

[Cite as *In re Miller*, 2006-Ohio-5142.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: TONY W. MILLER	:	Case No. V2006-20208
TRACY L. PETREY	:	<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 the August 14, 2005 murder of Tony Miller. On December 16, 2005, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(E) contending that at the time of the criminally injurious conduct, the decedent had engaged in a felony violation of R.C. 2925.11, since the coroner's toxicology report showed that the decedent's blood tested positive for the presence of cocaine. On January 15, 2006, the applicant filed a request for reconsideration. On February 16, 2006, the Attorney General issued a Final Decision indicating that the previous decision warranted no modification. On March 14, 2006, the applicant filed a notice of appeal to the Attorney General's Final Decision. On May 9, 2006, the Attorney General filed a brief recommending that the Final Decision be affirmed. Hence,

this matter was heard before this panel of three commissioners on June 8, 2006 at 10:30 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 for the panel's consideration. The Assistant Attorney General reiterated her position for denying the applicant's claim, as set forth in the Attorney General's May 9, 2006 brief.

{¶ 3} Revised Code 2743.60(E)(1)(e) states:

"Except as otherwise provided in division (E)(2) of this section, the Attorney General, a panel of commissioners, or a judge of the court of claims shall not make an award to a claimant if any of the following applies:

(e) It is proved by a preponderance of the evidence that the victim at the time of the criminally injurious conduct that gave rise to the claim engaged in conduct that was a felony violation of section 2925.11 of the Revised Code or engaged in any substantially similar conduct that would constitute a felony under the laws of this state, another state, or the United States."

{¶ 4} From review of the file and with full and careful consideration given to the all information presented at the

hearing, we find the February 16, 2006 decision of the Attorney General shall be affirmed.

{¶ 5} IT IS THEREFORE ORDERED THAT

{¶ 6} The applicant's June 9, 2006 motion for a continuance of the hearing is hereby DENIED;

{¶ 7} The February 16, 2006 decision of the Attorney General is AFFIRMED;

{¶ 8} This claim is DENIED and judgment is rendered for the state of Ohio;

{¶ 9} Costs are assumed by the court of claims victims of crime fund.

TIM MC CORMACK
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

KARL C. KERSCHNER
Commissioner

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

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To S.C. Reporter 9-29-2006

