

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: A.C.

TEREZA FREIRE

Applicant
Case No. 2014-00496-VI

Judge Patrick M. McGrath

DECISION

{¶1} This matter came on to be considered upon applicants' appeal from the October 20, 2014 order issued by the panel of commissioners. The panel's determination affirmed the final decision of the Attorney General, which denied applicants' claim for an award of reparation, pursuant to R.C. 2743.51(A), based upon a finding that neither applicant nor her daughter qualified as claimants, as they were citizens of Brazil residing in Ohio under student visas.

{¶2} The standard for reviewing claims that 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."

{¶3} R.C. 2743.51 states, in part:

- a) "(A) 'Claimant' means both the following categories of persons:
- b) "(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:
- c) "(a) A victim who was one of the following at the time of the criminally injurious conduct:
- d) "(i) A resident of the United States;

- e) “(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.”

{¶4} An individual who does not possess a green card does not qualify as a claimant as defined by R.C. 2743.51(A). *In re Olivia*, V92-79644sc (July 30, 1993). Further, an applicant who is a citizen of another country and not a resident alien of the United States does not qualify as a claimant when the laws of their country of origin do not have a reciprocal crime victims program for Ohio residents who become victims of crime in that other country. *In re Chughati*, V92-43283sc (October 14, 1993) aff’d jud (April 18, 1995).

{¶5} 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 applicants failed to present sufficient evidence to meet their burden of proving that they were residents of the United States or that their country of origin, Brazil, had a reciprocal crime victims program from which Ohioans could be compensated.

{¶6} Applicants argue that they were residing legally in Ohio at the time of the criminally injurious conduct and are therefore residents of the United States. Applicant, Tereza Freire, was studying for her Ph.D. at The Ohio State University, under an F-1 visa and her daughter, A.C., was attending high school under an F-2 Visa. Ms. Freire was also working and she provided Ohio tax returns for 2011-2013 in which she designated herself an Ohio resident. In its decision, the panel of commissioners differentiated between one who is temporarily in the United States under a student visa and a “permanent resident,” which is defined as “a person who has been granted permanent resident status in the United States, and has (or is waiting for) a Permanent Resident Card. A Permanent Resident Card is a document that identifies a person as a Permanent Resident. The Permanent Resident Card was formerly known as a “Green Card.” *U.S. Citizenship and Immigration Services, Glossary of Terms, A Guide to Naturalization*, <http://www.uscis.gov/us-citizenship-citizenship-through-naturalization/guide-naturalization>.

{¶7} The Attorney General asserts that applicants were not residents of the United States. Rather, they were temporarily residing in Ohio under student visas. Applicants

have not provided any evidence contrary to this assertion, nor have they provided evidence from which this court can infer that paying taxes in the state of Ohio makes you a resident of the United States. Therefore, they have failed to meet their burden of establishing that they are claimants pursuant to 2743.51(A)(a)(i).

{¶8} The Attorney General asserts that, according to the Department of Homeland Security website, Brazil does not have a reciprocal victims of crime program for Ohioans who are victims of crime in Brazil. Applicants have not provided any evidence contrary to this assertion. Therefore, they have failed to meet their burden of establishing that they were claimants pursuant to 2743.51(A)(a)(ii).

{¶9} Upon review of the claim file and upon full and careful consideration given to applicant's testimony and the arguments of the parties 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 applicants' supplemental claim.

PATRICK M. MCGRATH
Judge

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ORDER

{¶10} Upon review of the evidence, the court finds the order of the panel of commissioners must be affirmed and applicants' appeal must be denied.

{¶11} IT IS HEREBY ORDERED THAT:

{¶12} The order of October 20, 2014, (Jr. Vol. 2288, Pages 160-163) is approved, affirmed and adopted;

{¶13} This claim is DENIED and judgment entered for the State of Ohio;

{¶14} 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 Franklin County Prosecuting Attorney and to:

Filed 3/2/15
Jr. Vol. 2289, Pg. 127
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