

[Cite as *In re Spencer*, 2004-Ohio-1890.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: KAREN D. SPENCER	:	Case No. V2003-40704
SCHERYL D. MAYES	:	<u>ORDER OF A THREE-</u>
JAMES SPENCER	:	<u>COMMISSIONER PANEL</u>
Applicants	:	
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{¶1} On September 22, 2002, the applicants filed a reparations application seeking reimbursement of expenses incurred with respect to the September 21, 2000 murder of Karen Spencer. On March 24, 2003, the Attorney General granted the decedent’s minor dependents an award of reparations in the amount of \$50,000.00 (\$35,380.00 to Paige and \$14,620.00 to Julian) for unreimbursed dependent’s economic loss via their guardian James Spencer. However, the Attorney General denied Scheryl Mayes’ claim for funeral reimbursement contending that she failed to file a reparations application within two years of the criminally injurious conduct. On April 23, 2003, Ms. Mayes filed a request for reconsideration contending that the coroner’s report indicated that Karen’s date of death was September 22, 2000 and not September 21, 2000 as the Attorney General asserts. On June 23, 2003, the Attorney General determined that no modification of the previous decision was warranted. On July 22, 2003, Ms. Mayes filed an

appeal of the Attorney General's Final Decision. Hence, this matter came to be heard before this panel of three commissioners on January 15, 2004 at 11:05 A.M.

{¶2} James Spencer, the applicants' attorney and an Assistant Attorney General attended the hearing and presented oral argument for the panel's consideration. Applicants' counsel stated that the police report does not accurately reflect the date of the decedent's death in order to determine the actual criminally injurious conduct date. Counsel argued, based on the coroner's report, that the real criminally injurious conduct date is September 22, 2000 since the incident started on September 21, 2000 but did not end until September 22, 2000, the date of the decedent's death.

{¶3} The Assistant Attorney General maintained that Ms. Mayes' claim must be denied since she failed to file a reparations application on or before September 21, 2002. The Assistant Attorney General argued that the police report and the death certificate both indicate the date of *injury* to have been September 21, 2000. The Assistant Attorney General explained that under this program, the date of injury has always determined the criminally injurious conduct date and not a victim's date of death. Hence, the Assistant Attorney General stated based on Ms. Mayes' application postmark date of September 22, 2002 that her claim must be denied.

{¶4} "R.C. 2743.56 states:

{¶5} "(A) A claim for an award of reparations shall be commenced by filing an application for an award of reparations with the attorney general. The application may be filed by mail. If the application is filed by mail, the post-marked date of the application shall be considered the filing date of the application. The application shall be in a form prescribed by the attorney general and shall include a release authorizing the attorney general and the court of

claims to obtain any report, document, or information that relates to the determination of the claim for an award of reparations that is requested in the application. (Emphasis added.)

{¶6} “(B) All applications for an award of reparations shall be filed as follows:

{¶7} “(1) If the victim of the criminally injurious conduct was a minor, within two years of the victim's eighteenth birthday or within two years from the date a complaint, indictment, or information is filed against the alleged offender, whichever is later. This division does not require that a complaint, indictment, or information be filed against an alleged offender in order for an application for an award of reparations to be filed pertaining to a victim who was a minor if the application is filed within two years of the victim's eighteenth birthday, and does not affect the provisions of section 2743.64 of the Revised Code.

{¶8} “(2) If the victim of the criminally injurious conduct was an adult, within two years after the occurrence of the criminally injurious conduct. (Emphasis added.)

{¶9} 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 that Ms. Mayes failed to file a timely reparations application. The court's long held ruling, that the victim's date of injury determines the criminally injurious conduct date, shall be followed by this panel. Therefore, the June 23, 2003 final decision of the Attorney General shall be affirmed.

{¶10} IT IS THEREFORE ORDERED THAT

{¶11} 1) The June 23, 2003 decision of the Attorney General is AFFIRMED;

{¶12} 2) This claim is remanded to the Attorney General for payment of the March 24, 2003 \$50,000.00 maximum award, which shall be apportioned accordingly;

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

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CLARK B. WEAVER, SR.
Commissioner

JAMES H. HEWITT III
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

ID #\5-dld-tad-013004

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Cuyahoga County Prosecuting Attorney and to:

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