

[Cite as *In re Bates*, 2006-Ohio-7119.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: DEREK S. BATES	:	Case No. V2006-20739
DEREK S. BATES	:	Commissioners:
Applicant	:	James H. Hewitt III, Presiding
	:	Gregory P. Barwell
	:	Karl C. Kerschner
	:	
	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
	:	

{¶1} Derek Bates (“applicant”) filed a reparations application seeking reimbursement of expenses incurred with respect to an alleged February 13, 2006 vehicular assault incident. On May 8, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove he incurred economic loss as a result of the alleged vehicular assault. On May 23, 2006, the applicant filed a request for reconsideration. On July 10, 2006, the Attorney General denied the claim again pursuant to R.C. 2743.52(A) on the basis that the applicant failed to prove he qualified as a victim of criminally injurious conduct. The Attorney General claims the applicant sustained injury when he slipped and fell in the path of Hager Deal’s (“Mr. Deal”) vehicle. On July 24, 2006, the applicant filed a notice of appeal to the Attorney General’s July 10, 2006 Final Decision. This matter came to be heard before this panel of three commissioners on October 18, 2006 at 11:10 A.M.

{¶2} Neither the applicant nor anyone on his behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented testimony and brief comments for the panel's consideration. Mr. Deal, the alleged offender, briefly testified concerning the events of February 13, 2006. Mr. Deal stated that he was in a parking lot around 7:30 P.M. on February 13, 2006 in his vehicle preparing to back up when he saw the applicant slip and fall in front of his vehicle. Mr. Deal noted that the applicant smelled of alcohol. Mr. Deal testified that he never struck the applicant with his vehicle, even though he took the applicant to the hospital after the applicant claimed he was injured. Mr. Deal stated that he was never charged with respect to the incident and that he truthfully reported his version of the incident to the police.

{¶3} After the conclusion of Mr. Deal's testimony, the Assistant Attorney General reiterated his position for denying the applicant's claim for an award of reparations. The panel chairman then concluded the hearing.

{¶4} From review of the file and with full and careful consideration given to all the information presented at the hearing, we find the July 10, 2006 decision of the Attorney General shall be affirmed.

IT IS THEREFORE ORDERED THAT:

- 1) The Attorney General's October 13, 2006 motion for telephone testimony is GRANTED;
- 2) The July 10, 2006 decision of the Attorney General is AFFIRMED;
- 3) This claim is DENIED and judgment is rendered for the state of Ohio;
- 4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

KARL C. KERSCHNER
Commissioner

ID #\1-dld-tad-102506

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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