

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: EDDIE REID	:	Case No. V2004-60946
MABEL REID	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶1} On January 23, 2004, the applicant filed a reparations application seeking reimbursement of expenses incurred with respect to the September 6, 1999 murder of her husband, Eddie Reid. On May 26, 2004, the Attorney General denied the applicant's claim pursuant to former R.C. 2743.56(C) and R.C. 2743.60(A), since the applicant failed to file a reparations application within two years of the criminally injurious conduct. On June 24, 2004, the applicant filed a request for reconsideration. On August 30, 2004, the Attorney General denied the applicant's claim once again. On October 1, 2004, the applicant filed a notice of appeal to the Attorney General's August 30, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on January 27, 2005 at 10:55 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. Mabel Reid testified concerning her mental state after her husband was killed on September 6, 1999. Ms. Reid explained that she and the decedent had been married for 44 years, but the marriage

produced no children. The applicant stated that her husband had been the sole provider for their household, even though her husband was retired at the time of the criminally injurious conduct and was receiving only pension and Social Security income. The applicant testified that she suffered mental and emotional distress as a result of her husband's death, which was continuously fueled by her having to reside across the street from her husband's murderer. Ms. Reid explained that after the criminally injurious conduct she was under a physician's care, that she was prescribed antidepressant medication, and had sought counseling in order to better cope with her husband's death. The applicant noted that on certain days she was completely unable to function. Lastly, the applicant stated that she only recently became aware of the victims' program, however shortly thereafter she filed a reparations application.

{¶3} Applicant's counsel stated that the claim should be allowed based upon the applicant's testimony. Counsel argued that the applicant was unable to file a timely reparations application due to the severe mental distress the applicant suffered as a result of her husband's death. Counsel also noted that the applicant was previously unaware of the program, has a limited education, is unable to drive, and has limited family and monetary assistance.

{¶4} The Assistant Attorney General maintained that the applicant's claim should be denied pursuant to former R.C. 2743.56(C) and R.C. 2743.60(A), since the provisions are mandatory and jurisdictional in nature. The Assistant Attorney General asserted that the applicant failed to present sufficient medical evidence that she suffered a severe mental deficiency that would have prevented her from filing a timely application. The Assistant Attorney General noted that Ms. Reid testified that she filed for Social Security benefits approximately 8-9 months after the decedent's death.

{¶5} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, this panel makes the following determination. Although Ms. Reid testified concerning her poor mental and emotional state after her husband's death, we are unable to find that Ms. Reid's impaired mental state rose to the level of mental incompetency or disability, which would have prevented her from filing a timely reparations application that would allow the statute of limitations to be tolled in this case. We empathize with the applicant in the loss of her husband, but we nevertheless find that the applicant's claim must be denied pursuant to former R.C. 2743.56(C) and R.C. 2743.60(A), since she failed to file a reparations application within two years of the criminally injurious conduct. Therefore, the August 30, 2004 decision of the Attorney General shall be affirmed.

{¶6} IT IS THEREFORE ORDERED THAT

- {¶7} "1) The August 30, 2004 decision of the Attorney General is AFFIRMED;
- {¶8} "2) This claim is denied and judgment is entered for the state of Ohio;
- {¶9} "3) Costs are assumed by the court of claims victims of crime fund.

GREGORY P. BARWELL
Commissioner

JAMES H. HEWITT III
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

ID #\5-dld-tad-020105

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 4-29-2005