

[Cite as *In re Milbert*, 2004-Ohio-4566.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: DENISE R. MILBERT : Case No. V2003-41093
DENISE R. MILBERT : DECISION

Applicant : Anderson M. Renick,
Magistrate
(V96-41277) :

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{¶1} This matter came on to be considered upon applicant's appeal from the March 3, 2004, order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicant's claim for an award of reparations based on the finding that applicant failed to file her supplemental reparations application within five years of the court's December 30, 1997, order.

{¶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 failed to present sufficient evidence to meet her burden.

{¶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 her 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 did not show by a preponderance of the evidence that she was entitled to an 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 applicant's claim be denied.

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

VICTIMS OF CRIME DIVISION

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DENISE R. MILBERT : ORDER

Applicant :

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{¶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 she 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." On June 22, 2004, applicant filed an objection to the magistrate's decision.

{¶10} Contrary to applicant's assertion, this court has consistently held that the plain language of R.C. 2743.68 precludes consideration of a supplemental reparations application that is not filed within five years of a determination by the Attorney General, a panel of commissioners, or a judge of the court of claims.

{¶11} 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.

{¶12} IT IS HEREBY ORDERED THAT:

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

2) The order of March 3, 2004, (Jr. Vol. 2253, Pages 14-15) is approved, affirmed and adopted;

3) This claim is DENIED and judgment entered for the State of Ohio;

4) 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 Cuyahoga County Prosecuting Attorney and to:

Filed 7-15-2004
Jr. Vol. 2254, Pgs. 95-96
To S.C. Reporter 8-26-2004