

**IN THE COURT OF CLAIMS OF OHIO**

**VICTIMS OF CRIME DIVISION**

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IN RE: ALISON J. ZINN : Case No. V2004-60733  
MARGUERITE E. MOGG : ORDER OF A THREE-  
Applicant : COMMISSIONER PANEL

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{¶ 1} On October 13, 2004, the applicant filed a supplemental compensation application seeking additional reimbursement of expenses incurred as a result of an August 8, 2003 through September 4, 2003 sexual abuse incident involving her minor daughter, Alison Zinn. On March 4, 2005, the Attorney General granted the applicant an additional award in the amount of \$13,519.68 for unreimbursed allowable expense. On June 6, 2005, the Attorney General issued a Final Decision denying the claim pursuant to R.C. 2743.60(E) because the victim was indicted for Attempted Burglary, a third degree felony<sup>1</sup>. On July 6, 2005, the applicant filed a notice of appeal to the Attorney General's June 6, 2005 Final Decision. On December 1, 2005, the Attorney General filed a Supplemental Memorandum recommending the Final Decision be reversed and the claim be remanded. The Attorney General indicated, based upon the newly

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On June 23, 2005, the victim was adjudicated delinquent of Attempted Burglary.

acquired information from the victim's physician Dr. Patrick Enders, M.D., L.L.C., that the victim's felonious conduct was directly symptomatic of the criminally injurious conduct committed against her. Hence, this matter was heard before this panel of three commissioners on December 7, 2005 at 9:50 A.M.

{¶ 2} The applicant, the applicant's counsel, and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated that after reviewing Dr. Ender's April 6, 2005 letter concerning the victim's psychological state, she believes the applicant's claim should be allowed. Dr. Enders indicated that he had treated the victim since 2004 and in his medical opinion believed that the victim's illegal conduct was directly symptomatic of the criminally injurious conduct committed against her. The Assistant Attorney General stated that the present case meets the *In re Hollar*, V94-69891tc (12-29-99) exception, where the panel allowed a claim although the minor victim had engaged in felonious conduct. The panel found the victim's felonious behavior was directly symptomatic of the criminally injurious conduct he had endured (the victim had been sexually abused and had begun acting out by engaging in criminal conduct). Counsel agreed with the Attorney General's recommendation to reverse the Final Decision.

{¶ 3} 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. Based upon the facts of this case and the evidence introduced, we agree with the parties and find that this claim shall be allowed.<sup>2</sup> Therefore, the June 6, 2005 decision of the Attorney General shall be reversed and the claim shall be remanded for economic loss calculations and decision.

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We note that on October 14, 2005 Judge William Weaver of the Lake County Court of Common Pleas found the victim to have been delinquent of committing the offense of Petty Theft, a misdemeanor violation, instead of Attempted Burglary.

IT IS THEREFORE ORDERED THAT

- 1) The June 6, 2005 decision of the Attorney General is REVERSED to render judgment in favor of 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.

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THOMAS H. BAINBRIDGE  
Commissioner

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CLARK B. WEAVER, SR.  
Commissioner

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LLOYD PIERRE-LOUIS  
Commissioner

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

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To S.C. Reporter 3-17-2006