

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: JOHN C. MC GHEE	:	Case No. V2003-40518
DANEEN R. SCHRADER	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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This appeal came to be heard before this panel of three commissioners on August 20, 2003 at 10:50 A.M. upon the applicant’s May 28, 2003 appeal from the April 28, 2003 Final Decision of the Attorney General.

The applicant filed a reparations application seeking reimbursement for expenses incurred in relation to the July 11, 2002 murder of the victim. The Attorney General denied the applicant an award of reparations pursuant to R.C. 2743.60(D) contending that all the decedent’s dependent’s economic loss had been or may be recouped from a collateral source, primarily Social Security income. The applicant appealed the Attorney General’s Final Decision.

The applicant’s attorney and an Assistant Attorney General attended the hearing and presented oral argument for this panel’s consideration. Applicant’s counsel stated that, prior to the decedent’s death, the victim’s minor son received both child support and Social Security disability income. However, counsel argued that since the victim’s death the decedent’s minor son only receives Social Security benefits. Counsel asserted that the decedent’s dependent is

entitled to child support and Social Security benefits since he was receiving both forms of income prior to the criminally injurious conduct. Lastly, counsel asserted that the dependent's Social Security payments, prior to the victim's death, were inaccurate and that the matter is currently on appeal.

The Assistant Attorney General conceded that the decedent's minor son lost his child support income as a result of the victim's death. However the Assistant Attorney General maintained that, although the decedent's son lost his child support income, the dependent nevertheless gained additional Social Security income, which in effect outweighs his prior total income. The Assistant Attorney General explained that prior to the decedent's death, regardless of any alleged inaccuracy in Social Security benefits, the decedent's dependent received a total of \$397.60 per month of which \$199.00 represented Social Security benefits and \$198.60 represented child support payments. However after the decedent's death, the Assistant Attorney General stated that the decedent's dependent now receives a sole amount of \$696.00 per month in Social Security benefits. Accordingly, the Assistant Attorney General requested the Final Decision be affirmed.

From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel finds the April 28, 2003 decision of the Attorney General shall be affirmed without prejudice.

IT IS THEREFORE ORDERED THAT

"1) The April 28, 2003 decision of the Attorney General is AFFIRMED without prejudice;

"2) This claim is denied and judgment is entered for the state of Ohio;

“3) This order is entered without prejudice to the applicant’s right to file a supplemental compensation application pursuant to R.C. 2743.68;

“4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

LEO P. MORLEY
Commissioner

KARL H. SCHNEIDER
Commissioner