

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE:	SHARON D. ROSS	:	Case No. V2003-40933
	SHARON D. ROSS	:	<u>OPINION OF A THREE-</u>
		:	<u>COMMISSIONER PANEL</u>
	Applicant	:	
<hr/>			
		:	:
		:	:
		:	:
		:	:

{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred in relation to a March 23, 2003 assault. On July 24, 2003, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(A) contending that the applicant failed to report the incident to law enforcement officials within seventy-two hours of the criminally injurious conduct or show good cause for the delay (the report was made on April 7, 2003, two weeks later). The Attorney General also denied the claim pursuant to R.C. 2743.60(D) contending that all the applicant's economic loss had been or may be recouped from a collateral source, specifically Medicaid. On August 19, 2003, the applicant filed a request for reconsideration. On August 27, 2003, the Attorney General determined that no modification of the previous decision was warranted. On September 25, 2003, the applicant filed a notice of appeal to the Attorney General's August 27, 2003 decision contending that she had good cause for the delay in reporting because she suffers from a mental disability. Hence, this appeal came to be heard before this panel of three commissioners on February 25, 2004 at 11:50 A.M.

{¶2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony, an exhibit, and oral argument for this panel's consideration.

Sharon Ross testified that on March 23, 2003 she was assaulted while she was a patient on the psychiatric ward at Doctor's West Hospital by James Wade, who was also a patient. Ms. Ross stated that she was being treated for anxiety disorder and major depression. Ms. Ross indicated that she reported the incident to hospital personnel. Ms. Ross admitted that she was not aware that she needed to report the matter to the police directly, especially in light of her emotional problems and because she thought the hospital would handle the matter. Ms. Ross explained that it was not until after she was discharged from the hospital that she learned the matter was never reported to the police. Ms. Ross further stated that it was also not until after she spoke to her Pastor, her aunt, and an employee of the Urban League about the incident that she reported the assault to the police. The applicant informed the panel that she has never been determined incompetent, appointed a guardian, or advised by a physician that she was unable to attend to her personal affairs. However, Ms. Ross noted that once she was discharged from the hospital she was prescribed medication, which makes her sleepy.

{¶3} Applicant's counsel stated, based upon the testimony presented, that the applicant had good cause for the delayed reporting. Counsel argued that the applicant was not able to formulate the mental reasoning to have made the report herself, which is evidenced by her medical diagnosis contained in Exhibit A and her hospital stay. Counsel further argued that the applicant reasonably relied on hospital personnel to contact the authorities. Moreover, counsel contended that the report was nevertheless made within a reasonable amount of time after the incident. Accordingly, counsel stated that the claim should be allowed.

{¶4} The Assistant Attorney General maintained that the applicant failed to prove, by a preponderance of the evidence, that she satisfied the R.C. 2743.60(A) reporting requirement.

The Assistant Attorney General argued that the applicant failed to prove that she had good cause for the delayed reporting (via a mental defect) since the applicant had never been determined mentally incompetent, appointed a guardian or advised that she could not handle her own affairs. The Assistant Attorney General stated that the applicant gave no reason why she waited two weeks to report the incident to the police except that she did not know she needed to report the incident.

{¶5} 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. In In re Portis, V77-0286sc (8-11-77), the single commissioner determined that the applicant had good cause for the delay in reporting the incident when the hospital failed to report the assault to the police. Likewise, we believe this applicant satisfied the R.C. 2743.60(A) reporting requirement when she reported the matter to hospital personnel. We find it reasonable for a victim to rely on hospital personnel to make a report to police, especially when there is a statutory duty to do so. Moreover, we believe the applicant took the appropriate step of reporting the matter to police upon realizing that the hospital had neglected its duty to report the incident. Therefore, the August 27, 2003 decision of the Attorney General shall be reversed and this claim shall be referred to the Attorney General for economic loss calculations and decision.

{¶6} IT IS THEREFORE ORDERED THAT:

{¶7} 1) The August 27, 2003 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant;

{¶8} 2) This claim is referred to the Attorney General for economic loss calculations and decision;

{¶9} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

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

KARL H. SCHNEIDER
Commissioner

LEO P. MORLEY
Commissioner

STEVEN A. LARSON
Commissioner

ID #\3-dld-tad-030804

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

Filed 4-21-2004
Jr. Vol. 2253, Pgs. 93-94
To S.C. Reporter 6-21-2004