

[Cite as *In re Harrigan*, 2005-Ohio-2584.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

IN RE: JASON F. HARRIGAN	:	Case No. V2004-61187
JASON F. HARRIGAN	:	<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 as a result of a December 28, 2003 assault incident. On August 26, 2004, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(E) and In re Dawson (1993), 63 Ohio Misc. 2d 79, asserting that the applicant engaged in felonious drug use at the time of the criminally injurious conduct, since he tested positive for morphine on a hospital toxicology report. On September 24, 2004, the applicant filed a request for reconsideration. On October 28, 2004, the Attorney General denied the claim once again. On November 23, 2004, the applicant filed a notice of appeal to the Attorney General's October 28, 2004 Final Decision. On December 30, 2004, the Attorney General filed a Brief recommending the Final Decision be reversed and the claim be remanded to the Attorney General for economic loss calculations and decision. The Attorney General stated that new evidence was received, which indicates that the applicant was administered morphine at the hospital prior to urine specimens being collected for the toxicology screening. Hence, this appeal came to be heard before this panel of three commissioners on February 9, 2005 at 11:05 A.M.

{¶ 2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated, as noted in the December 30, 2004 Brief, that additional evidence was received, which indicates that the applicant did not engage in felonious conduct by illegally consuming morphine at the time of the criminally injurious conduct. The Assistant Attorney General stated that the applicant was administered morphine while at the hospital. Therefore, the Assistant Attorney General requested the Final Decision be reversed and the claim be remanded to the Attorney General's office for economic loss calculations and decision.

{¶ 3} 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 that the applicant did not engage in felonious conduct at the time of the criminally injurious conduct. Therefore, the October 28, 2004 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for economic loss calculations and decision consistent with the panel's findings.

IT IS THEREFORE ORDERED THAT

{¶ 4} 1) The October 28, 2004 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;

{¶ 5} 2) This claim is remanded to the Attorney General for economic loss calculations and decision consistent with the panel's findings;

{¶ 6} 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;

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

THOMAS H. BAINBRIDGE
Commissioner

CLARK B. WEAVER, SR.
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\1-dld-tad-021805

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

Filed 4-8-2005
Jr. Vol. 2256, Pgs. 182-184
To S.C. Reporter 5-25-2005