

[Cite as *In re Hill*, 2003-Ohio-2248.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: DAMION T. HILL	:	
GERALDINE HILL	:	Case No. V2002-51656
CHAMIKA L. GIPSON	:	Case No. V2002-51711
Applicants	:	<u>ORDER OF A THREE-</u> <u>COMMISSIONER PANEL</u>
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{¶1} This appeal came to be heard before this panel of three commissioners on January 22, 2003 at 10:35 A.M. upon Geraldine Hill’s October 7, 2002 appeal from the September 23, 2002 Final Decision of the Attorney General.

{¶2} The Attorney General denied the claim pursuant to R.C. 2743.60(E) based upon evidence that the decedent engaged in felonious conduct, drug trafficking, within ten years of the criminally injurious conduct. The Attorney General also denied the claim pursuant to R.C. 2743.60(F) contending that the decedent engaged in substantial contributory misconduct by trafficking drugs on the day of his death.

{¶3} Attorney Reynolds and an Assistant Attorney General attended the hearing and presented an exhibit and oral argument for this panel’s consideration. Applicant’s counsel argued

the claim should not be denied pursuant to R.C. 2743.60(E) or R.C. 2743.60(F) since the Attorney General failed to sufficiently establish that the decedent engaged in felonious conduct or that he engaged in substantial contributory misconduct. First, counsel asserted that the Attorney General relied on untrustworthy witness statements to deny the claim. Counsel asserted that none of the witnesses, who testified at the murder trial, really knew Damion well enough to testify concerning Damion's employment status. Counsel noted that the witnesses, most of whom were close family members and friends of the decedent, never knew that Damion was employed at United Parcel Service. Second, counsel insisted that the Attorney General has failed to present any direct evidence of the decedent's alleged drug trafficking to deny the claim. Moreover, counsel advised the panel that all references to the decedent's alleged drug activity was sustained during the murder trial. Third, counsel argued that the police failed to discover any drug paraphernalia at the scene of the crime, the decedent's home, which would be indicative of someone selling illegal drugs from their home. In closing, counsel urged the panel to consider the real victim of this heinous crime, the decedent's son, when rendering a decision.

{¶4} The Assistant Attorney General maintained her position that the claim should be denied in light of the decedent's illegal drug activity. The Assistant Attorney General stated that based on the overwhelming amount of evidence, via witness statements or testimony presented at the murder trial, there is ample evidence to deny the claim based on the decedent's illegal drug behavior. The Assistant Attorney General advised that many of the witnesses, who testified that Damion had trafficked drugs, were relatives and friends of the decedent. The Assistant Attorney General argued that Damion's family and friends would have no reason to lie about his illegal

habits. As far as the lack of drug paraphernalia at the decedent's home, the Assistant Attorney General opined that the offender probably robbed Damion following the shooting.

{¶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, based on the greater weight of the evidence, that the decedent engaged in substantial contributory misconduct. Therefore, the September 23, 2002 decision of the Attorney General shall be affirmed.

{¶6} IT IS THEREFORE ORDERED THAT

- {¶7} 1) The September 23, 2002 decision of the Attorney General is AFFIRMED;
- {¶8} 2) This claim is DENIED and judgment is entered for the state of Ohio;
- {¶9} 3) Costs are assumed by the court of claims victims of crime fund.

KARL H. SCHNEIDER
Commissioner

LEO P. MORLEY
Commissioner

JAMES H. HEWITT III
Commissioner