

[Cite as *In re Lockwood*, 2006-Ohio-4028.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: STEVE LOCKWOOD : Case No. V2005-80797
STEVE LOCKWOOD : OPINION OF A THREE-
Applicant : COMMISSIONER PANEL
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{¶ 1} Steve Lockwood ("Mr. Lockwood" or "applicant") filed a reparations application seeking reimbursement of expenses incurred with respect to a February 6, 2005 assault incident. On August 9, 2005, the Attorney General denied the claim pursuant to R.C. 2743.60(A) contending that the applicant failed to report the incident to law enforcement officials within seventy-two hours of the incident or show good cause for the delayed report. A police report was not filed until February 27, 2005. On August 31, 2005, the applicant filed a request for reconsideration wherein he stated that he did not know at the time that he needed to file a police report, but stated that the police had been notified about the incident. On November 28, 2005, the Attorney General denied the claim once again. On December 1, 2005, the applicant filed a notice of appeal to the Attorney General's November 28, 2005 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on May 17, 2006 at 11:35 A.M.

{¶ 2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony

and oral argument for this panel's consideration. Mr. Lockwood testified that he saw Craig Fanaff ("Mr. Fanaff"), an acquaintance, at Cranberry's (a local establishment) on the evening in question. After Cranberry's closed for the evening, the applicant stated that he and Mr. Fanaff went to the Thirsty Turtle Bar. While at the Thirsty Turtle Bar, Mr. Lockwood stated that the offender John Holycross ("Mr. Holycross") struck Mr. Fanaff across the face and knocked him down. Mr. Lockwood stated that he attempted to restrain Mr. Holycross from behind to prevent him from striking Mr. Fanaff again. During the incident, the applicant stated that Mr. Holycross inadvertently "head-butted" him in the mouth, whereby he sustained severe dental damage. The applicant stated that after the incident he left the premises and went to his brother's house for assistance. Despite his belief that someone should pay for his dental expenses, the applicant explained that initially he never thought of contacting the police about the incident, since he did not believe that Mr. Holycross' actions toward him were criminal.

{¶ 3} Mr. Fanaff testified that he and the applicant are acquaintances and that they both were at Cranberry's on the evening of the incident. Mr. Fanaff stated that when Cranberry's closed, the applicant gave him a ride to the Thirsty Turtle Bar. Mr. Fanaff related that while at the Thirsty Turtle Bar, Mr. Holycross struck him across the face causing him to fall to the ground. Mr. Fanaff stated that he stood up and immediately left the establishment (getting a ride home from someone else), without ever seeing the incident between the

applicant and Mr. Holycross. Mr. Fanaff explained that he did not contact the police about the incident, since he did not sustain any injuries or incur any work loss.

{¶ 4} Michael Goetz ("Mr. Goetz"), an investigator with the Attorney General's office, briefly testified that he spoke to Mr. Fanaff on two occasions about this matter. Mr. Goetz stated that Mr. Fanaff never told him that anyone intervened to help him. Mr. Goetz also testified that he also spoke to Steve Atlick, the owner of the Thirsty Turtle Bar, who stated that he never contacted the police because he was unaware of the incident until after the bar closed.

{¶ 5} The Assistant Attorney General maintained that the applicant does not qualify as a victim since he was not injured as a result of criminally injurious conduct. However, applicant's counsel stated that based on the testimony presented the applicant's claim should be allowed. The applicant's attorney argued that the applicant qualifies as a victim of criminally injurious conduct, as the term is defined under R.C. 2743.51(L)(2), since Mr. Lockwood was attempting to prevent Mr. Holycross from further assaulting Mr. Fanaff. The applicant's counsel argued that it was reasonable for the applicant to have intervened to help Mr. Fanaff, since they were acquaintances. The applicant's attorney noted that the applicant's dental records indicate his injuries were consistent with a head-butting incident. The applicant's counsel also argued that the applicant had good cause for the delayed reporting, since it was reasonable for Mr. Lockwood not to have believed that he was a victim of an assault. The applicant's counsel noted that once

the applicant became aware that he should file a police report, he did so immediately.

{¶ 6} Revised Code 2743.51(L) states:

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

{¶ 7} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, this panel makes the following determination. First, we find that the applicant has proven, by a preponderance of the evidence, that he was a victim of criminally injurious conduct. Mr. Lockwood was attempting, in good faith, to prevent his friend from being further assaulted by Mr. Holycross, when he unfortunately sustained severe dental injuries.

{¶ 8} Revised Code 2743.60(A) states:

(A) The attorney general, a court of claims panel of commissioners, or a judge of the court of claims shall not make or order an award of reparations to any claimant who, if the victim of the criminally injurious conduct was an adult, did not file an application for an award of reparations within two years after the date of the occurrence of the criminally injurious conduct that caused

the injury or death for which the victim is seeking an award of reparations or who, if the victim of that criminally injurious conduct was a minor, did not file an application for an award of reparations within the period provided by division (B)(1) of section 2743.56 of the Revised Code. An award of reparations shall not be made to a claimant if the criminally injurious conduct upon which the claimant bases a claim was not reported to a law enforcement officer or agency within seventy-two hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct within the seventy-two-hour period.

{¶ 9} Second, we find that the applicant had good cause for the delayed reporting. At the time of the incident, Mr. Lockwood held a reasonable belief that the victim of assault was Mr. Fanaff. When Mr. Lockwood discovered that no report was ever made and that he should file a police report, he promptly did so. According to *In re Ries*, V93-69316tc (1-31-95), the purpose of the reporting requirement of R.C. 2743.60(A) is to: 1) verify the occurrence, and 2) ensure the investigation/prosecution of the offender. In this case the purpose of R.C. 2743.60(A) has been met, since the matter has been reported and the offender's identity has been disclosed to the police. The burden is now on the police and prosecutor's office to further pursue the matter. Therefore, the November 28, 2005 decision of the Attorney General shall be reversed and

the claim shall be remanded to the Attorney General for economic loss calculations and decision.

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

RANDI OSTRY LE HOTY
Commissioner

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IT IS THEREFORE ORDERED THAT

- 1) The November 28, 2005 decision of the Attorney General is REVERSED and judgment is rendered for the applicant;
- 2) This claim is remanded to the Attorney General for economic loss calculations and decision;
- 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

GREGORY P. BARWELL
Commissioner

RANDI OSTRY LE HOTY
Commissioner

ID #\3-dld-tad-060106

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

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