

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: JAY C. DAGHER	:	Case No. V2004-60903
JAY C. DAGHER	:	<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 economic loss incurred as the result of an aggravated robbery on October 5, 2002. On February 17, 2004, the Attorney General denied the applicant's claim asserting that he did not incur unreimbursed work loss. On March 17, 2004, the applicant filed a request for reconsideration. On July 20, 2004, the Attorney General rendered a Final Decision indicating the applicant incurred unreimbursed work loss in the amount of \$974.52 from March 15, 2003 through September 16, 2003. However, the Attorney General denied the applicant's claim for medical expenses, incurred after the criminally injurious conduct, since they were unrelated to the injuries sustained at the time of the incident. The Attorney General asserted that those unrelated expenses were incurred as the result in the loss of the applicant's health insurance. On August 23, 2004, the applicant filed a notice of appeal to the Attorney General's July 20, 2004 Final Decision. On August 19, 2005, the Attorney General filed a Supplemental Memorandum recommending the applicant be reimbursed \$6,737.32 for work loss incurred from March 14, 2003 through

September 19, 2004. On January 17, 2006 the applicant filed a Reply to the Attorney General's August Recommended Award. The applicant contended that his work loss was incorrectly calculated because the Attorney General failed to consider: 1) the over payment and subsequent repayment to his employer of wages received while on disability; 2) the loss of his insurance coverage; 3) and medical expenses he incurred as the result of having no medical insurance. Consequently, the applicant requested that he receive an award of reparations in the amount of \$20,487.65. On February 7, 2006, the Attorney General filed a Hearing Memorandum indicating the applicant returned to work on September 26, 2004, as reflected by his pay stub. The Attorney General further stated that he would consider paying the applicant's incurred medical expenses, which amounted to \$1,190.02, less any co-pays or deductibles he would have had to pay if he had insurance coverage. Lastly, the Attorney General indicated that the total award for work loss should be \$5,762.80 (\$6,737.32 - \$974.52). On February 8, 2006, prior to the hearing, the parties filed a Joint Motion for Continuance and Remand for Partial Payment. Hence, this matter came to be heard before this panel of three commissioners on February 8, 2006 at 11:28 A.M.

{¶ 2} The applicant's attorney, via telephone, and an Assistant Attorney General attended the hearing. The Assistant Attorney General presented the Joint Motion for Continuance and Remand for Partial Payment. Applicant's counsel agreed with the Assistant Attorney General.

{¶ 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. The applicant shall be granted an award of reparations in the amount of \$5,762.80, which represents undisputed unreimbursed work loss incurred from March 14, 2003 through September 19, 2004. Questions

concerning additional work loss, medical expenses, COBRA benefits, and any other economic loss issues shall be addressed at a hearing date set forth in this order. The parties shall work diligently to clarify all issues and be prepared to fully address all matters concerning this case at the next hearing.

IT IS THEREFORE ORDERED THAT

1) The July 20, 2004, decision of the Attorney General is MODIFIED to render an additional judgment in favor of the applicant in the amount of \$5,762.80;

2) This claim is referred to the Attorney General pursuant to R.C. 2743.191 for payment of the \$5,762.80 award;

3) The Attorney General and applicant's Joint Motion for Continuance of the hearing is hereby GRANTED;

4) The oral hearing on the applicant's notice of appeal from the decision of the Attorney General shall now be heard on **May 3, 2006 at 11:00 A.M.** at the **Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Fourth Floor, Columbus, Ohio 43215**, by a panel of three commissioners;

5) On or before **April 14, 2006**, the Attorney General shall file a supplemental memorandum addressing the applicant's total work loss, insurance benefits, COBRA benefits, and medical expenses;

6) On or before **April 28, 2006**, the applicant shall file a response to the Attorney General's supplemental memorandum;

7) The parties to this action shall be prepared to proceed on the merits of this case on **May 3, 2006**;

8) The clerk shall send applicant a copy of this order and a VC-21 (Confirmation of Attendance) postcard.

TIM MC CORMACK
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

ID #\16-dld-tad-021506

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

Filed 3-17-2006
Jr. Vol. 2259, Pgs. 205-208
To S.C. Reporter 4-14-2006

