

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: LISA M. KINKOFF-WREN	:	Case No. V2004-60083
LISA M. KINKOFF-WREN	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to an alleged May through June 2002 menacing by stalking incident. On April 4, 2003, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(A) contending that the applicant failed to file a police report within seventy-two hours of the incident or show good cause for the delay. The Attorney General also denied the claim pursuant to R.C. 2743.52(A) asserting that the applicant failed to prove she was a victim of criminally injurious conduct. On April 17, 2003, the applicant filed a request for reconsideration. On January 16, 2004, the Attorney General denied the claim once again. On January 29, 2004, the applicant filed an appeal to the Attorney General’s January 16, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on April 7, 2004 at 10:50 A.M.

{¶2} The applicant, applicant’s spouse, applicant’s counsel, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for the panel’s consideration. Lisa Kinkoff-Wren testified that Ed Wolons, the offender and her husband’s second cousin, sent her a pop-up electronic message that read “Tell me a secret.” The applicant

stated that she never actually saw the message because her husband intercepted it, however he informed her of the message a few days later. Mrs. Kinkoff-Wren explained that the message opened the door to repressed memories of her rape by Ed Wolons, when she was 18 years old. The applicant stated that she was unable to cope with the memories of the rape and was soon admitted to the hospital. Later, the applicant stated that she was diagnosed by Dr. Hill, her psychiatrist, with major depression and post traumatic stress disorder. Mrs. Kinkoff-Wren explained that Mr. Wolons harassed her family with threatening telephone calls and an appearance at their home. The applicant insisted that the police were informed, that Mr. Wolons' parole officer was contacted, and that she and her husband hired an attorney to help resolve the matter. Mrs. Kinkoff-Wren advised the panel that Mr. Wolons' parole officer informed her that a Cease and Desist Order would be issued against him. Lastly, the applicant explained that she nor her family had any contact with Ed Wolons nor had she ever received any psychiatric treatment before this incident.

{¶3} Kenneth Wren, the applicant's husband, testified that sometime in May he intercepted an electronic pop-up message to his wife from Ed Wolons. Mr. Wren informed the panel that he asked Lisa about the message, who in turn explained the whole story concerning the rape to him. After hearing Lisa's story, Mr. Wren explained that he went to Mr. Wolons' house to confront him. Mr. Wren contended that he told Ed Wolons to stay away from his family. Sometime later, Mr. Wren stated that Mr. Wolons came to his home intoxicated and demanded to know when he was going to contact the police. Mr. Wren also indicated that Mr. Wolons sent a few more e-mails to his wife, however he intercepted all the messages. Mr. Wren stated that he contacted the Euclid Police Department about the matter. Mr. Wren asserted that

he and his wife took every possible measure to assist the police in their investigation of the matter. Mr. Wren explained that the police were more concerned with the rape investigation than the menacing incident, because they knew Ed Wolons and wanted him back in prison for good. The applicant and Mr. Wren were unable to provide an explanation as to how Ed Wolons obtained the applicant's e-mail address.

{¶4} Applicant's counsel contended that the applicant's claim should be allowed based upon the evidence proffered. Counsel argued that it is clear that Mrs. Kinkoff-Wren was a victim of menacing by stalking based upon Ed Wolons' email messages, his presence at the applicant's home, and the numerous telephone threats made to the applicant and her family. Counsel also argued that the applicant and Mr. Wren contacted the police within a reasonable amount of time and that they did everything within their ability to assist the police in the investigation of the incident. Counsel asserted that the applicant should not be penalized for the inaction of the police to successfully charge and prosecute Ed Wolons. Counsel further noted that the applicant and Mr. Wren contacted Ed Wolons' parole officer who indicated a Cease & Desist Order would be issued and they hired an attorney to assist them with the matter.

{¶5} The Assistant Attorney General maintained that the applicant failed to prove that she was a victim of criminally injurious conduct or that she had good cause to delay the reporting of the incident. The Assistant Attorney General argued that Mrs. Kinkoff-Wren never saw the pop-up message nor did she have any contact with Ed Wolons during this whole ordeal. The Assistant Attorney General also noted that no charges were ever filed against Ed Wolons with respect to this matter. The Assistant Attorney General further noted, as indicated in the police

report, that the applicant was advised by the police to contact the City Prosecutor's Office to seek criminal charges against Ed Wolons.

{¶6} 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 was a victim of menacing by stalking. The applicant and her spouse testified that Ed Wolons sent unwanted e-mail messages to their home and made menacing telephone calls and one personal appearance at their home demanding when they were going to contact the police. We also find that the applicant had good cause for the delayed reporting. Based on the testimony presented, Ed Wolons continually menaced the applicant and her family between May and June of 2002. The applicant and her husband testified that the police were notified of the matter, however they primarily focused on the felony rape issue and not the menacing charge. We believe it was solely the inaction of the police which ultimately impeded the investigation of the menacing incident. The applicant, although the matter was not reported within seventy-two hours of the initial pop-up message, reasonably reported the matter to law enforcement officials in July 2002. Mrs. Kinkoff-Wren and her spouse testified that they feared for the safety of their family. Furthermore, the applicant was delayed in notifying the police because the incident triggered repressed memories of the sexual assault, which soon led to the victim being hospitalized shortly after being made aware of the initial electronic message. The applicant and Mr. Wren stated that they did all they could do to assist the police and that no Civil Protection Order was needed by the applicant since a Cease & Desist Order was issued against Ed Wolons. Therefore, the January 16, 2004 decision of the Attorney General shall be reversed and this claim shall be remanded to the Attorney General for economic loss calculations and decision.

{¶7} IT IS THEREFORE ORDERED THAT

{¶8} The January 16, 2004 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;

{¶9} This claim is referred to the Attorney General for economic loss calculations and decision;

{¶10} 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;

{¶11} Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Commissioner

CLARK B. WEAVER, SR.
Commissioner

STEVEN A. LARSON
Commissioner

ID #\3-dld-tad-042704

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

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