4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

RANDI OSTRY LE HOTY
Commissioner

ID #7-dld-tad-081205

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

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To S.C. Reporter 10-25-2005

