

[Cite as *In re Bell*, 2007-Ohio-1408.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: LARRY L. BELL	:	
HARVEY L. GATES	:	Case No. V2006-20437
FIA M. GATES	:	
DR. L. T. GATES	:	
STEPHANIE L. BELLE	:	Case No. V2006-20453
	:	Commissioners:
	:	James H. Hewitt III, Presiding
	:	Gregory P. Barwell
	:	Lloyd Pierre-Louis
Applicants	:	<u>ORDER OF A THREE-</u> <u>COMMISSIONER PANEL</u>

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{¶1} The applicants filed a reparations application seeking reimbursement of expenses incurred with respect to the June 4, 2005 murder of Larry Bell (“victim”) by Charles Hawkins (“offender”). On December 20, 2005, the Attorney General denied the claim pursuant to R.C. 2743.60(E)(1) and R.C. 2743.60(F) since the victim was shot and killed while trafficking in illegal drugs from his home. On January 17, 2006, the applicants filed a request for reconsideration. On May 19, 2006, the Attorney General issued a Final Decision indicating that the previous decision warranted no modification. On May 27, 2006, the applicants filed a notice of appeal to the Attorney General’s May 19, 2006 Final Decision. On December 20, 2006 at 10:30 A.M., this matter was heard before this panel of three commissioners.

{¶2} Applicant Stephanie Belle appeared at the hearing via telephone and made a brief statement. An Assistant Attorney General attended the hearing and presented testimony and brief comments for the panel's consideration. Detective Daniel McGahhey ("Detective McGahhey") of the Columbus Police Department testified concerning his investigation of the victim's death. Detective McGahhey stated that the victim and offender resided next door to one another. Detective McGahhey explained that the offender would frequently purchase illegal drugs from the victim. However on the day in question, the victim sold all of his supply before the offender could make a purchase. A struggle ensued and the victim was shot and killed. Detective McGahhey testified that he interviewed a number of witnesses who confirmed that the victim was a known drug dealer.

{¶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 if ***:

(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.

{¶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 Attorney General has proven by a preponderance of the evidence that the victim had been engaging in felonious conduct and substantial contributory misconduct, drug trafficking (R.C. 2925.03), when he was shot and killed. Therefore, the May 19, 2006 decision of the Attorney General shall be affirmed.

{¶16} IT IS THEREFORE ORDERED THAT

- {¶17} 1) The May 19, 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

GREGORY P. BARWELL
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

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ID #A12-dld-tad-122006

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

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To S.C. Reporter 3-22-2007

