

[Cite as *In re Brown*, 2007-Ohio-5690.]

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center

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IN RE: ANDREA YELENA BROWN

ANDRE' MITCHELL
MARK C. THOMPSON
TONYA BROWN THOMPSON
YELENA B. GORDON
BETTY MC DOUGAL-KATES

Applicants

Case No. V2007-90358

Commissioners:
Karl C. Kerschner, Presiding
Thomas H. Bainbridge
Tim McCormack

ORDER OF A THREE-
COMMISSIONER PANEL

{¶1} The applicants filed a reparations application seeking reimbursement of expenses incurred as a result of the February 17, 2006 homicide of Andrea Brown. On November 7, 2006, the Attorney General granted an award totaling \$50,000.00, of which Andre' Mitchell was to receive \$6,135.00 for funeral expense; Mark Thompson was to receive \$1,365.00 for funeral expense; Michael McDougal was to receive \$13,927.25 for dependent's economic loss; and Mikea McDougal was to receive \$28,572.75 for dependent's economic loss. On November 7, 2006, applicant Yelena Gordon filed a supplemental compensation application seeking reimbursement. On November 22, 2006, the Attorney General issued a decision indicating that the maximum in funeral reimbursement had already been granted. On December 1, 2006, Yelena Gordon filed a request for reconsideration indicating that she incurred allowable expense to attend the criminal trial. On April 2, 2007, the Attorney General issued a Final Decision granting an award totaling \$49,500.00, of which Andre' Mitchell was to receive \$5,021.00 for funeral expense; Mark Thompson was to receive \$1,059.75 for funeral expense; Hillcrest Cemetery was to receive \$435.25 for funeral expense; Betty McDougal-Kates was to receive \$984.00 for funeral expense; Michael McDougal was to receive \$13,763.40 in dependent's economic loss; and Mikea McDougal was to receive \$28,236.60 in dependent's economic loss. On May 2, 2007, the applicants filed a notice of appeal to the Attorney General's April 2, 2007 Final Decision. On July 12, 2007 at 11:55 A.M., this matter was heard by a panel of three commissioners.

{¶12} Applicant Andre' Mitchell and an Assistant Attorney General attended the hearing and presented testimony, exhibits, and oral argument for the panel's consideration. John Martin ("Mr. Martin"), a lead economic loss specialist with the Attorney General's office, testified concerning his investigation of the case. Mr. Martin explained that Exhibit A2 lists his findings and updated calculations concerning funeral expenses. Mr. Martin stated that funeral expenses totaled \$9,907.25, however, the maximum amount of recovery under R.C. 2743.51(N) for funeral expenses is \$7,500.00. Mr. Martin stated that he apportioned the recovery amount among all the funeral expense contributors as follows: Andre' Mitchell to receive \$4,699.50; Mark Thompson to receive \$1,227.00 and Betty McDougal-Kates to receive \$1,139.25; and Hillcrest Cemetery to receive \$432.25. After hearing Mr. Martin's testimony, Andre' Mitchell indicated his agreement with the Attorney General's recommendation.

{¶13} 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. Currently, we find that \$48,000.00 in unreimbursed economic loss shall be granted and apportioned as follows: Andre' Mitchell is to receive \$4,701.50 for funeral reimbursement; Hillcrest Cemetery is to receive \$432.25 for funeral reimbursement; Mark Thompson is to receive \$1,227.00 for funeral reimbursement; Betty McDougal-Kates is to receive \$1,139.25 for funeral reimbursement; Michael McDougal is to receive \$12,927.25 for dependent's economic loss; and Mikea McDougal is to receive \$27,572.75 for dependent's economic loss.

{¶4} Yelena Gordon indicated in her request for reconsideration that she incurred allowable expense to attend the criminal proceedings arising from the criminally injurious conduct. At this time, however, the panel has not been presented with any evidence that family members of Andrea Brown incurred wage loss or travel expenses to attend the criminal proceedings. If such evidence is obtained, it may then be appropriate to file a supplemental compensation application.

{¶5} Moreover, the court notes there are references in the file that Andrea Brown's minor children were present at the scene of the incident. This decision does not prejudice the applicants' ability to file new and separate reparations applications with the Attorney General's office on behalf of Michael and Mikea McDougal individually as victims in their own right. Therefore, the April 2, 2007 decision of the Attorney General shall be modified to grant the applicants an award in the amount of \$48,000.00 for unreimbursed economic loss. If no family member files a claim on or before February 19, 2008 seeking recovery for wage loss or travel expenses to attend the criminal proceedings arising from the criminally injurious conduct, then the remaining \$2,000.00 shall be equally divided between Michael and Mikea McDougal for dependent's economic loss.

{¶6} IT IS THEREFORE ORDERED THAT

{¶7} 1) The Attorney General's June 22, 2007 motions for telephone testimony are hereby GRANTED;

{¶8} 2) The Attorney General's July 6, 2007 motion for telephone testimony is hereby GRANTED;

{¶9} 3) The April 2, 2007 decision of the Attorney General is MODIFIED to render judgment in favor of the applicants in the amount of \$48,000.00. Andre' Mitchell is to receive \$4,701.50 for funeral reimbursement; Hillcrest Cemetery is to receive \$432.25 for funeral reimbursement; Mark Thompson is to receive \$1,227.00 for funeral reimbursement; Betty McDougal-Kates is to receive \$1,139.25 for funeral reimbursement; Michael McDougal is to receive \$12,927.25 for dependent's economic loss; and Mikea McDougal is to receive \$27,572.75 for dependent's economic loss;

{¶10} 4) This claim is remanded to the Attorney General for payment of the awards;

{¶11} 5) The judgment in favor of Michael and Mikea McDougal shall be paid and payable to such person or institution who has been issued letters of guardianship of the estate of the minors upon application pursuant to R.C. 2111.01 through 2111.04 in his or its capacity as guardian of said minors or, in the alternative, to the person or institution designated in any order dispensing with the guardianship pursuant to R.C. 2111.05 in the form prescribed in the order;

{¶12} 6) This order is entered without prejudice to the applicants' right to file a supplemental compensation application, on or before **February 19, 2008**, pursuant to R.C. 2743.68;

{¶13} 7) Costs are assumed by the court of claims victims of crime fund.

KARL C. KERSCHNER
Presiding Commissioner

THOMAS H. BAINBRIDGE
Commissioner

TIM MC CORMACK
Commissioner

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

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ORDER