

[Cite as *In re Geiman*, 2007-Ohio-4695.]

Court of Claims of Ohio

Victims of Crime Division

The Ohio Judicial Center
65 South Front Street, Fourth Floor
Columbus, OH 43215
614.387.9860 or 1.800.824.8263
www.cco.state.oh.us

IN RE: RUTH M. GEIMAN

Case No. V2005-80711

RUTH M. GEIMAN

Applicant

Commissioners:

Clarence E. Mingo II, Presiding

Gregory P. Barwell

Randi Ostry LeHoty

OPINION OF A THREE-
COMMISSIONER PANEL

{¶1} Ruth Geiman (“applicant” or “Ms. Geiman”) filed a reparations application seeking reimbursement of expenses incurred with respect to an April 11, 2003 assault incident. The applicant, a teacher, alleges she was assaulted by a high school student and that she suffered emotional distress, diminished eye sight, and injury to her wrist as a result of the assault. On July 26, 2005, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that she incurred economic loss as a result of the assault. On August 9, 2005, the applicant filed a request for reconsideration contending that she sustained injury to her eye during the assault. On October 11, 2005, the Attorney General denied the claim once again. The Attorney General stated that the alleged eye injury is not related to the criminally injurious conduct. On November 4, 2005, the applicant filed a notice of appeal to the

Attorney General's October 11, 2005 Final Decision. After several continuances, on June 21, 2007 at 11:45 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 and oral argument for the panel's consideration.

{¶3} Dr. John Cunningham ("Dr. Cunningham"), the Attorney General's paid consultant, testified that he practices in the area of occupational and preventative medicine. Dr. Cunningham indicated that he was contracted to review Ms. Geiman's medical files and to render an advisory opinion as to whether her eye condition was related to the criminally injurious conduct. Dr. Cunningham testified, to a reasonable degree of medical certainty, that there is no evidence that the applicant sustained any injury during the April 11, 2003 assault that caused the applicant's current eye condition. Dr. Cunningham testified that there is no mention (or evidence) of a head injury in any of the applicant's early reports (i.e. police report, Urgent Care report, Medworks report, etc.) following the criminally injurious conduct. Dr. Cunningham acknowledged that he never consulted or treated Ms. Geiman.

{¶4} Jeanette Nolte ("Mrs. Nolte"), the applicant's sister-in-law, testified that she went to the applicant's house on April 11, 2003 to pick up her nephew after receiving a telephone call that the applicant had been assaulted at work. Mrs. Nolte stated that her sister-in-law informed her that her head hurt, upon which she examined her head and discovered a 1 ½ inch "knot" on the top of the applicant's head. Mrs.

Nolte also stated that the applicant's wrist was swollen and that her glasses were twisted and bent.

{¶5} Ms. Geiman testified that she has a masters degree and a Ph.D. and is currently teaching part-time (on campus and on-line) at the University of Phoenix. The applicant stated that in 2002 she started working at Troutwood-Madison High School as a 9th grade Algebra teacher. Ms. Geiman explained that on April 11, 2003, she was administering an examination when a student became agitated. She attempted to calm the student, but she was subsequently assaulted. Ms. Geiman related that she was surprised by the student's reaction considering that typically he was cooperative.¹ The applicant explained that she called for adult assistance to no avail. Ms. Geiman elaborated that after the incident concluded, she reported the matter to her department chair and principal but was instructed to return to the classroom for the remainder of the day. Ms. Geiman indicated that during her approximately ½ hour drive home, she had difficulty seeing and was forcing cars off the road due to a loss of her left peripheral vision. Once she arrived at home, her daughter took her to an Urgent Care, where she reported her hand injury. Ms. Geiman stated that her employer provided her with two months of assault leave.

{¶6} Ms. Geiman testified that after the April 11, 2003 incident, she began a series of consultations with various ophthalmologists and underwent a number of surgeries concerning her vision issues. Ms. Geiman testified that she currently sees Dr. Opremcak with respect to her eye issues and Dr. Moon concerning her depression.

¹Ms. Geiman indicated that she later learned that the student had been recently placed in foster care after his father was charged with murder.

{¶7} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, we find Ms. Geiman sustained injury during the April 11, 2003 assault that aggravated her pre-existing eye condition. The following is a summary of various medical documents, which the panel reviewed and considered:

{¶8} 1. 4/11/03 - Report - Doctor's Urgent Care Office - The report is silent as to any head or eye injury.

{¶9} 2. 4/17/03 - Injured Worker Treatment Report - Medwork/Dr. Imbrogno (an occupational and preventative medicine physician hired by the Bureau of Workers' Compensation): The report indicates that Ms. Geiman was involved in an altercation with a student on April 11, 2003. The applicant "believes the student grabbed her hand, *but she does not remember precisely what happened or the exact mechanism.*" (Emphasis added.)

{¶10} 3. 4/25/03 - Letter to Dr. Slamer from Dr. Carroll (an ophthalmologist): The letter indicates that Ms. Geiman was first seen on April 11, 2003 with a report of vision problems. The applicant was seen to evaluate decreased visual field in her left eye. The report indicates the applicant was "*assaulted approximately 3 weeks ago and apparently struck in the left eye because she was treated for a corneal abrasion there.*" (Emphasis added.)

{¶11} 4. 4/30/03 - Bureau of Workers' Compensation Form 1113: The report indicates that the applicant was diagnosed with 368.40 (Visual Field Defect) by a physician at the Doctor's Urgent Care Office.

{¶12} 5. 5/7/03 - Letter to Dr. Carroll from Dr. Hartel (an ophthalmologist): The letter indicates that Ms. Geiman was first seen on May 7, 2003. The applicant stated

that she “became aware of temporal visual loss involving her left eye following an assault by a student on April 11, 2003. She was not sure whether or not there had been significant head injury during the assault.”

{¶13} 6. 6/7/03 - Letter to Dr. Hartel from Dr. Schumann (an ophthalmologist): The applicant reported that she “had some trouble seeing to the left side when attempting to drive immediately after the assault.”

{¶14} 7. 1/8/04 - Letter - Dr. Schumann: Dr. Schumann reported that the applicant had pre-existing narrow angle glaucoma in both eyes and that “*it is more than 50 percent probable that she developed acute angle-closure glaucoma, or exacerbation of chronic angle-closure glaucoma in the left eye as a result of the stress that was induced by the assault.*” (Emphasis added.)

{¶15} 8. 1/23/04 - Psychiatric Evaluation - Dr. Moon (a psychiatrist): The applicant reported that on April 11, 2003, “*a student hit her on the side of her head three different times, which triggered increased pressure in her left eye and created trauma to her eye.*” The applicant reported that it was a congenital problem that was aggravated by the trauma. The applicant’s initial diagnostic impression was listed as major depressive disorder and eye related problems. (Emphasis added.)

{¶16} 9. 5/24/04 - Letter - Toni Muhovich, MS, LPCC from Dr. Moon’s Office: Ms. Muhovich reported that in her opinion Ms. Geiman “*has been suffering from major depression since December 2003 It is my opinion her major depression developed as a proximate result of her injury on April 11, 2003 and she is considered totally disabled for her employment as a teacher due to major depression.*” (Emphasis added.)

{¶17} 10. 1/15/05 - Physician Review - Dr. Scharf (an anesthesiologist hired by the Bureau of Workers' Compensation): Dr. Scharf indicated that *he believed that there was more than 50 percent probability that the applicant's pre-existing eye condition was aggravated by the assault.*

{¶18} 11. 4/14/05 - Medical Information Report - Dr. Hartel: Dr. Hartel indicated that he first saw Ms. Geiman on May 7, 2003 and that the applicant reported that she had been assaulted and subsequently became aware of temporal visual loss. Dr. Hartel diagnosed the applicant as having chronic angle-closure glaucoma. Dr. Hartel opined that possibly 100 percent is the percentage of the applicant's inability to work as a result of the criminally injurious conduct.

{¶19} 12. 4/22/05 - Medical Information Report - Dr. Slamer: Dr. Slamer noted that he first saw the applicant on April 23, 2003 and that she reported being hit on the left side of her head by a student and that she could not see well on her left side.

{¶20} 13. 7/10/05 - Letter - Dr. Schumann: Dr. Schumann stated that the applicant reported that she noticed an immediate change of vision to her left eye following the April 11, 2003 incident and that she saw Dr. Carroll, an ophthalmologist, on April 25, 2003. Dr. Schumann stated that "it is possible that Ms. Geiman's optic nerve damage and visual field loss in the left eye are a result of angle-closure glaucoma, which, in turn, was a result of exacerbation of a previously existing narrow angle condition, by the mechanism of increased stress from the April 11, 2003 incident. *I feel there is a greater than 51% probability that the incident on April 11, 2003 did exacerbate her pre-existing narrow angle condition.*" Dr. Schumann also stated that "the diagnosis of traumatic optic neuropathy best fits Ms. Geiman's history of noting

sudden visual field loss immediately following the incident.” Dr. Schumann explained that “traumatic optic neuropathy is a condition that can be suffered by any person who suffers severe blunt trauma.” (Emphasis added.)

{¶21} 14. 3/17/06 - Report - Dr. Cunningham: After reviewing Ms. Geiman’s medical records, Dr. Cunningham opined that the applicant failed to sustain any injury during the criminally injurious conduct which caused or contributed to the applicant’s vision issues.

{¶22} 15. 1/18/07 - Statement - Dr. Opremcak (an ophthalmologist hired by the Industrial Commission): Dr. Opremcak indicated that he agrees with Dr. Schumann’s January 8, 2004 assessment of the applicant.

{¶23} Based on the voluminous medical information that has been provided and Mrs. Nolte’s eyewitness testimony concerning a bruise on the applicant’s head, we believe Ms. Geiman indeed suffered a head injury. However, we do not find that the victim suffered *severe blunt trauma*, which would have caused “traumatic optic neuropathy.”

{¶24} Ms. Geiman’s eye issues were exacerbated on April 11, 2003 by the assault. Ms. Geiman suffered from a pre-existing narrow-angle glaucoma, however we find that the applicant developed angle-closure glaucoma after the criminally injurious conduct. Moreover, based on Dr. Carroll’s April 25, 2003 letter, we also note that the applicant suffered a direct eye injury, a corneal abrasion. We find that there is a greater than 51 percent probability that the criminally injurious conduct exacerbated the applicant’s pre-existing narrow angle condition. Based upon the evidence presented in Dr. Schumann’s report, we find that the applicant’s claim may only be reimbursed at 15

percent, which is the percentage of injury that was indirectly a result of the criminally injurious conduct, due to the exacerbation of a previously existing condition. Also, based upon the proffered medical evidence, we find that the April 11, 2003 assault has caused the applicant to suffer from major depression. Therefore, the October 11, 2005 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.

CLARENCE E. MINGO II
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

RANDI OSTRY LE HOTY
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ORDER OF A THREE-
COMMISSIONER PANEL

IT IS THEREFORE ORDERED THAT

1) The October 11, 2005 decision of the Attorney General is REVERSED and judgment is rendered for the applicant;

2) This claim is remanded to the Attorney General for total economic loss calculations and decision;

3) 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;

4) Costs are assumed by the court of claims victims of crime fund.

CLARENCE E. MINGO II
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

RANDI OSTRY LE HOTY
Commissioner

ID #A22-dfd-tad-071007

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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