

[Cite as *In re Fuller*, 2004-Ohio-5081.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: JASON FULLER	:	Case No. V2004-60318
NETTA MC CARTHY	:	<u>ORDER OF A THREE-</u>
JASON FULLER	:	<u>COMMISSIONER PANEL</u>
Applicants	:	

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{¶ 1} Netta McCarthy filed a reparations application seeking reimbursement of expenses incurred with respect to a May 24, 2002 assault incident against her minor son, Jason Fuller. On February 28, 2003, the Attorney General denied Netta McCarthy’s claim pursuant to R.C. 2743.60(E) contending that she was convicted of felony theft on May 31, 2001. On September 10, 2003, upon reaching the age of majority, Jason Fuller filed a supplemental compensation application seeking reimbursement of outstanding medical bills incurred as a result of the criminally injurious conduct. On January 8, 2004, the Attorney General denied Jason’s claim pursuant to R.C. 2743.52(A) contending that he had failed to prove by a preponderance of the evidence that he incurred work loss. The Attorney General also denied Jason’s allowable expense claim pursuant to R.C. 2743.60(D) contending that all his medical bills had been or may be covered by United Healthcare. On January 15, 2004, Jason filed a request for reconsideration. On March 16, 2004, the Attorney General denied the claim once again. On March 24, 2004,

Jason filed a notice of appeal to the Attorney General's March 16, 2004 Final Decision asserting that both he and his parents are responsible for his criminally injurious conduct related medical bills (even though he was a minor at the time the expenses were incurred) pursuant to the holding in University of Cincinnati Hospital v. Cohen (1989), 57 Ohio App.3d 30. Hence, this matter came to be heard before this panel of three commissioners on June 17, 2004 at 10:50 A.M.

{¶ 2} The applicant's attorney and an Assistant Attorney General attended the hearing and presented oral argument for the panel's consideration. Counsel asserted that pursuant to the holding in University of Cincinnati Hospital, supra, that Jason Fuller sustained allowable expense for medical bills incurred when he was a minor. Counsel also advised the panel that new issues have recently arisen concerning additional creditors and collateral sources. Counsel then requested that the claim be remanded to the Attorney General for further investigation.

{¶ 3} The Assistant Attorney General maintained that the claim should be denied since Jason was a minor at the time the expenses were incurred and that he has yet to provide evidence that creditors are seeking payment from him for those medical bills incurred as a result of the criminally injurious conduct.

{¶ 4} 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 Jason Fuller has failed to prove, by a preponderance of the evidence, that he incurred economic loss as a result of the criminally injurious conduct. Therefore, the March 16, 2004 decision of the Attorney General shall be affirmed without prejudice. Should Jason Fuller obtain evidence that he incurred economic loss that would be an appropriate basis for filing a supplemental compensation application.

IT IS THEREFORE ORDERED THAT

- 1) The March 16, 2004 decision of the Attorney General is AFFIRMED without prejudice;
- 2) This claim is DENIED and judgment is entered for the state of Ohio;
- 3) 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;
- 4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

LEO P. MORLEY
Commissioner

KARL H. SCHNEIDER
Commissioner

ID #\1-dld-tad-061704

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

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