

[Cite as *In re Escobar*, 2004-Ohio-4601.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: MIGUEL A. ESCOBAR	:	Case No. V2003-40682
MIGUEL A. ESCOBAR	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
<hr/>		
	: : : : :	

{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a June 9, 2002 shooting incident. On December 3, 2002, the Attorney General originally denied the claim pursuant to R.C. 2743.60(F) and In re Dawson (1993), 63 Ohio Misc. 2d 79, contending that the applicant engaged in substantial contributory misconduct since he tested positive for opiates on a hospital toxicology drug screen. On February 13, 2003, the applicant filed a request for reconsideration asserting that he was given morphine at the hospital for his pain. On June 24, 2003, the Attorney General modified his previous decision, but nevertheless denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove he incurred economic loss. On July 15, 2003, the applicant filed a notice of appeal to the Attorney General's June 24, 2003 Final Decision asserting that he sustained work loss. On November 25, 2003, the Attorney General filed a Supplemental Brief indicating that the

applicant incurred \$80.00 in evidence replacement loss. Hence, this matter came to be heard before this panel of three commissioners on May 5, 2004 at 10:45 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.

{¶3} The Assistant Attorney General advised the panel that she has received no additional information from the applicant to show that he incurred the purported work loss. However, the Assistant Attorney General indicated that the applicant should be reimbursed \$80.00 for evidence replacement loss, as noted in the Attorney General's November 25, 2003 Supplemental Brief. The Assistant Attorney General further stated that the applicant may file a supplemental compensation application.

{¶4} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. We find that the applicant incurred \$80.00 in unreimbursed evidence replacement loss. However, the applicant has failed to prove that he incurred work loss. Therefore, the June 24, 2003 Final Decision of the Attorney General shall be reversed, as to evidence replacement loss, and affirmed, as to work loss. Should the applicant obtain evidence of additional incurred economic loss that would be an appropriate basis for filing a supplemental compensation application.

{¶5} IT IS THEREFORE ORDERED THAT

1) The June 24, 2003 decision of the Attorney General is REVERSED, as to evidence replacement loss, and judgment is rendered in favor of the applicant in the

amount of \$80.00. However, the June 24, 2003 decision of the Attorney General is AFFIRMED, as to work loss;

- 2) This claim is referred to the Attorney General for payment of the \$80.00 award;
- 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.

CLARK B. WEAVER, SR.
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

JAMES H. HEWITT III
Commissioner

ID #\7-dld-tad-052504

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

Filed 7-1-2004
Jr. Vol. 2254, Pgs. 46-48
To S.C. Reporter 8-26-2004