

[Cite as *In re Bass*, 2006-Ohio-1365.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: EDWARD J. BASS	:	Case No. V2005-80533
VALERIE VASHONE-CARUSO	:	<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 a May 15, 2004 motor vehicle accident caused by Latoya Slocum (“Ms. Slocum”). Edward Bass (“Mr. Bass” or “decedent”) died on May 19, 2004 as a result of the incident. On March 24, 2005, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that the decedent qualified as a victim of criminally injurious conduct under R.C. 2743.51(C)(1)(d). On April 25, 2005, the applicant filed a request for reconsideration. On June 22, 2005, the Attorney General determined that no modification of the previous decision was warranted. On July 15, 2005, the applicant filed a notice of appeal to the Attorney General's June 22, 2005 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on October 5, 2005 at 11:30 A.M.

{¶ 2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments. The Assistant Attorney General stated, based on the facts of this case, that the applicant failed to prove that the decedent was a victim of criminally injurious conduct. The Assistant Attorney General argued that Ms. Slocum's illegal conduct only rose to the level of negligence and not recklessness under

R.C. 2743.51(C)(1)(d). Accordingly, the Assistant Attorney General indicated that the claim should be denied.

{¶ 3} Revised Code 2743.51(C)(1) states:

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code.

{¶ 4} From review of the file and with full and careful consideration given to all the information presented at the hearing, we make the following determination. We find that the decedent qualifies as a victim of criminally injurious conduct under R.C. 2743.51(C)(1)(d). In this case, it appears that Ms. Slocum caused the accident when she proceeded into traffic, against

a red light, and was struck by Mr. Bass' vehicle. Several witness statements indicated that Ms. Slocum, under the urging of her passenger, Jerry Copes, was attempting to escape from Mr. Copes' badgering live-in girlfriend when the accident occurred. As a result of the incident, Ms. Slocum was charged with vehicular manslaughter, running a red light, and reckless operation. In light of the above, we find Ms. Slocum's conduct to have been reckless in causing the death of Mr. Bass. Therefore, the June 22, 2005 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

- 1) The June 22, 2005 decision of the Attorney General is REVERSED and judgment is rendered for the applicant;
- 2) This claim is remanded to the Attorney General for economic loss calculations and decision;
- 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;
- 4) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Commissioner

CLARK B. WEAVER, SR.
Commissioner

TIM MC CORMACK
Commissioner

ID #\1-dld-tad-101005

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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