

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: CLIFTON WATTS

CLIFTON WATTS

Applicant

Case No. 2014-00314-VI

Judge Patrick M. McGrath

DECISION

{¶1} This matter came on to be considered upon applicant's appeal from the October 1, 2014 order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicant's claim for an award of reparation pursuant to R.C. 2743.68 and based upon the finding that applicant failed to timely file the supplemental application within the five-year limit imposed by the statute of limitations.

{¶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*, 455 N.E.2d 1374 (Ct. of Cl.1983). The panel found, upon review of the evidence, that applicant failed to present sufficient evidence to meet his burden.

{¶3} The standard for reviewing claims are appealed to the court is established by R.C. 2743.61(C), which provided 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} The conduct giving rise to applicant's original Application for Compensation occurred on March 14, 2008. Applicant's mother, Patricia Price, filed the original Application for Compensation on April 25, 2008. On August 22, 2008, the Attorney General issued a Finding of Fact and Decision finding that Mr. Watts was a victim of criminally injurious conduct and awarding him \$8,441.68. Therefore, the statute of limitations for a supplemental claim ran on August 22, 2013, five years after the Finding of Fact and Decision was issued. Applicant filed a Request for Reconsideration for this Supplemental Claim on January 13, 2014, based on the contention that he was not aware of the five-year statute of limitations. On October 24, 2014, Mr. Watts filed a Notice of Appeal requesting equity relief from the Decision of a Panel of Commissioners.

{¶5} In its decision, the panel of commissioners noted lack of knowledge of the existence of the Victims of Crime Compensation or its provisions does not toll the statute of limitations. See *In re Clark*, 8 Ohio Misc. 2d 34, 457 N.E. 2d 965 (Ct. of Cl. 1983). See also *In re Packard*, C2010-50388ju (2-15-11); *In re Torres*, V2012-5076tc, 2011-Ohio-5289; *In re Robinson*, V2009-40772tc (3-12-10); and *In re Proviano*, V2007-90722jud, 2009-Ohio-7226.

{¶6} The panel of commissioners recognized the judge of the court of claims has found exceptions to this rule. See *In re Lalli*, 2013-00106-VI. See also *In re Thomas*, V78-4048tc (11-20-98); *In re Preston*, V2006-21140tc (8-3-07), 2007-Ohio-4703 aff'd jud 2007-Ohio-7275; *In re Jones*, V2011-60590tc (8-3-12), 2012-Ohio-4845 reversed jud (11-13-12); *In re Gaines*, 63 Ohio Misc. 2d 173, 620 N.E. 2d 295 (Ct. of Cl. 1993); *In re Seeborn*, V2012-70220tc (10-12-12), reversed jud (3-10-12).

{¶7} Each decision must be rendered on a case-by-case basis. *In re Swint*, Ct. of Cl. No. V2004-60679, 2007-Ohio-1421.

{¶8} This court finds the case at bar to be much more akin to the above cases in which the applicant's lack of knowledge was insufficient for purposes of tolling the statute of limitations. Contrary to applicant's assertion, the facts and circumstances of his supplemental application are distinguishable from the above cases in which the court determined an equitable consideration was warranted. Neither his age, severity of condition, nor the fact that he took steps to ensure American Ramp Systems was paid by defendant, provide sufficient justification from which this court shall apply equitable consideration. Ultimately, the crux of applicant's argument rests on lack of knowledge, which this court has consistently held does not toll the statute of limitations.

{¶9} Upon review of the claim file and upon full and careful consideration given to applicant's testimony and the arguments of the parties, the court finds that the panel of commissioners was not arbitrary in finding that applicant did not show by a preponderance of the evidence he was entitled to proceed on a supplemental claim beyond the statute of limitations.

{¶10} 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, and hereby denies applicant's supplemental claim.

PATRICK M. MCGRATH
Judge

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Judge Patrick M. McGrath

ORDER

{¶11} Upon review of the evidence, the court finds that the order of the panel of commissioners must be affirmed and applicant's appeal must be denied.

{¶12} IT IS HEREBY ORDERED THAT:

{¶13} The order of October 1, 2014, (Jr. Vol. 2288, Pages 145-152) is AFFIRMED;

{¶14} The claim is DENIED and judgment is rendered for the state of Ohio;

{¶15} Costs assumed by the reparations fund.

PATRICK M. MCGRATH
Judge

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

Filed 1/22/15
Sent to S.C. Reporter 3/7/16