

[Cite as *In re Miller*, 2007-Ohio-7279.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

www.cco.state.oh.us

IN RE:MADELINE W. MILLER : Case No. V2006-20780

MADELINE W. MILLER : DECISION

Applicant : Judge Clark B. Weaver Sr.

: : : : : : : : : :

{¶ 1} This matter came on to be considered upon the Attorney General's appeal from the March 2, 2007, order issued by the panel of commissioners. The panel's determination reversed the final decision of the Attorney General, which had denied applicant's claim for storage expenses based upon a finding that those expenses were not allowable expenses pursuant to R.C. 2743.51(F). The panel determined that applicant's storage fees and moving expense were incurred as a result of the criminally injurious conduct.

{¶ 2} R.C. 2743.52(A) places the burden of proof on an applicant to satisfy the Court of Claims Commissioners that the requirements for an award have been met by a preponderance of the evidence. *In re Rios* (1983), 8 Ohio Misc.2d 4, 8 OBR 63, 455 N.E.2d 1374. The panel found, upon review of the evidence, that applicant presented sufficient evidence to meet her burden.

{¶ 3} The standard for reviewing claims that are appealed to the court is established by R.C. 2743.61(C), which provides in pertinent part: "If upon hearing and

consideration of the record and evidence, the judge decides that the decision of the panel of commissioners is unreasonable or unlawful, the judge shall reverse and vacate the decision or modify it and enter judgment on the claim. The decision of the judge of the court of claims is final.”

{¶ 4} Upon review of applicant’s testimony regarding the incident, the panel determined that applicant suffered both physical and mental injuries as a result of a home invasion. The Attorney General asserts that applicant has failed to prove that her moving expense and storage fees were reasonably needed for her medical care or rehabilitation. R.C. 2743.51(F)(1) states, in relevant part: “Allowable expense” means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. ***”

{¶ 5} In its decision, the panel summarized applicant’s testimony regarding the home invasion, during which applicant was threatened with a gun and assaulted. According to applicant, she was hospitalized for several days to treat her physical injuries, including a heart condition. Upon her release, applicant and her husband resided with relatives until they were able to locate a new residence. Applicant testified at the panel hearing that her family physician advised her to relocate and that she submitted a note from her physician documenting his advice.

{¶ 6} The court finds that the panel was presented with sufficient evidence to show that applicant’s storage fees and moving expense were medically necessary to

treat the injuries that she suffered as a result of the criminally injurious conduct.

{¶ 7} Upon review of the file in this matter, the court finds that the panel of commissioners was not arbitrary in finding that applicant had shown by a preponderance of the evidence that she was entitled to an award of reparations.

{¶ 8} Based on the evidence and R.C. 2743.61, it is the court's opinion that the decision of the panel of commissioners was reasonable and lawful. Therefore, this court affirms the decision of the three-commissioner panel.

CLARK B. WEAVER SR.
Judge

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

www.cco.state.oh.us

IN RE:MADELINE W. MILLER : Case No. V2006-20780

MADELINE W. MILLER : ORDER

Applicant : Judge Clark B. Weaver Sr.

: : : : : : : : : :

{¶ 9} Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and the Attorney General's appeal must be denied.

IT IS HEREBY ORDERED THAT:

{¶ 10} 1) The order of March 2, 2007, (Jr. Vol. 2263, Pages 139-143) is approved, affirmed and adopted;

{¶ 11} 2) This claim is REFERRED to the Attorney General for economic loss calculations and decision;

{¶ 12} 3) Costs assumed by the reparations fund.

CLARK B. WEAVER SR.
Judge

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