

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: ADAM R. STEHLE	:	Case No. V2003-40810
ADAM R. STEHLE	:	<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 the September 26, 2002 assault against him by the offender, John Youngblood. On May 1, 2003, the Attorney General denied the claim pursuant to R.C. 2743.60(F), In re Spaulding (1991), 63 Ohio Misc. 2d 39, and In re Bieri, V80-30629jud (5-10-83) contending that the applicant engaged in substantial contributory misconduct since he voluntarily participated in the fight and was the initial aggressor. On May 29, 2003, the applicant filed a request for reconsideration. On July 28, 2003, the Attorney General issued a Final Decision denying the claim once again. On August 28, 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 10:40 A.M.

{¶2} The *pro se* applicant and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel’s consideration. Adam Stehle, after waiving his right to counsel, testified that on the night in question he and the offender, who was

his roommate at the time of the incident, returned home after a night out. Mr. Stehle testified that while they were out, he had a couple of beers and believed that John had also consumed alcohol. Mr. Stehle stated that shortly thereafter he went to bed, but then overheard John making disparaging remarks about him. Mr. Stehle stated that he listened to John for approximately twenty minutes and then confronted John about the remarks. Mr. Stehle indicated that John then began to choke him and he responded by striking John. Mr. Stehle explained that once John released him, he returned to his room until summoned by Brad, a mutual friend. Mr. Stehle asserted that Brad suggested that he and John talk about the matter. However, Mr. Stehle stated that before he was able to say anything, John struck him and a fight ensued. Mr. Stehle stated that John pled guilty to and was convicted of felonious conduct as a result of the incident; however he was never charged with a crime. Lastly, Mr. Stehle stated that he did nothing to provoke the fight and that he merely acted in self-defense since John choked him first.

{¶3} The Assistant Attorney General maintained that the claim should be denied since the incident occurred as a result of the applicant's initial aggression toward the offender. The Assistant Attorney General stated that the file contains two witness statements, which indicate that the applicant started the fight and voluntarily participated in the fight.

{¶4} From review of the file and with full and careful consideration given to the information presented at the hearing, this panel makes the following determination. We find that the applicant engaged in contributory misconduct. However, we do not believe that Mr. Stehle's conduct was substantial enough to deny the claim. Based on the record and the applicant's testimony, we find that the applicant, to a limited degree, provoked the incident. The applicant testified that, prior to him confronting John, he listened to the offender belittle him for twenty

minutes, which we reasonably believe engendered feeling of anger on the part of the applicant. We believe this act, coupled with the fact that both parties had been drinking earlier, contributed to the incident. Therefore, we find that this claim and all future awards shall be reduced by 25 percent. The July 28, 2003 decision of the Attorney General shall be modified and this claim is remanded to the Attorney General for economic loss calculations and decision.

{¶5} IT IS THEREFORE ORDERED THAT

{¶6} 1) The July 28, 2003 decision of the Attorney General is MODIFIED 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 consistent with the panel's findings;

{¶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.

KARL H. SCHNEIDER
Commissioner

LEO P. MORLEY
Commissioner

JAMES H. HEWITT III
Commissioner

ID #\1-dld-tad-112103

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

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