

[Cite as *In re Geeter*, 2004-Ohio-946.]

**IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION**

IN RE: CEDRIC O. GEETER:	Case No. V2003-40861	
CEDRIC O. GEETER	:	<u>OPINION OF A THREE-</u> <u>COMMISSIONER PANEL</u>
Applicant	:	
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{¶1} The applicant filed a reparations application seeking reimbursement for expenses incurred in relation to a February 10, 2003 assault. The Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(E) contending that the applicant engaged in felonious conduct on February 10, 2003 when he allegedly illegally entered the dwelling of his former girlfriend and assaulted her. The Attorney General stated that the applicant was indicted on April 29, 2003 for domestic violence, attempted felonious kidnaping, and aggravated burglary. On July 7, 2003, the applicant filed a request for reconsideration. On August 28, 2003, the Attorney General denied the claim once again. On September 12, 2003, the applicant filed an appeal of the Attorney General’s Final Decision contending that the police report is biased and is insufficient proof that he engaged in felonious conduct since all the charges against him were dropped. Hence, this matter came to be heard before this panel of three commissioners on December 3, 2003 at 10:45 A.M.

{¶2} Applicant’s counsel and an Assistant Attorney General attended the hearing and presented oral argument for this panel’s consideration. The applicant’s attorney stated that Mr. Geeter’s claim should be allowed since the only documentation the Attorney General has

presented to support his position to deny the claim is a biased police report. Counsel also stated that it is the Attorney General's burden to prove that the applicant engaged in felonious conduct. Lastly, counsel noted that all the charges against the applicant were dropped.

{¶3} The Assistant Attorney General maintained that the claim should be denied since the police report and witness statements clearly indicate that the applicant engaged in felonious conduct. The Assistant Attorney General asserted that the applicant illegally entered the home of his former girlfriend, assaulted her, and fled the scene. The Assistant Attorney General contended that the police arrived at the scene, observed the victim's injuries, and noted such injuries in the police report. The Assistant Attorney General further contended that since there was sufficient evidence to bring felony criminal charges against the applicant, which was corroborated by witness statements and the physical injuries to the victim, then there is sufficient evidence to find, by a preponderance of the evidence, that the applicant engaged in felonious conduct. Lastly, the Assistant Attorney General argued that the prosecutor's discretion of dropping the criminal charges does not prove that the applicant did not engage in felonious conduct.

{¶4} R.C. 2743.60(E)(3) states:

“(E) The attorney general, a panel of commissioners, or a judge of the court of claims shall not make an award to a claimant if any of the following applies:

“* * *

“(3) It is proved by a preponderance of the evidence that the victim or the claimant engaged, within ten years prior to the criminally injurious conduct gave rise to the claim or during the pendency of the claim, in an offense of violence, a violation of section 2925.03 of the Revised Code, or any substantially similar offense that also would constitute a felony under the laws of this state, another state, or the United States.

{¶5} 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 a mere felony indictment on a finding of probable cause followed by a guilty plea to a lesser offense (misdemeanor) to be insufficient evidence to prove by a preponderance of the evidence that the victim/applicant engaged in felonious conduct, unless there is probative evidence such as a police/investigation report and witness statements, which clearly indicates by a preponderance of the evidence, that the applicant engaged in felonious conduct. See In re Faris (1996), 85 Ohio Misc. 2d 37 and In re Sawyer, V93-61412tc (1-20-95). In this case, we note that there is a police report and a witness statement with respect to the applicant's alleged misconduct on February 10, 2003. However, we find that such documentation to be insufficient proof, in this case, that the applicant engaged in violent felonious conduct especially when all of the felony charges were dropped against the applicant. Therefore, the August 28, 2003 decision of the Attorney General shall be reversed and this case shall be remanded to the Attorney General for economic loss calculations and decision.

{¶6} IT IS THEREFORE ORDERED THAT

{¶7} 1) The August 28, 2003 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;

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

{¶9} 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;

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

CLARK B. WEAVER, SR.
Commissioner

DALE A. THOMPSON
Commissioner

KARL H. SCHNEIDER
Commissioner

ID #\1-dld-tad-120803

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

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To S.C. Reporter 3-2-2004