

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: J. L.

CATHY LEWIS

Applicant

Case No. V2008-30227

Judge Joseph T. Clark

DECISION

{¶1} This matter came on to be considered upon applicant's appeal from the August 4, 2009 order issued by the panel of commissioners. Applicant had previously been granted a total of \$13,743.01, which represented wage loss incurred by applicant from June 1, 2005, through June 30, 2006. However, the panel's determination denied applicant's claim for an additional award of reparations.

{¶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 failed to present 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."

{¶4} Although the Attorney General had raised issues regarding the previous

decision concerning the issue of criminally injurious conduct, the panel determined that the only issue raised in the supplemental reparations application was the claim for additional work loss for the period July 1, 2006, through February 12, 2007.

{¶5}R.C. 2743.51(G) provides:

“‘Work loss’ means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.”

{¶6}In order to prove her claim for additional work loss, applicant must provide corroborating evidence to show both that work loss was sustained by an inability to work and the monetary amount of such loss. *In re Berger* (1994), 91 Ohio Misc.2d 85.

{¶7}The panel determined that applicant had failed to present any medical documentation to support the allegation that it was medically necessary for her to incur work loss to care for her minor child.

{¶8}At the judicial hearing, applicant argued that the panel had been provided with medical documentation to substantiate her work loss claim. Specifically, applicant relied on two psychological reports, dated January 16, 2006, through March 16, 2006, from the victim’s treating psychologist, Patricia McCullough, Ph.D.

{¶9}Inasmuch as the psychological reports predate the period of unemployment at issue, the court finds that the documents are insufficient to support applicant’s claim for additional work loss.

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

{¶11}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 hereby denies applicant’s claim.

JOSEPH T. CLARK
Judge

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ORDER

{¶12} Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and applicant's appeal must be denied.

IT IS HEREBY ORDERED THAT:

{¶13}1) The order of August 4, 2009, (Jr. Vol. 2272, Pages 178-185) is approved, affirmed and adopted;

{¶14}2) This claim is DENIED and judgment entered for the State of Ohio;

{¶15}3) Costs assumed by the reparations fund.

JOSEPH T. CLARK
Judge

AMR/cmd

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