



# Court of Claims of Ohio

## Victims of Crime Division

The Ohio Judicial Center  
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[www.ohiocourtclaims.gov](http://www.ohiocourtclaims.gov)

IN RE: ALEISHA BAKER

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Applicant  
Case No. 2014-00816 VI

Magistrate Daniel R. Borchert

### DECISION OF THE MAGISTRATE

{¶1} On June 24, 2014, applicant, Aleisha Baker, filed a compensation application as the result of a hit and run accident which occurred on June 7, 2014. On July 9, 2014, the Attorney General issued a finding of fact and decision denying applicant's claim since child endangering charges were pending against the applicant as of January 11, 2009. Accordingly, the Attorney General believed applicant's claim should be denied pursuant to R.C. 2743.60(E)(1)(d). However, if the charges are resolved and do not result in a conviction, then applicant can file a supplemental compensation application.

{¶2} On July 29, 2014, applicant submitted a request for reconsideration, asserting she was never found guilty of child endangering and posited that if a crime had been committed she was not the responsible party. On September 25, 2014, the Attorney General rendered a Final Decision refusing to modify its initial decision and clarifying that the child endangering charge under case no. 2009 CRB 001074 is still pending and there is an active warrant for the applicant's arrest.

{¶3} On October 13, 2014, applicant filed a notice of appeal from the September 25, 2014 Final Decision of the Attorney General. Hence, a hearing was held before this magistrate on March 12, 2015 at 9:00 a.m.

{¶4} Applicant's counsel, Carl McMahon, appeared via video conferencing, while Assistant Attorney General Gwynn Kinsel represented the state of Ohio, appeared in person.

{¶5} Both parties waived opening arguments and the applicant rested on his brief. In his brief, applicant's attorney stated that Ms. Baker's claim cannot be denied pursuant to R.C. 2743.60(E), since she was never convicted of a felony nor had she engaged in a crime of violence. Applicant argued that case no. 2007 CRB 029181, child endangering was dismissed for want of prosecution on June 25, 2014, and case no. 2009 CRB 001074 was disposed of and closed on April 7, 2009. Accordingly, applicant's claim should not be denied pursuant to R.C. 2743.60(E) and should be remanded to the Attorney General for calculation of economic loss.

{¶6} The Attorney General called Ronald Tabor, Criminal Division Administrator for the Cleveland Municipal Court, to testify via telephone. Mr. Tabor related that a review of a case on the court's computer website can be misleading. An open case is one where a specific court action is pending, while a closed case would not only include cases that have been disposed of, but also cases where outstanding arrest warrants are pending. Specifically, with regard to 2009 CRB 001074, there is an active capias pending for applicant's arrest.

{¶7} The Attorney General directed Mr. Tabor's attention to State's Exhibit A, a copy of the public access computer screen referencing 2009 CRB 001074. The disposition code states capias/warrant. Next, Mr. Tabor was directed to page two of this exhibit. This computer screen revealed a disposition status of closed, a disposition code of disposed, and a disposition date of March 7, 2009. The witness explained that while it might appear to an untrained user that this case is closed, this in fact is not the case. If an outstanding warrant is pending the second screen would reflect that the case is closed, when in reality it is not. Mr. Tabor explained this system of closed/open cases was developed for the purposes of reporting caseloads to the Ohio Supreme Court. However, reliance of the closed disposition screen without additional information, would not truly reflect the active status of a case.

{¶8} The Attorney General then directed the witnesses' attention to State's Exhibits B-E. Mr. Tabor indicated that these documents were the criminal complaints filed against the applicant for child endangering. With respect to State's Exhibit F, this

is the journal from the Cleveland Municipal Court for 2009 CRB 001074 and is an internal document that cannot be accessed by the public. Mr. Tabor reviewed this document and stated it revealed that there is an outstanding warrant for applicant's arrest. Finally, the witness was directed to State's Exhibit G, which was a warrant issued by Cleveland Municipal Court Judge Adrine for applicant's arrest. Mr. Tabor related the current status of 2009 CRB 1001074 is a *capias* for applicant's arrest.

{¶9} Applicant chose not to cross-examine the witness and Mr. Tabor's testimony was concluded. At that time the Attorney General rested his case.

{¶10} In closing, although the applicant acknowledged that there is currently a warrant for Ms. Baker's arrest, the status of the case is closed. Applicant argued that the Attorney General has been unable to meet his burden of proof that applicant was convicted of child endangering.

{¶11} The Attorney General countered that this court should rely on the holding of a panel of commissioners in *In re Ford*, V95-31171tc (12-16-96), which in pertinent part stated: "[t]his court cannot grant an award of reparations to a party who is presently a fugitive from justice and may be convicted on the charges giving rise to the *capias* at issue." In *Ford*, applicant had a history of misdemeanor arrests coupled with an outstanding warrant for felony theft. In the case at bar, as revealed by the testimony of Mr. Tabor, Ms. Baker currently has 12 misdemeanor charges pending against her including case no. 2009 CRB 1001074. Accordingly, applicant should not be allowed to receive an award until the charges of child endangering against her have been resolved. If these charges do not result in a conviction then the applicant can file a supplemental compensation application. However, applicant moved to Texas, to avoid arrest, and an award should not be granted in her favor. Therefore, the Attorney General's decision should be affirmed.

{¶12} Whereupon, the hearing was concluded.

{¶13} R.C. 2743.60(E)(1)(d) states:

- a) "(1) Except as otherwise provided in division (E)(2) of this section, the attorney general or the court of claims shall not make an award to a

claimant if any of the following applies:

- b)** “(d) The claimant was convicted of a violation of section 2919.22 or 2919.25 of the Revised Code, or of any state law or municipal ordinance substantially similar to either section, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim.”

{¶14} R.C. 2919.22(A)&(E)(1)(2)(a) in pertinent part states:

- a)** “(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support...”
- b)** “(E)(1) Whoever violates this section is guilty of endangering children.
- c)** “(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following, and, in the circumstances described in division “(E)(2)(e) of this section, that division applies:
- d)** “(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree.”

{¶15} In *In re Jackson*, 63 Ohio Misc. 2d 99 (Ct. of Cl. 1993), a panel of commissioners held that an outstanding capias for the arrest of applicant on felony charges is evidence of felonious conduct, and, when combined with additional evidence of applicant’s felony arrest record could be a basis for denial of the claim.

{¶16} A panel of commissioners in *In re Ford*, V95-31171tc (12-16-96), held that an outstanding capias for felony theft coupled with a lengthy arrest record for misdemeanor offenses is sufficient for a denial of an award of reparations.

{¶17} From review of the case file and with full and careful consideration given to the testimony of the witness and the arguments of the parties, I find no award can be granted to applicant at this time.

{¶18} While the *Jackson* and *Ford* cases predate the inclusion of R.C. 2743.60(E)(1)(d) to the statute, the rationale of these cases are instructive to the case at bar. R.C. 2743.60(E)(1)(d) makes a conviction for child endangering, a misdemeanor, an exclusionary event, the same as a conviction for a felony under R.C. 2743.60(E)(1)(a). Ron Tabor testified that Cleveland Municipal Court records reflect that applicant currently has 12 outstanding capias warrants for her arrest on a variety of misdemeanor charges.

{¶19} According to applicant's attorney she has left the state and a date for her return is uncertain at best. In the interests of judicial economy, the court cannot readily determined when the child endangering charges will be resolved, if at all. In the alternative, applicant may file a supplemental compensation application should the child endangering charges be resolved in applicant's favor.

{¶20} Therefore, I recommend the Attorney General's decision of September 25, 2014 be affirmed because the unresolved child endangering charges remain pending against applicant.

{¶21} *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 Civ.R. 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 finding of fact or conclusion of law under Civ.R. 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).*

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:

Filed 4/15/15  
Sent to S.C. Reporter 4/1/16