

[Cite as *In re Hunt*, 2007-Ohio-2932.]

**IN THE COURT OF CLAIMS OF OHIO**

**VICTIMS OF CRIME DIVISION**

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IN RE: LARRY C. HUNT	:	Case No. V2006-20682
LARRY C. HUNT	:	Commissioners:
Applicant	:	Tim Mc Cormack, Presiding
	:	Thomas H. Bainbridge
	:	Karl C. Kerschner
_____	:	
_____	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
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{¶1} Larry Hunt (“applicant” or “Mr. Hunt”) filed a reparations application seeking reimbursement of expenses incurred with respect to an October 10, 2005 assault incident. On May 3, 2006, the Attorney General granted the applicant an award totaling \$1,238.64, of which \$983.73 represented allowable expense and \$254.91 represented unreimbursed work loss sustained between October 10, 2005 through October 25, 2005. On May 24, 2006, the applicant filed a request for reconsideration. On June 5, 2006, the Attorney General denied the applicant’s claim pursuant to R.C. 2743.60(E) contending that the applicant engaged in violent felonious conduct, burglary, on April 2, 2000. The Attorney General stated that the applicant entered the home of Clara Ward (“Mrs. Ward”) shortly after midnight on April 2, 2000 without permission and molested her. On June 30, 2006, the applicant filed a notice of appeal to the Attorney

General's June 5, 2006 Final Decision. On February 8, 2007 at 10:20 A.M., this matter was heard by this panel of three commissioners.

{¶2} The applicant, applicant's attorney, and an Assistant Attorney General attended the hearing and presented testimony, exhibits, and oral argument for the panel's consideration. Mr. Hunt testified that he and Stacy Ely ("Ms. Ely") dated for several years prior to April 2000 and currently have a son together. Mr. Hunt stated that Mrs. Ward is Ms. Ely's mother and that Ms. Ely resided with her mother and stepfather in their house in April 2000. Mr. Hunt explained that on the evening of April 1, 2000 he had been at a friend's house drinking and watching a basketball game and was to meet Ms. Ely at her house at 11:00 P.M., but did not arrive until approximately midnight (the applicant acknowledged that he was intoxicated when he left his friend's home).

{¶3} The applicant further explained that after his friend dropped him off at the house, he ran to the door, knocked, entered the home, and proceeded to Ms. Ely's bedroom. The applicant related that his entering the house in that manner was a common practice and that he never had been told that he needed any special permission to enter the home or that he was not allowed at the residence. According to Mr. Hunt, after realizing that Ms. Ely was not home, he inquired (while standing in the living room) if anyone knew the whereabouts of Ms. Ely. Mrs. Ward (who was home alone in her bedroom) responded that she did not know. Mr. Hunt then asked Mrs. Ward for a ride home because it was raining outside. The applicant related that Mrs. Ward drove him home and he went to sleep.

{¶4} Mr. Hunt stated that he was awakened and arrested by the police at approximately 3:00 A.M. for burglary. The applicant denied that he ever molested or touched Mrs. Ward. Mr. Hunt stated that the burglary charge was ultimately reduced to misdemeanor trespass, to which he pled guilty upon the advice of counsel.

{¶5} Chief John Siranovic ("Chief Siranovic") of the Smith Township Police Department briefly testified that on April 2, 2000 he was dispatched as backup to Mrs. Ward's residence concerning a report of sexual misconduct. Chief Siranovic explained that, after Mrs. Ward was interviewed, he and another officer went to the applicant's residence and arrested him. Chief Siranovic stated that the applicant was found sleeping in his bed fully dressed and highly intoxicated. Chief Siranovic indicated that he explained to Mr. Hunt the reason for his arrest, but the applicant was unable to explain or recall the evening's events due to his inebriated state.

{¶6} Patrick Vasil ("Mr. Vasil"), an investigator with the Attorney General's Crime Victim's Office, briefly testified that Mrs. Ward informed him that the applicant groped her breast and attempted to kiss her on the night in question. Mrs. Ward stated to Mr. Vasil that she gave Mr. Hunt a ride home only because she was afraid of him and indicated that she is still afraid today. Mr. Vasil acknowledged that he never interviewed the applicant.

{¶7} Applicant's counsel stated that the claim should be allowed based upon the applicant's testimony and the affidavits of Alex Robertson (applicant's criminal counsel) and Ms. Ely. Counsel argued that the allegation of burglary against the applicant is unfounded and did not result in a felony conviction. Counsel asserted that

the only evidence the Attorney General has is the self-serving statement of Mrs. Ward, who reportedly did not approve of the applicant and her daughter dating. Counsel noted that applicant continues to have contact with Mrs. Ward, despite her allegation of being afraid of him.

{¶8} The Assistant Attorney General maintained that the claim should be denied contending that the applicant engaged in violent felonious conduct on April 2, 2000. The Assistant Attorney General asserted that she met her burden of proof via the police report and Chief Siranovic's and Mr. Vasil's testimony. The Assistant Attorney General argued that the applicant's testimony is unreliable since he was too intoxicated to accurately recall the events surrounding the alleged incident.

{¶9} R.C. 2743.60(E)(1) states, in part:

"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:

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(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."

{¶10} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, we make the following determination. We find

that the Attorney General failed to prove that the applicant engaged in an offense of felony violence on April 2, 2000. The Attorney General failed to present sufficient evidence, pursuant to established case precedent, to deny the applicant's claim pursuant to R.C. 2743.60(E). The only substantive evidence the Attorney General presented was Mrs. Ward's statement. See *In re Carver* (1997), 91 Ohio Misc. 2d 178 and *In re Adams*, V96-60191jud (7-24-98). Therefore, the June 5, 2006 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for total economic loss calculations and decision.

**{¶11}** IT IS THEREFORE ORDERED THAT

**{¶12}** 1) The Attorney General's February 1, 2007 motion for telephone testimony is hereby GRANTED;

**{¶13}** 2) The June 5, 2006 decision of the Attorney General is REVERSED and judgment is rendered in favor of the applicant.

**{¶14}** 3) The claim is remanded to the Attorney General for total economic loss calculations and decision;

**{¶15}** 4) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

**{¶16}** "5) Costs are assumed by the court of claims victims of crime fund.

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TIM MC CORMACK  
Presiding Commissioner

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THOMAS H. BAINBRIDGE  
Commissioner

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KARL C. KERSCHNER  
Commissioner

ID #A12-dld-laa-022007

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

Filed 4-2-2007  
Jr. Vol. 2264, Pgs. 29-34  
To S.C. Reporter 6-8-2007

Case No. V2006-20682

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ORDER