

[Cite as *In re Aitken*, 2004-Ohio-6166.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: AINSWORTH B. AITKEN, JR. : Case No. V2004-60181

AUSTIN Q. AITKEN : DECISION

Applicant : Judge Fred J. Shoemaker

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{¶ 1} This matter came on to be considered upon applicant’s appeal from the July 1, 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 upon the finding that applicant failed to prove that the decedent was a victim of criminally injurious conduct. The Attorney General also denied the claim pursuant to R.C. 2743.60(E) because applicant was convicted of a felony within ten years prior to the alleged criminally injurious conduct.

{¶ 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 his 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} Upon review of the file in this matter, the court finds that the panel of

commissioners was not arbitrary in finding that applicant did not show by a preponderance of the evidence that he was entitled to an award of reparations.

{¶ 5} 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 denies applicant’s claim.

SHOEMAKER

Judge

FRED J.

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AUSTIN Q. AITKEN : ORDER

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Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and applicant’s appeal must be denied.

IT IS HEREBY ORDERED THAT:

- 1) The order of July 1, 2004, (Jr. Vol. 2254, Pages 57-58) is approved, affirmed and adopted;
- 2) This claim is DENIED and judgment entered for the State of Ohio;
- 3) Costs assumed by the reparations fund.

Case No. V2004-60181

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DECISION

SHOEMAKER

FRED J.

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:

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To S.C. Reporter 11-19-2004