



# Court of Claims of Ohio

## Victims of Crime Division

The Ohio Judicial Center  
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Columbus, OH 43215  
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[www.cco.state.oh.us](http://www.cco.state.oh.us)

IN RE: KELI M. WHITE

Case No. V2008-30979

KELI M. WHITE

Applicant

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

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### ORDER OF A THREE-COMMISSIONER PANEL

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{¶ 1} On April 15, 2008, the applicant, Keli White, filed a compensation application alleging she was the victim of an assault which occurred on January 4, 2008. The applicant contends she was assaulted with a baseball bat by her 11-year-old foster child. On August 13, 2008, the Attorney General issued a finding of fact and decision denying the applicant's claim since she 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). On September 2, 2008, the applicant submitted a request for reconsideration. On October 31, 2008, the Attorney General rendered a Final Decision finding no reason to modify its initial decision. On December 10, 2008, the applicant filed a notice of appeal from the October 31, 2008 Final Decision of the Attorney General. Hence, a hearing was held before this panel of commissioners on May 6, 2009 at 9:45 A.M.

{¶ 2} Assistant Attorney General Tyler Brown appeared on behalf of the state of Ohio. Neither the applicant nor the applicant's attorney attended the hearing. The applicant asserted the panel should rely on the brief filed by the applicant when it renders its decision.

{¶ 3} The Attorney General presented a brief statement for the panel's consideration. The Attorney General stated that information from the police and medical personnel reveal that the applicant stated she does not know how she was

injured. Since the applicant has the burden of proof with respect to criminally injurious conduct, the Attorney General contends she has failed to meet her burden.

**{¶ 4}** A review of the police report reveals that the applicant told police she had absolutely no recollection of how she received these injuries. There were no witnesses to the alleged assault. An Akron General report dated January 4, 2008 states: “[t]he patient is a 54-year-old white female who got up to walk to the bathroom today and felt that her legs gave out from under her . . . She does not remember exactly what happened.” The applicant has provided no additional documentation to satisfy her burden of proof. Furthermore, the applicant chose not to appear at the hearing to present any additional information for the panel’s consideration.

**{¶ 5}** R.C. 2743.51(C)(1) 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, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state.”

**{¶ 6}** 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.”

**{¶ 7}** 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." The moving party must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, as to any essential issue in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82, 53 O.O. 25, 118 N.E. 2d 147.

**{¶ 8}** Upon review of the claim file, the briefs presented by the parties and after full and careful consideration of all information presented at the hearing, we find the applicant has failed to prove, by a preponderance of the evidence, that she qualifies as a victim of criminally injurious conduct as defined by R.C. 2743.51(C)(1). Therefore, the October 31, 2008 decision of the Attorney General is affirmed.

**{¶ 9}** IT IS THEREFORE ORDERED THAT

**{¶ 10}** 1) The October 31, 2008 decision of the Attorney General is AFFIRMED;

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

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

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THOMAS H. BAINBRIDGE  
Presiding Commissioner

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KARL C. KERSCHNER  
Commissioner

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LLOYD PIERRE-LOUIS  
Commissioner

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

Filed 7-1-2009

Jr. Vol. 2272, Pgs. 113-116

To S.C. Reporter 8-14-2009