

[Cite as *In re Goedde*, 2006-Ohio-7122.]

**IN THE COURT OF CLAIMS OF OHIO**

**VICTIMS OF CRIME DIVISION**

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IN RE: JERRY W. GOEDDE	:	Case No. V2006-20283
JERRY W. GOEDDE	:	Commissioners:
Applicant	:	Thomas H. Bainbridge, Presiding
	:	Tim McCormack
	:	Lloyd Pierre-Louis
	:	
	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant filed a reparations application seeking an award for work loss with respect to an October 28, 2005 assault incident. On February 15, 2006, the Attorney General granted the applicant an award of reparations in the amount of \$911.00, which represented reimbursement of medical expenses incurred as a result of the assault. However, the applicant's claim for work loss was denied since the Attorney General determined the applicant was not employed at the time of the incident. On February 23, 2006, the applicant filed a request for reconsideration. On March 27, 2006, the Attorney General determined that the previous decision warranted no modification. On April 7, 2006, the applicant filed a notice of appeal to the Attorney General's March 27, 2006 Final Decision. Hence, this matter was heard before this panel of three commissioners on November 1, 2006 at 10:30 A.M.

{¶2} The applicant's attorney and an Assistant Attorney General attended the hearing. The applicant's counsel introduced six exhibits for the panel's consideration.

The applicant's attorney argued that the applicant was employed by CFA Staffing, a temporary agency, prior to his assault. Under CFA Staffing, the applicant was assigned to work at Proctor and Gamble. The applicant worked on this job assignment from July 18, 2005 until October 16, 2005. On October 16, 2005, the applicant's employment was terminated due to his failure to appear for work. Exhibit No. 2, described applicant's termination as "job abandonment." The separation report indicated that the applicant would be eligible for re-hire.

{¶3} On October 28, 2005, the applicant was a victim of an assault. The applicant contended he was still an employee of CFA Staffing at the time of the assault, even though he did not take any work assignments from CFA Staffing until November 11, 2005. On November 17, 2005, the applicant was discharged from his work assignment due to "behavioral issues" and the employee separation report, Exhibit No. 3, noted the applicant would not be eligible for re-hire. Accordingly, on November 17, 2005, applicant's employment with CFA Staffing was terminated permanently. Applicant's attorney argued that at the time of the assault, the applicant was an employee of CFA Staffing even though he was not working on a job assignment at that time and no evidence could be presented that he attempted to obtain another job assignment until November 11, 2005. Applicant's attorney stated that although the medical information did not indicate any disability period the applicant should be granted work loss due to the injuries sustained for the period ranging from October 28, 2005 through November 11, 2005 or in the alternative three days of work loss.

{¶4} An Assistant Attorney General argued the Final Decision of the Attorney General should be affirmed because the applicant failed to prove he was gainfully employed at the time of the criminally injurious conduct. The Assistant Attorney General contended the temporary agency would look for employment when requested by the applicant, however the agency would not pay the applicant wages if he was not on a job assignment. The Assistant Attorney General argued that the applicant failed to prove he turned down a job assignment due to the injuries sustained at the time of the assault. Furthermore, the Assistant Attorney General asserted that the medical evidence does not support the contention that the applicant was disabled as a result of his injuries or that the injuries resulted in any work loss.

{¶5} From review of the file and with full and careful consideration given to all the exhibits and information presented at the hearing, we find the March 27, 2006 decision of the Attorney General shall be affirmed without prejudice. All exhibits submitted by the applicant's attorney are admitted into evidence. A review of these exhibits requires the panel to make certain factual assumptions that this panel is unwilling to make. Accordingly, the applicant has failed to prove, by a preponderance of the evidence, that he incurred work loss as a result of the criminally injurious conduct.

IT IS THEREFORE ORDERED THAT

- 1) The March 27, 2006 decision of the Attorney General is AFFIRMED without prejudice;
- 2) This claim is DENIED and judgment is rendered for the state of Ohio;

3) 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;

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

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THOMAS H. BAINBRIDGE  
Presiding Commissioner

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TIM MC CORMACK  
Commissioner

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LLOYD PIERRE-LOUIS  
Commissioner

ID #11-DRB-tad-110306

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

Filed 12-28-2006  
Jr. Vol. 2262, Pgs. 195-198  
To S.C. Reporter 1-31-2007

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ORDER