IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: WILLIAM C. EARNEST   :   Case No. V2002-52024

WILLIAM C. EARNEST   :   <u>DECISION</u>

      Applicant   :   Anderson M. Renick,
Magistrate

: : : : : : :

{¶1}   This   matter   came   on   to   be   considered   upon
applicant's appeal from the January 29, 2004, order issued by
the panel of commissioners. The panel's determination modified
the final decision of the Attorney General, which granted
applicant an additional award of reparations in the amount of
$551.60.   The   panel   determined   that   applicant   incurred
unreimbursed work loss and medical expense in the amount of
$580.52.

{¶2} R.C. 2743.52(A) places the burden of proof on an
applicant to satisfy the Court of Claims Commissioners that the
requirements for an award have been met by a preponderance of
the evidence. *In re Rios* (1983), 8 Ohio Misc.2d 4, 8 OBR 63,
455 N.E.2d 1374. The panel found, upon review of the evidence,
that applicant presented sufficient evidence to support the
award for work loss and medical expense.

{¶3} Pursuant to Civ.R. 53, the court appointed the
undersigned magistrate to hear applicant's appeal.

{¶4} The standard for reviewing claims that are appealed
to the court is established by R.C. 2743.61(C), which provides
in pertinent part: "If upon hearing and consideration of the

record and evidence, the judge decides that the decision of the panel of commissioners is unreasonable or unlawful, the judge shall reverse and vacate the decision or modify it and enter judgment on the claim. The decision of the judge of the court of claims is final."

{¶5} Neither applicant nor anyone on his behalf appeared at the hearing.

{¶6}   Upon review of the file in this matter, the magistrate finds that the panel of commissioners was not arbitrary in finding that applicant had shown by a preponderance of the evidence that he was entitled to an additional award of reparations.

{¶7} Based on the evidence and R.C. 2743.61, it is the magistrate's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, it is recommended that the decision of the three-commissioner panel be affirmed and that judgment should be rendered in favor of applicant in the amount of $580.52.

                              ANDERSON M. RENICK
                              Magistrate

     AMR/cmd

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

IN THE COURT OF CLAIMS OF OHIO

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WILLIAM C. EARNEST   :   <u>ORDER</u>

      Applicant   :

                : : : : : : :

{¶8}On May 28, 2004, a hearing was held in this matter before a magistrate of this court. On June 9, 2004, the magistrate issued a decision wherein he found that applicant failed to prove by a preponderance of the evidence that he was entitled to an award of reparations.

{¶9}Civ.R. 53 states that: "[a] party may, within fourteen days of the filing of the decision, serve and file written objections to the magistrate's decision." To date, applicant has not filed an objection to the magistrate's decision.

{¶10}Upon review of the claim file, and the magistrate's decision, it is the court's finding that the magistrate was correct in his analysis of the issues and application of the law. Accordingly, this court adopts the magistrate's decision and recommendation as its own.

{¶11}IT IS HEREBY ORDERED THAT:

1) The June 9, 2004, decision of the magistrate is ADOPTED;

2) The order of January 29, 2004, (Jr. Vol. 2252, Pages 103-104) is approved, affirmed and adopted;

3) The September 2, 2003, decision of the Attorney General is MODIFIED to render judgment in favor of applicant in the amount of $580.52;

4) This claim is REFERRED to the Attorney General

pursuant to R.C. 2743.191 for payment of the award;

    5) Costs assumed by the reparations fund.

                                     JUDGE

AMR/cmd

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