

[Cite as *In re Tittl*, 2007-Ohio-1405.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: JULIE M. TITTL	:	Case No. V2006-20909
JULIE M. TITTL	:	Commissioners:
Applicant	:	James H. Hewitt III, Presiding
	:	Thomas H. Bainbridge
	:	Gregory P. Barwell
_____	:	
_____	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
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{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a July 8, 2005 identity theft incident. On July 13, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove she qualified as a victim of criminally injurious conduct. On August 17, 2006, the applicant filed a request for reconsideration. On August 29, 2006, the Attorney General issued a Final Decision indicating that the previous decision warranted no modification. On September 29, 2006, the applicant filed a notice of appeal to the Attorney General's August 29, 2006 Final Decision. On December 21, 2006 at 10:20 A.M., this matter was heard before this panel of three commissioners.

{¶2} The applicant's attorney and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. Applicant's

counsel stated that the claim should be allowed since the applicant sustained both emotional and physical injury, as evidenced by medical documentation, as a result of the identity theft crime. Counsel asserted that being the victim of such a crime qualifies the applicant as a victim of criminally injurious conduct. However, the Assistant Attorney General maintained that the applicant is ineligible to participate in the program since the identity theft incident failed to pose a substantial threat of personal injury or death to the applicant. The Assistant Attorney General stated that the applicant is victim of a financial crime that historically has not risen to a level to be considered criminally injurious conduct.

{¶3} Revised Code 2743.51 (L) states:

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

{¶4} Revised Code 2743.51(C)(1) states in pertinent part:

(C) "Criminally injurious conduct" means * * *:

- (1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Emphasis added.

{¶15} From review of the file and with full and careful consideration given to all the information presented at the hearing, we make the following determination. We find that the applicant has failed to prove, by a preponderance of the evidence, that she was a victim of criminally injurious conduct. We empathize with the applicant, however we cannot find that she was a victim of criminally injurious conduct based on the facts and circumstances of this case. See *In re Dowdell*, V2002-50749tc (9-30-02). Therefore, the August 29, 2006 decision of the Attorney General shall be affirmed.

{¶16} IT IS THEREFORE ORDERED THAT

- {¶17} 1) The August 29, 2006 decision of the Attorney General is AFFIRMED;
- {¶18} 2) This claim is DENIED and judgment is rendered for the state of Ohio;
- {¶19} 3) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Presiding Commissioner

THOMAS H. BAINBRIDGE
Commissioner

GREGORY P. BARWELL

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Commissioner

ID #A4-dld-tad-010507

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

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To S.C. Reporter 3-22-2007

Case No. V2006-20909

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ORDER