

[Cite as *In re Bucewicz*, 2004-Ohio-3231.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: ALEXANDER BUCEWICZ	:	Case No. V2003-41239
ALEXANDER BUCEWICZ	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
: : : : :		

{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to an assault and robbery on October 4, 2000. On March 14, 2003, the applicant filed a supplemental compensation application. On May 20, 2003, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(D) contending that the applicant had insurance coverage with Prudential and that the applicant also received \$2,750.00 in restitution from the offender. On June 12, 2003, the applicant filed a request for reconsideration. On December 9, 2003, the Attorney General denied the claim once again. On December 19, 2003, the applicant filed a notice of appeal from the Attorney General's December 9, 2003 decision contending that the restitution payment is not a readily available collateral source. On February 11, 2004, the Attorney General filed a Statement in Lieu of Brief indicating that the restitution payment should not be considered a collateral source in this case. On February 25, 2004, the Attorney General filed a Supplemental Statement in Lieu of Brief recommending that the claim be denied, pursuant to R.C. 2743.60(D), since the applicant failed to utilize a readily

available collateral source with respect to the Sports Rehabilitation Consultants bill. Hence, this matter came to be heard before this panel of three commissioners on March 10, 2004 at 11:40 A.M.

{¶2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented a brief summary and comments for the panel's consideration. The Assistant Attorney General stated that the claim must be denied pursuant to R.C. 2743.60(H) contending that the applicant failed to utilize a collateral source when he failed to obtain pre-authorization from Prudential or appeal the denial of his claim with Prudential with respect to the Sports Rehabilitation Consultants bill.

{¶3} R.C. 2743.60(H) states:

{¶4} If a claimant unreasonably fails to present a claim timely to a source of benefits or advantages that would have been a collateral source and that would have reimbursed the claimant for all or a portion of a particular expense, the attorney general, a panel of commissioners, or a judge of the court of claims may reduce an award of reparations or deny a claim for an award of reparations to the extent that it is reasonable to do so.

{¶5} 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. We find that the applicant failed to properly utilize a readily available collateral source. Therefore, the December 9, 2003 Final Decision of the Attorney General shall be affirmed pursuant to R.C. 2743.60(H). Should the applicant obtain evidence that he reasonably utilized a collateral source then that would be an appropriate basis for filing a supplemental compensation application.

{¶6} IT IS THEREFORE ORDERED THAT:

{¶7} 1) The December 9, 2003 decision of the Attorney General is AFFIRMED;

{¶8} 2) This claim is DENIED and judgment is rendered for the state of Ohio;

{¶9} 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;

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

CLARK B. WEAVER, SR.
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

KARL H. SCHNEIDER
Commissioner

ID #\1-dld-tad-4318

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

Filed 4-21-2004
Jr. Vol. 2253, Pgs. 104-106
To S.C. Reporter 6-21-2004