

[Cite as *In re Young*, 2006-Ohio-3304.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: RACHUN YOUNG : Case No. V2005-80401
RACHUN YOUNG : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} Rachun Young ("applicant" or "Mr. Young") filed a reparations application seeking reimbursement of expenses incurred with respect to a June 28, 2004 shooting incident. On January 24, 2005, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(E) contending that a *capias* was issued for the applicant on January 19, 2005 regarding an April 27, 2004 felony receiving stolen property charge. On February 24, 2005, the applicant filed a request for reconsideration indicating that he was cleared of the receiving stolen property charge. On May 3, 2005, the Attorney General granted the applicant an award in the amount of \$255.81 for unreimbursed medical bills. On May 27, 2005, the applicant filed a notice of appeal to the Attorney General's May 3, 2005 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on March 22, 2006 at 10:40 A.M.

{¶ 2} The applicant (via telephone), the applicant's attorney, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for the panel's consideration. Mr. Young testified that on or about June 28, 2004 he sustained two gunshot wounds to the leg. The applicant

stated that prior to the criminally injurious conduct, he performed janitorial services for various companies. Mr. Young testified that in early June of 2004, he was hired by Wick, Wick Enterprises ("Wick") to perform a 7-8 week janitorial assignment.¹ The applicant advised the panel that he and Wick had entered into similar contracts in the past, but due to the injuries he sustained as a result of the criminally injurious conduct he was unable to complete the contracted project. Mr. Young explained that Wick paid him via personal checks and noted that he did not receive a W-2 from Wick for the work he performed for Wick between 2000-2004. The applicant also admitted that he failed to report the income he received from Wick to the Internal Revenue Service.

{¶ 3} Applicant's counsel stated that the applicant's claim for unreimbursed work loss should be allowed based upon the testimony presented and the document provided by Wick that memorializes the June 2004 agreement. Counsel argued that the applicant and Wick had an established working relationship prior to the criminally injurious conduct, which is indicated by the applicant's testimony and the documents contained within the claim file.

{¶ 4} The Assistant Attorney General maintained that the applicant failed to present sufficient evidence that he had incurred work loss in the amount of \$4,567.09. The Assistant Attorney General indicated that work loss calculations are based

¹The file contains a document from Wick that indicates the applicant was subcontracted to perform scrubbing, waxing, and stripping floors at an automobile dealership from June 24, 2004 through August 15, 2004 in the amount of \$4,567.09.

on a victim's past income tax returns, which is a standard practice in the Attorney General's office. The Assistant Attorney General asserted that a deviation from this practice would lead to speculation concerning Mr. Young's actual income. Moreover, the Assistant Attorney General argued that pursuant to *In re DeRose*, V81-55846jud (1-28-85), a victim is estopped from asserting that his income is greater than the amount reported to the Internal Revenue Service. The Assistant Attorney General stated that the applicant's alleged work loss cannot be verified, since the applicant failed to report the income he received from Wick in 2003 and 2004 to the Internal Revenue Service.

{¶ 5} 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. We find that the applicant failed to present sufficient evidence that he sustained work loss from June 28, 2004 through August 15, 2004 in the amount of \$4,567.09. Therefore, the May 3, 2005 decision of the Attorney General shall be affirmed.

IT IS THEREFORE ORDERED THAT

1) The applicant's March 20, 2006 motion for telephone testimony is hereby GRANTED;

2) The May 3, 2005 decision of the Attorney General is AFFIRMED;

3) This claim is remanded to the Attorney General for payment of the May 3, 2005 award;

4) This order is entered without prejudice to the applicant's right to file a supplemental compensation

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ORDER

application, within five years of this order, pursuant to R.C.
2743.68;

5) Costs are assumed by the court of claims victims of crime fund.

GREGORY P. BARWELL
Commissioner

JAMES H. HEWITT III
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

ID #\13-dld-tad-040606

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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ORDER