

[Cite as *In re Shehee*, 2007-Ohio-3482.]

{¶1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to the March 7, 2006 homicide of Garey Shehee. On September 14, 2006, the Attorney General denied the claim pursuant to R.C. 2743.60(E)(1)(c) contending that the victim had been engaging in drug trafficking on September 23, 2005 in violation of R.C. 2925.03. On October 6, 2006, the applicant filed a request for reconsideration. On December 5, 2006, the Attorney General determined that the previous decision warranted no modification. On January 8, 2007, the applicant filed a notice of appeal to the Attorney General's December 5, 2006 Final Decision. On April 5, 2007 at 10:10 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 comments for the panel's consideration. The Assistant Attorney General briefly summarized the facts of the case and reiterated his position for denying the claim. After a brief discussion of the case, the panel chairperson concluded the hearing.

{¶3} Revised Code 2743.60(E)(1)(c) states:

“(E)(1) 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:”

“(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.”

{¶4} From review of the file and with full and careful consideration given to all the information presented at the hearing, we find that the victim had engaged in drug trafficking on September 23, 2005, which is within ten years of the criminally injurious conduct. Detective Michelle Moser advised that the victim had been under surveillance for a period of time and was observed by an undercover detective selling drugs on the street on September 23, 2005. When the victim was arrested, he had heroin in his possession.¹

{¶5} Moreover, we note that Detective Darryl Smith of the Dayton Police Department stated that the victim had been convicted of a federal felony offense of possession with the intent to distribute a schedule II narcotic substance in 1995.² We find the above evidence to be compelling of the victim’s ongoing history of engaging in drug trafficking. Therefore, the December 5, 2006 decision of the Attorney General shall be affirmed.

{¶6} IT IS THEREFORE ORDERED THAT

1

See the September 23, 2005 police report.

2

See the Attorney General’s August 31, 2006 Field Report and the Federal Criminal case 3:95-cr-00048-WHR-ALL.

{¶7} 1) The December 5, 2006 decision of the Attorney General is
AFFIRMED;

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

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

GREGORY P. BARWELL
Presiding Commissioner

THOMAS H. BAINBRIDGE
Commissioner

KARL C. KERSCHNER
Commissioner

ID #5-dld-tad-041207

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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Case No. V2007-90021

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ORDER