

[Cite as *In re Moreland*, 2007-Ohio-2271.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: SHAUN I. MORELAND	:	Case No. V2006-20976
BEVERLY A. MORELAND	:	COMMISSIONERS:
Applicant	:	Tim McCormack, Presiding
	:	Karl C. Kerschner
	:	Randi Ostry LeHoty
	:	
	:	<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 May 7, 2006 alleged assault against Shaun Moreland (“Mr. Moreland”). On August 24, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove by a preponderance of the evidence that Mr. Moreland was a victim of criminally injurious conduct, since he was arrested for burglary as a result of the incident. On September 6, 2006, the applicant filed a request for reconsideration. On October 12, 2006, the Attorney General issued a Final Decision that denied the claim once again. On October 18, 2006, the applicant filed a notice of appeal to the Attorney General’s October 12, 2006 Final Decision. On January 11, 2007 at 10:35 A.M., this matter was heard before this panel of three commissioners.

{¶2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented testimony and brief comments for the panel's consideration. The Attorney General's only witness, Detective Mark Scott ("Detective Scott") of the City of Dayton Police Department, testified (via telephone) that he received a report of burglary at a vacant premise. Detective Scott explained that four subjects were found in the home and were arrested and charged with burglary. However, the grand jury "no billed" the charges due to the lack of evidence of a theft violation. Detective Scott related that there was no evidence that Mr. Moreland or the other subjects had been chased, assaulted, or injured in any manner.

{¶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 one of the following:

- (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.

{¶5} From review of the file and with full and careful consideration given to all the information presented at the hearing, we find that the applicant failed to prove by a

preponderance of the evidence that Mr. Moreland was a victim of criminally injurious conduct. Therefore, the October 12, 2006 decision of the Attorney General shall be affirmed.

{¶6} IT IS THEREFORE ORDERED THAT

{¶7} 1) The Attorney General's January 5, 2007 motion for telephone testimony is hereby GRANTED;

{¶8} 2) The October 12, 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.

TIM MC CORMACK
Presiding Commissioner

KARL C. KERSCHNER
Commissioner

RANDI OSTRY LE HOTY
Commissioner

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ID #A1-dld-tad-011807

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

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Jr. Vol. 2263, Pgs. 151-154

To S.C. Reporter 5-11-2007