

[Cite as *In re Annarino*, 2003-Ohio-4991.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: PAMELA S. ANNARINO	:	
ERIC J. ANNARINO	:	Case No. V2003-40259
ARMAND ANNARINO	:	
JANA L. WILFONG	:	Case No. V2003-40267
L. ANITA BENNETT	:	<u>OPINION OF A THREE-</u>
Applicants	:	<u>COMMISSIONER PANEL</u>
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{¶1} This appeal came to be heard before this panel of three commissioners on June 19, 2003, at 11:00 A.M. upon Jana L. Wilfong’s April 3, 2003 appeal from the March 3, 2003 Final Decision of the Attorney General.

{¶2} Originally, an award in the amount of \$5,000.00 was granted for unreimbursed funeral expense. The Attorney General denied the applicants’ additional claims as either unverifiable or unrecoverable. On reconsideration, the Attorney General denied the claim for sibling counseling reimbursement. The Attorney General indicated that siblings are not related within the first degree of consanguinity, according to R.C. 2743.51(F)(2) and R.C. 2743.51(W), to qualify for an award of reparations. Jana L. Wilfong, the decedent’s sister, filed an appeal to the Attorney General’s Final Decision.

{¶3} None of the applicants nor anyone on their behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for this panel's consideration. The Assistant Attorney General maintained that Ms. Wilfong's claim for sibling counseling reimbursement must be denied. The Assistant Attorney General stated that although she empathizes with Ms. Wilfong over the loss of her sister, the law is clear that siblings are not eligible for counseling reimbursement pursuant to R.C. 2743.51(F)(2) and R.C. 2743.51(W). The Assistant Attorney General asserted that in Ohio, American Jurisprudence is used which was developed from British civil law. Based on this standard, siblings are not considered related within the first degree of consanguinity. Therefore, Ms. Wilfong's claim should be denied.

{¶4} R.C. 2743.51(F)(2) states:

"(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application.

{¶5} R.C. 2743.51(W) states:

"Immediate family member" means an individual who is related to a victim within the first degree by affinity or consanguinity.

{¶6} From review of the file and with full and careful consideration given to all the information presented at the hearing, we make the following determination. We are inclined to follow the tenets espoused in In re Turner, V03-40062tc (5-29-03), whereby a panel of commissioners determined that siblings may qualify for counseling reimbursement. We note that in In re Turner, supra, the minor victim was sexually assaulted by her father, which

unfortunately impacted the entire household that included her siblings. In this case, Ms. Wilfong revealed that she and the victim were very close and that this event has caused her severe mental and emotional distress. Even though Ms. Wilfong is an adult who did not reside in the same household as the decedent, we nevertheless find that the impact of this tragic event has significantly affected Ms. Wilfong to the degree that counseling was warranted. Therefore, this panel finds the March 3, 2003 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for economic loss calculations and decision.

{¶7} IT IS THEREFORE ORDERED THAT

{¶8} 1) The March 3, 2003 decision of the Attorney General is REVERSED to render judgment in favor of Jana L. Wilfong;

{¶9} 2) This claim is remanded to the Attorney General for economic loss calculations and decision in light of the panel's findings;

{¶10} 3) This order is entered without prejudice to the applicants' right to file a supplemental compensation application pursuant to R.C. 2743.68;

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

JAMES H. HEWITT III
Commissioner

LEO P. MORLEY
Commissioner

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ORDER

KARL H. SCHNEIDER
Commissioner

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