

[Cite as *In re Shook*, 2007-Ohio-5696.]

Court of Claims of Ohio

Victims of Crime Division

The Ohio Judicial Center

65 South Front Street, Fourth Floor
Columbus, OH 43215
614.387.9860 or 1.800.824.8263
www.cco.state.oh.us

IN RE: KATHY A. SHOOK

Case No. V2006-20348

KATHY A SHOOK

DECISION

Applicant

Judge Clark B. Weaver Sr.

{¶1} This matter came on to be considered upon the Attorney General's appeal from the April 16, 2007 order issued by the panel of commissioners. The panel's determination reversed 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 file a reparations application within two years of the criminally injurious conduct. The panel found that applicant's claim was timely filed.

{¶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 had presented sufficient evidence to meet her 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.”

{¶14} Applicant testified before the panel of commissioners that she was a victim of domestic violence and menacing from May 5, 2000, through February 12, 2007. According to applicant, she filed charges for domestic violence against her husband on May 5, 2000, several weeks after they were married. Applicant testified that she lived in Missouri with her husband when the domestic violence began and that she moved back to Ohio in 2002 to avoid further abuse.

{¶15} The panel found that applicant made numerous oral reports to law enforcement and that applicant “was a victim of ongoing and systematic domestic violence and aggravated menacing from 2002 (when applicant returned to Ohio) through 2004 (when applicant moved out of state).” Based upon its consideration of applicant’s testimony, the panel determined that domestic violence and menacing should be classified as a single incident of criminally injurious conduct.

{¶16} Although the Attorney General argues that applicant provided insufficient evidence to prove that she was entitled to an award of reparations, the court finds that applicant’s testimony supports the panel’s findings of fact and conclusions of law and the court will not substitute its judgment for that of the trier of fact.

{¶17} Upon review of the file in this matter, the court finds that the panel of commissioners was not arbitrary in finding that applicant had shown by a preponderance of the evidence that she was entitled to an award of reparations.

{¶18} 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.

CLARK B. WEAVER SR.

Judge

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ORDER

Applicant

Judge Clark B. Weaver Sr.

Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and the Attorney General's appeal must be denied.

IT IS HEREBY ORDERED THAT:

- 1) The order of April 16, 2007, (Jr. Vol. 2264, Pages 81-84) is approved, affirmed and adopted;
- 2) This claim is REMANDED to the Attorney General for economic loss calculations and decision;
- 3) Costs assumed by the reparations fund.

CLARK B. WEAVER SR.

Judge

AMR/cmd

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

Filed 9-18-2007
Jr. Vol. 2266, Pg. 169
To S.C. Reporter 10-23-2007