

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: TRISHA S. KINDLE : Case No. V2003-40615

CAROLYN S. KINDLE : ORDER

Applicant : Judge Joseph T. Clark

: : : : : :

{¶1} On March 5, 2004, a hearing was held in this matter before a magistrate of this court. On March 30, 2004, the magistrate issued a decision wherein he found that applicant failed to prove by a preponderance of the evidence that she was entitled to an award of reparations.

{¶2} Civ.R. 53 states that: "[a] party may, within fourteen days of the filing of the decision, serve and file written objections to the magistrate's decision." To date, applicant has not filed an objection to the magistrate's decision.

{¶3} Upon review of the claim file, and the magistrate's decision, it is the court's finding that the magistrate was correct in his analysis of the issues and application of the law. Accordingly, this court adopts the magistrate's decision and recommendation as its own.

{¶4} IT IS HEREBY ORDERED THAT:

{¶5} 1) The March 30, 2004, decision of the magistrate is ADOPTED;

{¶6} 2) The order of November 4, 2003, (Jr. Vol. 2251, Pages 160-161) is approved, affirmed and adopted;

{¶7} 3) This claim is DENIED and judgment entered for the

State of Ohio;

{¶8} 4) Costs assumed by the reparations fund.

JOSEPH T. CLARK
Judge

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

Filed 6-17-2004
Jr. Vol. 2254, Pgs. 25-26
To S.C. Reporter 8-10-2004

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: TRISHA S. KINDLE : Case No. V2003-40615
CAROLYN S. KINDLE : DECISION
Applicant : Anderson M. Renick,
Magistrate

: : : : : :

{¶9} This matter came on to be considered upon applicant's appeal from the November 4, 2003, order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicant's claim for an award of reparations.

{¶10} 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 her burden.

{¶11} Pursuant to Civ.R. 53, the court appointed the undersigned magistrate to hear applicant's appeal.

{¶12} 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."

{¶13} Both applicant and applicant's attorney attended the hearing before the panel of commissioners; however, the panel noted that applicant's testimony and oral argument concerned Case No. V2003-40607 and not this case.

{¶14} Upon review of the file in this matter, the magistrate finds that the panel of commissioners was not arbitrary in finding that applicant did not show by a preponderance of the evidence that she was entitled to an award of reparations.

{¶15} Based on the evidence and R.C. 2743.61, it is the magistrate's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, it is recommended that the decision of the three-commissioner panel be affirmed and applicant's claim be denied.

ANDERSON M. RENICK
Magistrate

AMR/cmd

A copy of the foregoing was personally served

upon the Attorney General and sent by regular
mail to: