

[Cite as *In re Hill*, 2004-Ohio-4169.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: JODI A. HILL : Case No. V2003-41158

JODI A. HILL : DECISION

Applicant : Judge J. Warren Bettis

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{¶1} This matter came on to be considered upon the Attorney General's appeal from the March 24, 2004, order issued by the panel of commissioners. The panel's determination reversed the final decision of the Attorney General, which denied applicant's claim for an award of reparations based upon the finding that she failed to qualify as a victim in her own right.

{¶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 meet her burden.

{¶3} 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."

{¶4} The panel of commissioners concluded that applicant qualified as a victim in her own right based upon her observation of the crime scene at her home that had been "essentially unchanged" since the criminally injurious conduct had occurred. The panel considered applicant's testimony concerning her perceptions of the blood and disarray that existed at the crime scene when she arrived. The panel concluded that applicant had a contemporaneous sensory perception of the immediate aftermath of the criminally injurious conduct when she observed the scene of her husband's murder. Furthermore, the panel found that applicant's observations caused her psychological injury.

{¶5} This court has previously held that "a case-by-case analysis [should] be utilized to ascertain the impact a criminal incident may have upon a person other than the individual directly involved in the crime." *In re Anderson* (1991), 62 Ohio Misc.2d 268, 270, quoting *In re Clapacs* (1989), 58 Ohio Misc.2d 1. In *Anderson*, the court also recognized that the rationale in *Clapacs* would not be viewed to open a floodgate for fraudulent or imagined injury claims. *Id.*

{¶6} Considering the unique facts of this case and the information of the claim file, the court finds that there is sufficient evidence to support the panel's determination. This court will not weigh the evidence or substitute its judgment for that of the trier of fact.

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

{¶8} Based on the evidence and R.C. 2743.61, it is the court's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, this court affirms the decision of the three-commissioner panel, and hereby remands applicant's claim to the Attorney General for economic loss calculations.

{¶9} Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and the Attorney General's appeal must be denied.

{¶10} IT IS HEREBY ORDERED THAT:

{¶11} 1) The order of March 24, 2004, (Jr. Vol. 2253, Page 42) is approved, affirmed and adopted;

{¶12} 2) This claim is REMANDED to the Attorney General for economic loss calculations and decision;

{¶13} 3) Costs assumed by the reparations fund.

J. WARREN BETTIS
Judge

AMR/cmd

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