

IN THE COURT OF CLAIMS OF OHIO  
VICTIMS OF CRIME DIVISION

IN RE: MATTHEW J. KRUL : Claim No. V2002-51044  
MATTHEW J. KRUL : DECISION  
CATHY KRUL : Judge J. Warren Bettis  
Applicants :  
: : : : : : :

{¶1} This matter came on to be considered upon the appeal of applicant Cathy Krul from the November 26, 2002, order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicant's claim for an award of reparations based upon the finding that the victim engaged in felonious conduct and contributory misconduct.

{¶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. When the Attorney General makes an allegation of contributory misconduct involving felony drug activity, R.C. 2743.60(F) places the burden of proof regarding the alleged contributory misconduct on the claimant. The panel found, upon review of the evidence, that applicants failed to present sufficient evidence to meet their 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} At the hearing, applicant Cathy Krul, the victim's mother, stated that the victim did not understand the need to appear before the panel. The court notes that Cathy Krul was added as an applicant after the panel issued its decision. Cathy Krul explained that applicants have obtained copies of witness statements and taped police interviews which show that the allegations of contributory misconduct and drug activity were made by the offenders.

{¶5} Upon review, the court is of the opinion that the panel of commissioners did not have the opportunity to fully consider all the evidence in this matter. Therefore, in the interest of justice, the court will remand applicants' claim to a three-commissioner panel to consider the additional evidence.

{¶6} Upon review of the evidence, the court finds the order of the panel of commissioners must be set aside.

{¶7} IT IS HEREBY ORDERED THAT:

{¶8} 1) The order of November 26, 2002, (Jr. Vol. 2248, Pages 36-37) is set aside;

{¶9} 2) This claim is REMANDED to the panel of commissioners for a hearing to allow testimony and evidence regarding the alleged contributory misconduct and drug activity;

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

J. WARREN BETTIS

Claim No. V2002-51044

- 3 -

DECISION

Judge

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