

[Cite as *In re Burrows*, 2005-Ohio-5677.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: DANNY L. BURROWS : Case No. V2005-80363
DANNY L. BURROWS : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to an August 27, 2004 assault incident. On January 14, 2005, the Attorney General denied the claim pursuant to R.C. 2743.60(E) and *In re Dawson* (1993), 63 Ohio Misc.2d 79. The Attorney General asserted that the applicant engaged in felonious drug use at the time of the assault since he tested positive for opiates on a hospital toxicology screening shortly after the criminally injurious conduct occurred. On February 1, 2005, the applicant filed a request for reconsideration indicating that he was prescribed Vicodin, Xanax, and Percocet prior to the criminally injurious conduct. On April 8, 2005, the Attorney General denied the claim once again. On April 29, 2005, the applicant filed a notice of appeal to the Attorney General's Final Decision. On June 20, 2005, an Assistant Attorney General filed a Statement in Lieu of Brief indicating that she would be following-up with Dr. Richard Cole, the applicant's physician, concerning the applicant's use of Tylox prior to the criminally injurious conduct.

Hence, this matter came to be heard before this panel of three commissioners on August 10, 2005 at 10:50 A.M.

{¶ 2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General indicated that after speaking to the applicant's physician, Dr. Cole, she no longer believes the applicant engaged in felonious drug use at the time of the criminally injurious conduct. Accordingly, the Assistant Attorney General stated that she recommends the Final Decision be reversed and the claim remanded to the Attorney General for economic loss calculations and decision.

{¶ 3} From review of the evidence, we find that the applicant's claim should not be denied pursuant to R.C. 2743.60(E). Therefore, the April 8, 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 April 8, 2005 decision of the Attorney General is REVERSED and judgment is rendered 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, pursuant to R.C. 2743.68;

- 4) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Commissioner

CLARK B. WEAVER, SR.
Commissioner

RANDI OSTRY LE HOTY
Commissioner

ID #\1-dld-tad-081005

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

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To S.C. Reporter 10-25-2005

