

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center

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IN RE: MAJEED BAZAZPOUR

Case No. V2007-90102

MAJEED BAZAZPOUR

Commissioners:
Karl C. Kerschner, Presiding
Thomas H. Bainbridge
Tim McCormack

Applicant

ORDER OF A THREE-
COMMISSIONER PANEL

{¶1} Majeed Bazazpour (“Mr. Bazazpour” or “applicant”) filed a reparations application seeking reimbursement of expenses incurred with respect to a December 3, 2005 shooting incident. On April 26, 2006, the Attorney General denied the claim for reimbursement pursuant to R.C. 2743.60(E) contending that the applicant had engaged in violent felonious conduct on or about November 11, 1998. The applicant allegedly shot Luis Perez (“Mr. Perez”). The applicant was, however, found not guilty of that offense on March 20, 2000. On May 22, 2006, the applicant filed a request for reconsideration. On January 22, 2007, the Attorney General denied the claim once again. On February 6, 2007, the applicant filed a notice of appeal to the Attorney General’s January 22, 2007 Final Decision. At 11:00 A.M. on August 8, 2007, this matter was heard by this panel of three commissioners.

{¶2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for the panel's consideration. Mr. Bazazpour testified that he, Mr. Perez, and Cyrus Ghassad ("Mr. Ghassad") worked at Gina's Drive-Thru. The applicant stated that on November 11, 1998, the business was robbed and that the robbery was promptly reported to the police. The applicant explained that he thought the robbery was an "inside job," because only rolled coins were stolen. Mr. Bazazpour returned to work the next day; Mr. Perez did not, though he was scheduled to work.

{¶3} The applicant stated later that day, Mr. Ghassad received a telephone call from an employee of Six Brothers Market, another store located in the immediate area, indicating that Mr. Perez was at the store and was attempting to obtain cash for rolled coins in his possession. Mr. Bazazpour testified that Mr. Ghassad proceeded to Six Brothers Market to retrieve the coins from Mr. Perez, but returned 5 to 10 minutes later because Mr. Perez had already left Six Brothers Market. The applicant stated that he remained at Gina's Drive-Thru the entire day and that, when Mr. Ghassad returned, he too remained at the store until closing. The applicant expressly and repeatedly denied that he shot Mr. Perez and stated that he does not know why Mr. Perez reported him as the shooter. Mr. Bazazpour stated that he was, nevertheless, arrested for felonious assault in connection with the incident.

{¶4} Detective Ronald Rodway (“Detective Rodway”) of the Youngstown Police Department testified that he investigated the November 1998 shooting of Mr. Perez. Detective Rodway stated that he first spoke to Mr. Perez at the hospital. Detective Rodway explained that Mr. Perez informed him that he went to cash in some coins at Six Brothers Market when he was assaulted by Mr. Ghassad and, subsequently, was shot by the applicant. Mr. Ghassad and Mr. Bazazpour had accused Mr. Perez of stealing. Detective Rodway stated that the bullet had lodged under Mr. Perez’s skin, but had not penetrated his skull. Mr. Perez was discharged from the hospital on November 13, 1998 and visited the police station on November 16, 1998 for a follow-up interview, in which he maintained that the applicant was his shooter.

{¶5} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, we find that the Attorney General failed to prove by a preponderance of the evidence that the applicant engaged in violent felonious conduct on or about November 11, 1998.

{¶6} In order to deny a claim under R.C. 2743.60(E)(1)(c) the Attorney General must establish, by a preponderance of the evidence, that, inter alia, the victim or claimant engaged in violent felonious conduct. With respect to the exclusionary criteria of R.C. 2743.60, the Attorney General bears the burden of proof by a preponderance of

the evidence. *In re Williams*, V77-0739jud (3-26-79); and *In re Brown*, V78-3638jud (12-13-79).

{¶7} Here, the Attorney General did not meet the burden required to deny applicant's claim under R.C. 2743.60(E)(1)(c). We find the following facts to be compelling evidence that the applicant did not engage in violent felonious conduct. First, while not dispositive, it is compelling that the applicant was found not guilty of the offense at issue. Second, the panel determined the applicant offered credible hearing testimony that he did not shoot Mr. Perez; the Attorney General did not offer Mr. Perez's testimony for the panel's consideration. Third, the Attorney General failed to provide any eye witness testimony or compelling evidence to rebut applicant's testimony, despite its burden in this matter. Fourth, Mr. Perez, whose version of the facts was only relayed at the hearing through Detective Rodway, conceded a precarious past including drug abuse at his criminal trial, eroding his credibility. And fifth, the Attorney General failed to provide any physical evidence establishing, or even linking, Mr. Bazazpour to the shooting offense at issue. Based upon the above information, we find that the January 22, 2007 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.

{¶8} IT IS THEREFORE ORDERED THAT

{¶9} 1) The January 22, 2007 decision of the Attorney General is REVERSED and judgment is rendered for the applicant;

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

{¶11} 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;

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

KARL C. KERSCHNER
Presiding Commissioner

THOMAS H. BAINBRIDGE
Commissioner

TIM MC CORMACK
Commissioner

[Cite as *In re Bazazpour*, 2007-Ohio-6285.]

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

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