

[Cite as *In re Aitken*, 2004-Ohio-4613.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: AINSWORTH B. AITKEN, JR.	:	Case No. V2004-60181
AUSTIN Q. AITKEN	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a June 30, 2003 incident involving the deceased, Ainsworth Aitken. The applicant contends the 81 year old decedent was the victim of foul play. On January 5, 2004, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove the decedent was the victim of criminally injurious conduct. The Attorney General also denied the claim pursuant to R.C. 2743.60(E)(2) asserting that the applicant was convicted of felony forgery on August 9, 1999. On January 12, 2004, the applicant filed a request for reconsideration. On February 5, 2004, the Attorney General denied the claim once again. On February 17, 2004, the applicant filed a notice of appeal to the Attorney General's February 5, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on May 6, 2004 at 10:55 A.M.

{¶2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented a brief summary of the case. The Assistant Attorney General stated that this claim must be denied since the applicant has failed to prove that the decedent died as a result of criminally injurious conduct. The Assistant Attorney General asserted, based on the coroner's report, that the decedent died of natural causes. The Assistant Attorney General also contended that the applicant cannot be granted an award of reparations because he was convicted of felony forgery on August 9, 1999.

{¶3} 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 the applicant failed to prove, by a preponderance of the evidence, that the decedent died as a result of criminally injurious conduct. Therefore, the February 5, 2004 decision of the Attorney General shall be affirmed.

{¶4} IT IS THEREFORE ORDERED THAT

- 1) The February 5, 2004 decision of the Attorney General is AFFIRMED;
- 2) This claim is DENIED and judgment is rendered in favor of the state of Ohio;
- 3) Costs are assumed by the court of claims victims of crime fund.

CLARK B. WEAVER, SR.
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

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To S.C. Reporter 8-26-2004

JAMES H. HEWITT III
Commissioner

ID #\1-dld-tad-052404

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