

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

IN RE: JOSEPH VINCE

JOSEPH VINCE

Applicant
Case No. 2014-00632 VI

Magistrate Daniel R. Borchert

DECISION OF THE MAGISTRATE

{¶1} On March 24, 2014, applicant, Joseph Vince, filed a compensation application as the result of the vandalism of his property which occurred on July 17, 2013. As the result of these incidents, the following police reports were filed with the Garfield Heights Police Department:

{¶2} “On 7/17/13 Ptl. Cornell responded to 4802 Osborn (Joe Vince Trucking) for a criminal damage report. Upon arrival this officer spoke to Joe Vince who stated the following information. On today’s date between 1100 hrs and 1400 hrs. person(s) unknown entered his property and damaged six vehicles. Vince stated he lives on the property and when he returned home he observed three vehicles with there [sic] windows broken out, and three vehicles spray painted. Vince stated he is the owner of all the vehicles, and at report time nothing is missing from any of the vehicles. Two of the vehicles were spray painted the letters U.T.W and one was spray painted N5K. Vince stated he had problems with juveniles in the past riding there bikes on his property.”

{¶3} “On 7/18/13 Ptl. Cornell responded to 4802 Osborn (Joe Vince Trucking) for a criminal damage report. Upon arrival this officer spoke to Joe Vince who stated the following information. On 7/17/13 at 2030 hrs he was driving through his parking lot and he observed a black juvenile male throw a rock through a back window of one of his vehicles. The vehicle that was damaged, is a green 1997 Dodge Grand Caravan Iowa registration (101YMF). Vince stated he began to chase the male on foot and observed

him go to the parking lot at 4875 Osborn. Vince stated GHPD responded to 4875 Osborn and arrested three juveniles (1316841). Vince stated the male that threw the rock was the oldest and the biggest of the three males arrested. This officer checked the report for (1316841) and the male that matched the description is a R. R., Renay Ramsey is the mother of R. R.”

{¶4} “On 7/18/13 Ptl. Cornell responded to 4802 Osborn and spoke to Joe Vince. Vince stated after he spoke to this officer on 7/17/13 he observed more damage to his vehicles. Vince stated that two of the vehicles that had there [sic] windows broken out also had damage to the column. This officer observed the damage and both vehicles do not appear to be driveable at this time.”

{¶5} On May 8, 2014, the Attorney General issued a finding of fact and decision denying applicant’s claim because he did not qualify as a victim of criminally injurious conduct pursuant to R.C. 2743.51(C)(1), since vandalism did not pose a substantial threat of personal injury or death. On May 19, 2014, applicant submitted a request for reconsideration. Applicant related another incident which occurred on April 29, 2014, when five radiators and the truck radiator were removed from his vehicles. He also noted he is having mental problems as the result of these incidents.

{¶6} On June 10, 2014, the Attorney General rendered a Final Decision finding no reason to modify its initial decision. Accordingly, on July 11, 2014, applicant filed a notice of appeal from the June 10, 2014 Final Decision of the Attorney General. Hence, a hearing was held before this magistrate on October 8, 2014 at 9:00 a.m.

{¶7} Applicant, Joseph Vince, appeared at the hearing, while Senior Assistant Attorney General Georgia Verlaney represented the state of Ohio.

{¶8} Mr. Vince related the events that occurred after the July 17, 2014 vandalism incident. He testified he called the police and three juvenile offenders were subsequently apprehended. Applicant also described events that occurred on his property this year. However, these events are not the subject of this appeal only the event that occurred on July 17, 2013.

{¶9} Mr. Vince asserted this vandalism event has caused him to lose sleep and suffer anxiety. He stated he is seeing a psychiatrist for a Workers’ Compensation

issue, but has already related his fears concerning the vulnerability of himself and his property.

{¶10} Upon cross-examination applicant conceded that he filed the compensation application as the result of an assault on his property. Mr. Vince described how he chased the juvenile offenders from his lot to a neighbor's lot and was able to corral them until the police arrived. Whereupon, the testimony of applicant was concluded.

{¶11} In closing it is the Attorney General's position that applicant failed to prove he was a victim of criminally injurious conduct because vandalism does not pose a substantial threat of personal injury or death. In the case at bar, applicant did not sustain personal injury. The only damages suffered was property loss, which is not a compensable offense.

{¶12} In conclusion Mr. Vince related how these property crimes have affected his mental health. Whereupon, the hearing was concluded.

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

- a) "(C) 'Criminally injurious conduct' means one of the following:
- b) "(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..."
(Emphasis added.)

{¶14} "[T]he court finds that, as a matter of law, that vandalism did not pose 'a substantial threat of personal injury or death' as required pursuant to R.C. 2743.51(C)(1)." *In re B.A.H.*, V2010-50345jud (11-15-11).

{¶15} Upon review of the case file and with full and careful consideration given to the testimony of applicant and the arguments made by the parties at the hearing, I find applicant has failed to prove, by a preponderance of the evidence, that he was a victim of criminally injurious conduct. The juvenile offenders were charged with criminal damaging and criminal trespass, neither offense, poses a substantial threat of personal injury or death. No documentary or testimony evidence was introduced which asserted

applicant suffered physical injury or the threat of physical injury as the result of the events of July 17, 2013.

{¶16} Accordingly, judgment is recommended in favor of the state of Ohio and the Attorney General's June 10, 2014 decision is affirmed.

{¶17} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by CivR. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under CivR. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

DANIEL R. BORCHERT
Magistrate

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