

[Cite as *In re Dailey*, 2007-Ohio-1407.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

www.cco.state.oh.us

IN RE: WILLIAM T. DAILEY, III	:	Case No. V2006-20232
CHERYL DAILEY	:	Commissioners:
WILLIAM T. DAILEY, JR.	:	James H. Hewitt III, Presiding
	:	Gregory P. Barwell
Applicants	:	Lloyd Pierre-Louis
_____	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
	: : : : :	

{¶1} The applicants filed a reparations application seeking reimbursement of expenses incurred with respect to the May 31, 2005 homicide of William Dailey (“victim”) by Matthew Meiring (“offender”). On January 12, 2006, the Attorney General denied the claim pursuant to R.C. 2743.60(F) contending that the victim had been engaging in substantial contributory misconduct when he was shot and killed. On February 14, 2006, the applicants filed a request for reconsideration. On February 27, 2006, the Attorney General issued a Final Decision indicating that the previous decision warranted no modification. On March 22, 2006, the applicants filed a notice of appeal to the Attorney General’s February 27, 2006 Final Decision. On December 20, 2006 at 11:10 A.M., this matter came to be heard before this panel of three commissioners.

{¶2} Neither the applicants nor anyone on their behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented testimony and brief

comments for the panel's consideration. Chief Lawrence Dordea ("Chief Dordea") of the City of Alliance Police Department briefly testified concerning his investigation of the victim's death. Chief Dordea stated that he interviewed eye witnesses Benjamin Briner and Christina Catich. Chief Dordea explained that Christina, Benjamin, the offender, and the victim were returning home from a day of fishing and drinking (except Christina who was pregnant) when the victim suggested retrieving his gun, an AK-47, from his home with the intent of killing a black person. All parties agreed to the idea and the victim retrieved his gun from home and discharged a round into the air. After returning to the vehicle, a struggle ensued between the victim and the offender, which resulted in the victim being shot and killed. Chief Dordea indicated that had the victim lived, he would have been charged with improperly handling firearms in a motor vehicle and conspiracy to commit murder.

{¶3} Revised Code 2743.60(F) states:

(F) In determining whether to make an award of reparations pursuant to this section, the attorney general or panel of commissioners shall consider whether there was contributory misconduct by the victim or the claimant. The attorney general, a panel of commissioners, or a judge of the court of claims shall reduce an award of reparations or deny a claim for an award of reparations to the extent it is determined to be reasonable because of the contributory misconduct of the claimant or the victim.

{¶4} Revised Code 2743.60(E)(1)(c) 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 * * * * :

(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. Emphasis added.

{¶5} 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 Attorney General has proven by a preponderance of the evidence that the victim had been engaging in violent felonious conduct and substantial contributory misconduct, improperly handling firearms in a motor vehicle (R.C. 2923.16) and conspiracy to commit murder (R.C. 2923.01), when he was shot and killed. Therefore, the February 27, 2006 decision of the Attorney General shall be affirmed.

{¶6} IT IS THEREFORE ORDERED THAT

{¶7} 1) The Attorney General's December 13, 2006 motion for telephone testimony is GRANTED;

{¶8} 2) The February 27, 2006 decision of the Attorney General is AFFIRMED;

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

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

JAMES H. HEWITT III
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

ID #A8-dld-tad-122006

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

Filed 2-16-2007
Jr. Vol. 2263, Pgs. 115-118
To S.C. Reporter 3-22-2007

Case No. V2006-20232

-1-

ORDER