

[Cite as *In re Edwards*, 2005-Ohio-3321.]

**IN THE COURT OF CLAIMS OF OHIO**

**VICTIMS OF CRIME DIVISION**

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IN RE: SABRINA E. EDWARDS	:	Case No. V2005-80011
SABRINA E. EDWARDS	:	<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 in relation to a December 5, 2003 assault incident. On September 15, 2004, the Attorney General denied the claim pursuant to R.C. 2743.60(E) and In re Dawson (1993), 63 Ohio Misc. 2d 79 contending that the applicant tested positive for opiates on a hospital toxicology report. On September 28, 2004, the applicant filed a request for reconsideration. On November 30, 2004, the Attorney General denied the claim pursuant to R.C. 2743.60(E) once again. On January 3, 2005, the applicant filed a notice of appeal to the Attorney General's November 30, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on March 23, 2005 at 11:35 A.M.

{¶ 2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and stated that she rests on the February 18, 2005 Brief.

{¶ 3} R.C. 2743.60(E)(1)(e) states:

Except as otherwise provided in division (e)(2) of this section, 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:

“(e) It is proved by a preponderance of the evidence that the victim at the time of the criminally injurious conduct that gave rise to the claim engaged in conduct that was a felony violation of section 2925.11 of the Revised Code or engaged in any substantially similar conduct that would constitute a felony under the laws of this state, another state, or the United States.

{¶ 4} 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. Even though the toxicology report from Promedica Laboratories indicates the applicant tested positive for opiates via a urine sample provided on December 5, 2003, we nevertheless find that the applicant did not engage in felonious conduct by illegally ingesting the opiates.

{¶ 5} According to the police report, the assault occurred on December 5, 2003 at 3:30 A.M. and the applicant was transported via ambulance to Toledo Hospital where she was interviewed by the police and treated by hospital personnel. Toledo Hospital medical records indicate the applicant was seen in the emergency department for multiple stab wounds and possible loss of consciousness. The medical records also indicate that the applicant was administered a morphine sulfate solution (opiates) via an IV at 4:20 A.M. on December 5, 2003, while the Promedica Laboratories toxicology report indicates the applicant’s urine sample, which was used to conduct the drug screen, was not collected until 6:46 A.M. which is more than two hours after the applicant was administered morphine sulfate. Based on the above information, we find that the applicant did not engage in felonious conduct by illegally ingesting opiates on

December 5, 2003, since she was administered morphine sulfate while at the hospital and prior to the urine sample being collected for drug screening purposes. Therefore, the November 30, 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.

IT IS THEREFORE ORDERED THAT

{¶ 6} 1) The November 30, 2004 decision of the Attorney General is REVERSED to render judgment 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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JAMES H. HEWITT III  
Commissioner

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THOMAS H. BAINBRIDGE  
Commissioner

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TIM MC CORMACK  
Commissioner

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