



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: ORA L. HOSKINS

Case No. V2008-30901

ORA L. HOSKINS

Applicant

Commissioners:
Lloyd Pierre-Louis, Presiding
Thomas H. Bainbridge
Karl C. Kerschner

ORDER OF A
THREE-COMMISSIONER PANEL

{¶ 1} On May 6, 2008, the applicant, Ora Hoskins, filed a compensation application as the result of an incident that occurred on October 9, 2006. On July 21, 2008, the Attorney General issued a finding of fact and decision determining the applicant's claim should be denied since the applicant failed to prove, by a preponderance of the evidence, that she was a victim of criminally injurious conduct as defined in R.C. 2743.51(C)(1). Also, the applicant failed to report the alleged criminal incident to police as is mandated by R.C. 2743.60(A). On August 20, 2008, the applicant submitted a request for reconsideration. On October 20, 2008, the Attorney General rendered a Final Decision finding no reason to modify its initial decision. On November 12, 2008, the applicant filed a notice of appeal from the October 20, 2008 Final Decision of the Attorney General. Hence, a hearing was held before this panel of three commissioners on April 1, 2009 at 11:10 A.M.

{¶ 2} The applicant, Ora Hoskins, and her attorneys, Byron Potts and Olivia Singletary, appeared at the hearing while the state was represented by Assistant Attorneys General Lyndsay Nash and Heidi James.

{¶ 3} The applicant asserted that she was a victim of criminally injurious conduct when she was assaulted at Swan Creek Retirement Home. She contended she communicated the assault to personnel at the retirement facility. She contends they had a statutory duty to report the incident to police but failed to do so. She also

indicated that she has recently reported the incident to police. Finally, the applicant contended she has incurred numerous medical expenses as a result of the assault.

{¶ 4} The Attorney General contended that the applicant has failed to prove, by a preponderance of the evidence, that she was a victim of criminally injurious conduct. Furthermore, there is no record that the incident was ever reported to Swan Creek Retirement Home.

{¶ 5} The applicant, Ora Hoskins, was called as a witness. She testified that she was hurt on October 9, 2006, but could not recall or remember what happened to cause her injuries. She related that later in the day, she received medical treatment at Toledo Hospital. She speculated that possibly an orderly had assaulted her. The applicant presented Exhibit 1, a police report from the Toledo Police Department. The report, dated October 31, 2008, indicated that “[t]he victim claimed that one of the nurses at the facility had knocked her into the wall and put her in a choke hold, causing her to pass out.” Finally, the applicant claimed as the result of her injuries she is totally disabled.

{¶ 6} Upon questioning by the panel of commissioners the applicant stated she could not recall or remember how she was injured. Upon cross-examination, the applicant stated that the description of the events as they appeared in the police report was hearsay and that no one witnessed these events or admitted that they occurred. The Attorney General introduced State’s Exhibit A, a supplement to the Toledo Police Department report. Whereupon, the testimony of the applicant was concluded.

{¶ 7} The Attorney General called Leo Christian Hallows, a field investigator with the Attorney General’s office, to testify. Mr. Hallows related that no report concerning this incident could be obtained from Swan Creek Retirement Home. He also asserted that he obtained a report from the Toledo Police Department introduced as State’s Exhibit B. After a short cross-examination, the witness’ testimony was concluded. After closing arguments were presented by both parties, the hearing was adjourned.

{¶ 8} R.C. 2743.51(C)(1) in pertinent part states:

“(C) “Criminally injurious conduct” means one of the following:

“(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death . . .”

{¶ 9} R.C. 2743.52(B) states:

“(B) A court of claims panel of commissioners or a judge of the court of claims has appellate jurisdiction to order awards of reparations for economic loss arising from criminally injurious conduct, if satisfied by a preponderance of the evidence that the requirements for an award of reparations have been met.”

{¶ 10} Black’s Law Dictionary Sixth Edition (1990) defines preponderance of the evidence as: “evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.”

{¶ 11} Black’s Law Dictionary Sixth Edition (1990) defines burden of proof as: “the necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a cause. The obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court.”

{¶ 12} From a review of the claim file and with full and careful consideration given to all information presented at the hearing, we find the applicant has failed to prove, by a preponderance of the evidence, that she was a victim of criminally injurious conduct. Therefore, the October 20, 2008 decision of the Attorney General is affirmed.

{¶ 13} IT IS THEREFORE ORDERED THAT

{¶ 14} 1) Applicant’s Exhibit 1 is admitted into evidence;

{¶ 15} 2) State’s Exhibits A and B are admitted into evidence;

{¶ 16} 3) The October 20, 2008 decision of the Attorney General is
AFFIRMED;

{¶ 17} 4) This claim is DENIED and judgment is entered for the state of Ohio;

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

LLOYD PIERRE-LOUIS
Presiding Commissioner

THOMAS H. BAINBRIDGE
Commissioner

KARL C. KERSCHNER
Commissioner

D #I:\VICTIMS\2008\30901\07012009 panel decision.wpd\DRB-tad

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

Filed 7-1-2009
Jr. Vol. 2272, Pgs. 108-112
To S.C. Reporter 8-14-2009