

[Cite as *In re Bennington*, 2006-Ohio-3940.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: MEGHAN BENNINGTON : Case No. V2005-80789
CHARLENE MARCUM-BENNINGTON : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} The applicant filed a reparations application seeking reimbursement of expenses incurred as a result of a September 12, 2004 dog attack incident against her minor daughter, Meghan Bennington. On September 8, 2005, the Attorney General denied the claim pursuant to R.C. 2743.52(A), asserting that the applicant failed to prove that her daughter qualified as a victim of criminally injurious conduct, contending that there is no evidence that the dog's owner violated a statutory duty to properly confine the animal. The Attorney General also denied the claim pursuant to R.C. 2743.60(A) contending that the applicant failed to file a police report concerning the matter. On September 13, 2005, the applicant filed a request for reconsideration. On November 14, 2005, the Attorney General denied the claim once again. On December 1, 2005, the applicant filed a notice of appeal to the Attorney General's Final Decision. Hence, this matter was heard before this panel of three commissioners on April 5, 2006 at 10:10 A.M.

{¶ 2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented brief

comments for the panel's consideration. First, the Assistant Attorney General acknowledged that her office made an error by denying the claim pursuant to R.C. 2743.60(A). Second, the Assistant Attorney General stated that the claim should be allowed since additional information was received concerning the dog's prior history of attacks. The Assistant Attorney General asserted that the dog's owner failed to properly confine the dog pursuant to R.C. 955.22. The Assistant Attorney General requested the matter be remanded for economic loss calculations and decision. Applicant's counsel raised no objection to the Attorney General's recommendation.

{¶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. We find that the applicant has proven, by a preponderance of the evidence, that Meghan Bennington qualifies as a victim of criminally injurious conduct. We also find that the requirements of R.C. 2743.60(A) have been met by the applicant. Therefore, the November 14, 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 applicant's March 29, 2006 Motion to Review Records in Camera is hereby DENIED;
- 2) The November 14, 2005 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;
- 3) This claim is remanded to the Attorney General for economic loss calculations and decision;

4) 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;

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

RANDI OSTRY LE HOTY
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

TIM MC CORMACK
Commissioner

ID #\2-dld-tad-040706

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

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To S.C. Reporter 8-2-06

Case No. V2005-80789

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ORDER