

[Cite as *In re Williams*, 2004-Ohio-6167.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: WILLIAM D. WILLIAMS : Case No. V2004-60202

WILLIAM D. WILLIAMS : DECISION

Applicant : Judge Joseph T. Clark

: : : : : :

{¶ 1} This matter came on to be considered upon applicant’s appeal from the July 13, 2004, 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 based upon the finding that applicant failed to prove, by a preponderance of the evidence, that he qualifies as a victim of criminally injurious conduct.

{¶ 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.

{¶ 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} Applicant contends that the panel’s decision was unreasonable because applicant was the only witness to testify before the panel of commissioners and his testimony contradicted the “self-serving” witness statements in the claim file. Applicant asserts that he was assaulted by an employee of Bally’s health club who had followed him as he exited the

establishment. According to the information in the claim file, the incident was investigated by the Willoughby Police Department, but the local prosecutor declined to file charges. Issues regarding the intent of the alleged offender and the relation of applicant's injuries to the criminally injurious conduct are issues of fact. The court will not weigh the evidence or substitute its judgment for that of the trier of fact. See *In re Staninovski* (1987), 35 Ohio Misc.2d 7.

{¶ 5} 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 award of reparations.

{¶ 6} 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, and hereby denies applicant's claim.

CLARK

 Judge

JOSEPH T.

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: WILLIAM D. WILLIAMS : Case No. V2004-60202

WILLIAM D. WILLIAMS : ORDER

Applicant : Judge Joseph T. Clark

: : : : : : :

Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and applicant's appeal must be denied.

IT IS HEREBY ORDERED THAT:

- 1) The order of July 13, 2004, (Jr. Vol. 2254, Pages 74-76) is approved, affirmed and adopted;
- 2) This claim is DENIED and judgment entered for the State of Ohio;
- 3) Costs assumed by the reparations fund.

CLARK

Judge

JOSEPH T.

AMR/cmd

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

Filed 10-19-2004
Jr. Vol. 2255, Pg. 79
To S.C. Reporter 11-19-2004