

[Cite as *In re Williams*, 2006-Ohio-4025.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION
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IN RE: YUSEF K. WILLIAMS : Case No. V2005-80223
YUSEF K. WILLIAMS : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} On July 30, 2004, the applicant filed a supplemental compensation application seeking reimbursement of expenses incurred with respect to a January 9, 2003 shooting incident, which left him paralyzed. On November 5, 2004, the Attorney General denied the applicant's claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove he incurred economic loss. On November 19, 2004, the applicant filed a request for reconsideration. On January 19, 2005, the Attorney General determined that no modification of the previous decision was warranted. On April 1, 2005, the applicant filed a notice of appeal to the Attorney General's January 19, 2005 Final Decision. On December 30, 2005, a panel of commissioners reversed the Attorney General's Final Decision, granted the applicant an award in the amount of \$13,834.00 for unreimbursed allowable expense (wheelchair costs), ordered the applicant to file an itemized supplemental memorandum addressing all his economic loss, ordered the Attorney General to submit a supplemental memorandum addressing the applicant's total economic loss from January 9, 2003 through December 31, 2005, and continued the matter. On April 4, 2006, a panel of commissioners modified the previous panel decision to grant the

applicant an additional award in the amount of \$2,593.63 for unreimbursed work loss incurred from January 9, 2003 through December 31, 2005, ordered the Attorney General to file a new supplemental memorandum addressing whether the reduction in the applicant's Social Security benefits is compensable under the program, and continued the matter. On April 28, 2006, the Attorney General filed a supplemental memorandum contending that the applicant's reduction in Social Security benefits is not compensable. This matter came to be heard before this panel of three commissioners on May 17, 2006 at 10:35 A.M.

{¶ 2} The applicant's attorney and an Assistant Attorney General attended the hearing and presented oral argument for the panel's consideration. The applicant's attorney stated that prior to the criminally injurious conduct, the applicant received \$363.00 per month in Social Security benefits and lived with his mother. The applicant paid his mother \$150.00 per month as a contribution to the household. As a result of the injuries he sustained from the criminally injurious conduct, the applicant currently resides in an assisted living facility and his Social Security benefits have been reduced to \$30.00 per month. Counsel argued that the applicant is now indirectly incurring replacement services loss (nursing care, a hygiene assistant, and other services), which is a form of economic loss, as evidenced by his reduced Social Security income.

{¶ 3} In response to counsel's argument, the Assistant Attorney General stated that Medicaid, a collateral source pursuant to R.C. 2743.51(B), is now paying for the applicant's care while he is in the assisted living facility and therefore, the applicant has failed to incur the alleged loss. The

Assistant Attorney General asserted the applicant has two collateral sources, Social Security and Medicaid, as a result of the criminally injurious conduct that have allowed the applicant to recoup the majority of his economic loss. The Assistant Attorney General stated that in this case, there is no statutory remedy available to the applicant since his claimed loss does not qualify as economic loss under R.C. 2743.51(E).

{¶ 4} From review of the file and with careful consideration given to all the information presented at the hearing, this panel makes the following determination. We find that the applicant has failed to prove that he incurred any additional economic loss. Therefore, the panel's April 4, 2006 decision shall remain in full force and effect. The portion of applicant's appeal seeking additional economic loss is denied.

IT IS THEREFORE ORDERED THAT

- 1) The April 4, 2006 order of a three commissioner panel (Jr. Vol. 2260, Pg. 14-18) remains in full force and effect;
- 2) This claim is remanded to the Attorney General for payment of the April 4, 2006 award in the amount of \$2,593.63;
- 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) The portion of applicant's appeal wherein he seeks reimbursement for reduced monthly Social Security benefits is DENIED;

5) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

RANDI OSTRY LE HOTY
Commissioner

ID #\22-dld-tad-053106

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

Filed 7-17-2006
Jr. Vol. 2261, Pgs. 1 - 4
To S.C. Reporter 8-3-2006

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ORDER