

**IN THE COURT OF CLAIMS OF OHIO**

**VICTIMS OF CRIME DIVISION**

IN RE: FRANK R. MILLER	:	Case No. V2003-40593
FRANK R. MILLER	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant, a police officer, filed a reparations application seeking reimbursement of expenses incurred in relation to an October 30, 2002 incident. Officer Miller alleges he was injured while attempting to apprehend a suspect. On March 18, 2003, the Attorney General issued a Finding of Fact and Decision denying the claim contending that Officer Miller failed to qualify as a victim of criminally injurious conduct. The Attorney General stated that there was no evidence that the suspect had engaged or was engaging in criminally injurious conduct at the time of Officer Miller's injury. On April 15, 2003, the applicant filed a request for reconsideration. On May 28, 2003, the Attorney General issued a Final Decision denying the claim once again. The Attorney General stated that Officer Miller had no physical contact with the suspect and therefore the suspect's conduct failed to pose a substantial threat of danger or personal harm to the applicant. On June 10, 2003, the applicant filed an appeal of the Attorney General's Final Decision. Hence, this matter came to be heard before this panel of three commissioners on November 20, 2003 at 11:05 A.M.

{¶2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration. Officer Miller briefly testified that on the day in question, he was on patrol duty and was observing a suspected drug house when the incident began. The applicant explained that he witnessed a possible drug transaction and began to follow the two suspects in his cruiser. Officer Miller stated that he trailed the suspects until the driver committed a traffic violation after which he activated his beacon. Officer Miller explained that a chase ensued and back up was contacted. During the chase, Officer Miller stated that the driver ran two automobiles off the road and eventually crashed into a fence. Officer Miller even noted that at one point the driver headed straight for his cruiser. The applicant stated that after the suspects' vehicle crashed, they exited the vehicle and he gave chase after the driver of the automobile. However, he slipped and fell injuring himself. Officer Miller noted that narcotics and drug paraphernalia were found in the suspects' vehicle, even though they were never captured. Officer Miller stated that, in light of the incident, he seeks private duty work loss.

{¶3} After hearing the applicant's testimony, the Assistant Attorney General conceded that Officer Miller qualifies as a victim of criminally injurious conduct based on the facts presented.

{¶4} From review of the file and with full consideration given to all the information presented at the hearing, this panel makes the following determination. We find the applicant has proven, by a preponderance of the evidence, that he qualifies as a victim of criminally injurious conduct and is therefore entitled to reimbursement of his private duty work loss. The

May 28, 2003 decision of the Attorney General shall be reversed and this claim is remanded to the Attorney General for economic loss calculations and decision.

{¶5} IT IS THEREFORE ORDERED THAT

{¶6} 1) The May 28, 2003 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant;

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

{¶8} 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;

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

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KARL H. SCHNEIDER  
Commissioner

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LEO P. MORLEY  
Commissioner

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JAMES H. HEWITT III  
Commissioner

ID #\5-dld-tad-112603

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