

[Cite as *In re Hill*, 2003-Ohio-4517.]

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>DECISION</u>
<hr style="width: 40%; margin-left: 0;"/>		
Magistrate	:	Anderson M. Renick,

: : : : : :

{¶1} This matter came on to be considered upon applicants' appeal from the March 17, 2003, order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicants' claim for an award of reparations based upon the finding that the decedent engaged in felonious conduct, drug trafficking, within ten years of the criminally injurious conduct. The Attorney General also found that the decedent engaged in substantial contributory misconduct by trafficking drugs on the day of his death.

{¶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 the decedent engaged in substantial contributory

misconduct and that the final decision of the Attorney General should be affirmed.

{¶3} Pursuant to Civ.R. 53, the court appointed the undersigned magistrate to hear applicants' appeal.

{¶4} 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."

{¶5} Upon review of the file in this matter, neither the applicants nor anyone on their behalf appeared at the hearing. The magistrate finds that the panel of commissioners was not arbitrary in finding that applicants did not show by a preponderance of the evidence that they were entitled to an award of reparations.

{¶6} Based on the evidence and R.C. 2743.61, it is the magistrate's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, it is recommended that the decision of the three-commissioner panel be affirmed, and applicants' claim be denied.

{¶7} On June 13, 2003, a hearing was held in this matter before a magistrate of this court. On June 19, 2003, the magistrate issued a decision wherein he found that applicants failed to prove by a preponderance of the evidence that they were entitled to an award of reparations.

{¶8} Civ.R. 53 states that: "[a] party may, within fourteen days of the filing of the decision, serve and file written objections to the magistrate's decision." To date, applicants have not filed an objection to the magistrate's decision.

{¶9} Upon review of the claim file, and the magistrate's decision, it is the court's finding that the magistrate was correct in his analysis of the issues and application of the law. Accordingly, this court adopts the magistrate's decision and recommendation as its own.

{¶10} IT IS HEREBY ORDERED THAT:

{¶11} 1) The June 19, 2003, decision of the magistrate is ADOPTED;

{¶12} 2) The order of March 17, 2003, (Jr. Vol. 2249, Pages 104-106) is approved, affirmed and adopted;

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

{¶14} 4) Costs assumed by the reparations fund.

JUDGE

AMR/cmd