

[Cite as *In re Reed*, 2004-Ohio-5079.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: ANDRE M. REED SR.	:	
DAPHENE R. REED	:	Case No. V2004-60253
ANTHONY D. JAMES	:	
WILLA B. WHITE	:	Case No. V2004-60326
Applicants	:	<u>ORDER OF A THREE-</u> <u>COMMISSIONER PANEL</u>
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{¶ 1} The applicants filed a reparations application seeking reimbursement of expenses incurred in relation to the November 8, 2001 murder of Andre Reed, Sr. On February 6, 2003, the Attorney General issued a Consolidated Interim Finding of Fact and Decision granting an award in the amount of \$7,480.03, of which \$3,532.42 represented funeral expense, \$3,543.34 represented dependent's economic loss for Daphene Reed, and \$404.27 represented dependent's economic loss for Anthony James. However, the Attorney General denied Andre Reed, Jr. and Tanesha Reed's claim pursuant to R.C. 2743.60(D) contending that all their loss had been or may be recouped from a collateral source, namely Social Security Income. The Attorney General also denied counseling expense and replacement services loss. On March 5, 2003, Willa White filed a request for reconsideration. On May 6, 2003, the Attorney General issued a Consolidated Final

Decision indicating the previous decision would not be modified. On November 18, 2003, the Attorney General issued a Consolidated Finding of Fact and Decision granting Daphene Reed an award for unreimbursed dependent's economic loss in the amount of \$42,519.97. On December 17, 2003, Willa White filed a request for reconsideration. On February 17, 2004, the Attorney General indicated that Daphene Reed would be awarded the amount previously granted for dependent's economic loss in the amount of \$42,519.97. On March 17, 2004, Willa White filed a notice of appeal to the Attorney General's February 17, 2004 decision contending that she was financially dependent upon the decedent. Hence, this matter came to be heard before this panel of three commissioners on June 16, 2004 at 11:20 A.M.

{¶ 2} The applicants, Daphene Reed and Willa White, appeared at the hearing without counsel. An Assistant Attorney General also attended the hearing. Testimony and brief comments were presented for the panel's consideration. Willa White, the decedent's mother, testified that she was not employed at the time of the criminally injurious conduct, since she was laid-off in August of 2001 and did not return to work until March 2002. Ms. White stated that during the time she was not working the victim provided financial assistance to her. Ms. White explained that she did not have any tangible evidence, like receipts, of her son's financial assistance, since her son primarily gave her cash or he would personally pay her bills for her on a monthly basis. Ms. White stated that her son would pay the electric bill, which averaged approximately \$22.72 per month, her gas bill, which averaged approximately \$42.00 per month and bought her medication, which averaged approximately \$50.00 per month. Ms. White explained that she also receives in-kind public assistance.

{¶ 3} Lee Blevins, Willa White's brother, testified that he began living with his sister in August 1999 and that he had the opportunity to frequently observe the decedent provide financial assistance to Ms. White. Mr. Blevins stated that the decedent typically provided money for Ms. White's utilities, toiletries, and medications.

{¶ 4} Daphene Reed, the decedent's spouse, testified that she agrees with the Attorney General's Final Decision. Ms. Reed stated that her late husband was unable to provide steady financial assistance to his mother, since he was in dire financial straits.

{¶ 5} 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. Although we empathize with Ms. White over her loss (and with Ms. Reed), we nevertheless must find that Willa White has failed to prove, by preponderance of the evidence, that she incurred dependent's economic loss. Ms. White was unable to offer any supporting documentation to substantiate her claim. Therefore, the February 17, 2004 decision of the Attorney General shall be affirmed.

IT IS THEREFORE ORDERED THAT

- 1) The February 17, 2004 decision of the Attorney General is AFFIRMED;
- 2) This claim is remanded to the Attorney General for payment of the award;
- 3) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

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ORDER

KARL H. SCHNEIDER
Commissioner

LEO P. MORLEY
Commissioner

ID #3-DLD-ndw-4616

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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