



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: WILLIAM FIELDS

WILLIAM FIELDS

Applicant

Case No. V2007-90072

DECISION

Judge Clark B. Weaver Sr.

{1}This matter came on to be considered upon the Attorney General's appeal from the June 15, 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 pursuant to R.C. 2743.60(A) based upon a finding that applicant failed to timely file a police report.

{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 good cause for delay in reporting the incident to the proper authorities.

{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.”

{4}At the hearing before the panel of commissioners, applicant testified that he was injured as a result of a robbery that occurred near his residence. Applicant testified that he did not report the incident until eight days later when he sought medical treatment for an infection that had developed in his wound. Applicant further testified that he initially believed that his injury was minor and that he did not immediately report the incident because and he feared retaliation.

{5}R.C. 2743.60(A) provides, in part, that “[a]n 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.”

{6} “Good cause for failure to report is to be evaluated upon a standard of reasonableness. *In re Smith*, V77-0741tc (7-10-78). The circumstances under which the criminally injurious conduct occurred should be considered in determining whether good cause exists for the delay in reporting criminally injurious conduct to law enforcement. Each claim must be evaluated on a case-by-case basis.” *In re Carmany*, V98-60228jud (10-04-00).

{7}In its decision, the panel noted that applicant had orally reported the criminally injurious conduct both to hospital staff and to local law enforcement when he sought medical treatment eight days after the incident. An oral report to a police officer satisfies the reporting requirement. *In re Rea* (1989), 61 Ohio Misc.2d 732. See *In re Ross*, V2003-40933tc (4-21-04), 2004-Ohio-3233 (finding that a report to hospital personnel can satisfy the reporting requirement).

{8}The court has previously held that an applicant’s fear of retaliation by the offender may constitute good cause for delay in reporting the criminally injurious conduct. *Id.*; See also *In re Dale* (1993) 66 Ohio Misc.2d 131 (finding that good cause existed for a delay in reporting as a result of applicant’s justifiable fear for the safety of himself and his family who lived at the scene of the criminally injurious conduct).

{9}In this case, applicant was a victim of a robbery near his home during which he was injured while attempting to defend himself. Applicant testified that he feared retaliation from the offenders and the panel found applicant's testimony to be credible.

{10}Although the Attorney General argued that applicant's delay in reporting the robbery frustrated the efforts by law enforcement officials to prosecute the offenders, the panel determined that the purpose of the reporting requirement had been satisfied in that applicant had provided the police with a description of the offenders. The panel noted that one of the offenders was "well-known" to law enforcement and was "being sought on a variety of charges."

{11}At the judicial hearing, the Attorney General conceded that there is no evidence to suggest that applicant failed to cooperate with law enforcement officials after he reported the criminally injurious conduct. The court finds that applicant has established good cause for his delay in reporting the criminally injurious conduct. There is sufficient information in the claim file to support the panel's determination and the court will not substitute its judgment for that of the trier of fact.

{12}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 he was entitled to an award of reparations.

{13}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 and applicant's claim shall be remanded to the Attorney General for economic loss calculations and decision.

CLARK B. WEAVER SR.
Judge



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ORDER

Judge Clark B. Weaver Sr.

{14} 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:

{15}1) The order of June 15, 2007, (Jr. Vol. 2265, Pages 81-86) is approved, affirmed and adopted;

{16}2) This claim is REMANDED to the Attorney General for economic loss calculations and decision;

{17}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 11-13-07
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To S.C. Reporter 9-28-11