

[Cite as *In re Bailey*, 2007-Ohio-1399.]

**IN THE COURT OF CLAIMS OF OHIO  
VICTIMS OF CRIME DIVISION**

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IN RE: JEFFREY A. BAILEY	:	Case No. V2006-20470
JEFFREY A. BAILEY	:	Commissioners:
Applicant	:	Randi Ostry LeHoty, Presiding
_____	:	Gregory P. Barwell
_____	:	James H. Hewitt III
	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
	: : : : :	

{¶1} The applicant (“applicant” or “Mr. Bailey”) filed a reparations application seeking reimbursement of expenses incurred with respect to a March 4, 2005 assault incident. On February 2, 2006, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(E) contending that the applicant engaged in felonious drug use at the time of the criminally injurious conduct, since his blood tested positive for cocaine on the hospital’s toxicology report. The Attorney General also noted that the applicant admitted to hospital personnel that he had used cocaine prior to the assault. On March 3, 2006, the applicant filed a request for reconsideration. On April 25, 2006, the Attorney General determined that the previous decision warranted no modification. On May 30, 2006, the applicant filed a notice of appeal to the Attorney General’s Final Decision. Hence, on November 15, 2006 at 10:40 A.M. this matter came to be heard before this panel of three commissioners.

{¶2} The pro se applicant and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. Mr. Bailey briefly testified concerning the events of March 4, 2005. Mr. Bailey acknowledged that he told hospital personnel that he had used cocaine and alcohol prior to the assault occurring. Mr. Bailey explained that since the incident he has "cleaned up" his life and would like the opportunity to participate in the program. The Assistant Attorney General reiterated his position for denying the claim.

{¶3} Revised Code 2743.60(E)(1) 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:

(a) The victim was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.

(b) The claimant was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.

(c) It is proved by a preponderance of the evidence that the victim or the claimant engaged, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim, in an offense of violence, a violation of section 2925.03 of the Revised Code, or any substantially similar offense that also would constitute a felony under the laws of this state, another state, or the United States.

(d) The claimant was convicted of a violation of section 2919.22 or 2919.25 of the Revised Code, or of any state law or municipal ordinance substantially

similar to either section, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim.

(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 all the information presented at the hearing, we find the April 25, 2006 decision of the Attorney General shall be affirmed.

{¶5} IT IS THEREFORE ORDERED THAT

{¶6} 1) The April 25, 2006 decision of the Attorney General is AFFIRMED;

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

{¶8} 3) Costs are assumed by the court of claims victims of crime fund.

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RANDI OSTRY LE HOTY  
Presiding Commissioner

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GREGORY P. BARWELL  
Commissioner

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JAMES H. HEWITT III  
Commissioner

ID #A9-dld-tad-111706

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

Filed 1-5-2007  
Jr. Vol. 10-13  
To S.C. Reporter 3-22-2007

Case No. V2006-20470

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ORDER