

[Cite as *In re Driscoll*, 2004-Ohio-3522.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: MICHAEL J. DRISCOLL : Case No. V2003-40968

MICHAEL J. DRISCOLL : DECISION

Applicant : Judge Fred J. Shoemaker

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{¶1} This matter came on to be considered upon applicant's appeal from the January 29, 2004, order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which granted applicant an allowable expense award in the amount of \$477.82. Applicant also sought compensation for pain and suffering.

{¶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 applicant failed to present sufficient evidence to meet his burden to prove that he incurred additional economic loss.

{¶3} 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."

{¶4} Upon review of the file in this matter, the court finds that the panel of commissioners was not arbitrary in finding that applicant did not show by a preponderance of the evidence that he was entitled to an additional award of reparations for pain and suffering.

{¶5} Based on the evidence and R.C. 2743.61, it is the court's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, this court affirms the decision of the three-commissioner panel to grant applicant an award of reparations in the amount of \$477.82.

{¶6} Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed.

{¶7} IT IS HEREBY ORDERED THAT:

{¶8} 1) The order of January 29, 2004, (Jr. Vol. 2252, Pages 123-124) is approved, affirmed and adopted;

{¶9} 2) This claim is REMANDED to the Attorney General for payment of the award pursuant to R.C. 2743.191;

{¶10} 3) Costs assumed by the reparations fund.

FRED J. SHOEMAKER
Judge

AMR/cmd

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