

IN THE COURT OF CLAIMS OF OHIO

IN RE: CYNTHIA M. CONDRIN

Case No. 2023-00036VI

CYNTHIA M. CONDRIN

Magistrate Daniel R. Borchert

Applicant

DECISION OF THE MAGISTRATE

{¶1} On June 21, 2022, applicant, Cynthia M. Condrin, submitted a crime victims compensation application for attorney’s fees associated with obtaining a Civil Protection Order (“CPO”) following a domestic violence crime on May 12, 2022.

{¶2} On October 12, 2022, the Attorney General (“AG”) issued a finding of fact and decision in which the AG determined that applicant was not a victim of criminally injurious conduct committed by the person against whom she obtained a civil protection order, her ex-husband (“offender”). Further, the finding of fact states that because the person she obtained the CPO against was not found guilty, she was not a victim of criminally injurious conduct and applicant’s application was denied.

{¶3} On October 26, 2022, applicant submitted a request for reconsideration. Applicant clarified that offender physically assaulted her on May 12, 2022, and she filed for a CPO the next day. Applicant stated that her CPO was granted because she proved, by a preponderance of the evidence, that offender presented an immediate and present danger to applicant.

{¶4} On December 23, 2022, the AG issued a Final Decision which did not modify the finding of fact and decision.

{¶5} On January 17, 2023, applicant filed a notice of appeal with this court asserting that she was the victim of criminally injurious conduct and that her attorney’s fees for obtaining a CPO should be covered by the crime victims compensation fund.

{¶6} Hence, a hearing was held before this magistrate on May 17, 2023, at 10:00 a.m. Assistant Attorney General Heidi James appeared on behalf of the State of Ohio. Applicant was present and represented by Mark Poole.

{¶7} Applicant argued that this court's decision in *In re Ault*, Ct. of Cl. No. 2022-00655VI (March 14, 2023), adopted jud (March 30, 2023) established that when a CPO is granted, that is sufficient evidence that criminally injurious conduct occurred.

{¶8} Applicant testified that on May 12, 2022, she brought her daughter home from school and offender was present. Applicant stated that at this time there was a restraining order in place which allowed her and offender to live in the same house but that they were not supposed to communicate with each other. When applicant entered the home, offender pushed a mattress on top of her on a staircase. Applicant testified that offender screamed in her face and then hit her in the face with an open hand. Applicant averred that after offender hit her, he instructed their daughter to hit her as well. Applicant stated that she called the Johnstown Police; the police responded but offender had left the home. Applicant stated that she went to the police station and when she returned home, offender had returned so she called the police and waited in her car until the police came and arrested offender. Applicant stated that offender faced criminal charges in the Licking County Domestic Relations Court, as a result of the May 12, 2022, incident, but that he was found not guilty. Applicant testified that she filed for her CPO on May 13, 2022, because she was concerned that offender would hit her again. Applicant stated that the CPO was granted. Applicant admitted into evidence the police report from May 12, 2022, and the CPO. The applicant rested her case.

{¶9} The AG stated that applicant's claim was initially denied because there was not enough evidence to establish that the offender committed criminally injurious conduct. However, based on applicant's testimony, the AG stated that it now believes applicant was a victim of criminally injurious conduct committed by the offender. The AG stated that it does believe that a temporary restraining order being granted should establish a prima facie case that criminally injurious conduct occurred, as the court decided in *In re Ault*, Ct. of Cl. No. 2022-00655VI (March 30, 2023).

{¶10} R.C. 2743. 51(C)(1) states, in pertinent part:

“(C) ‘Criminally injurious conduct’ means either of the following:

“(1) For the purpose 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.”

{¶11} Here, the AG has stated that after the testimony provided at the hearing, applicant has established that she was a victim of criminally injurious conduct committed by offender. Therefore, I recommend that the Attorney General's Final Decision of December 23, 2022, be REVERSED. I recommend that the claim be REMANDED to the Attorney General for calculation of an award of reparations in accordance with this decision.

{¶12} *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).*

DANIEL R. BORCHERT
Magistrate

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

IN THE COURT OF CLAIMS OF OHIO

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Case No. 2023-00036VI

CYNTHIA M. CONDRIN

Judge Lisa L. Sadler

Applicant

ORDER

{¶13} On May 17, 2023, a hearing was held in this matter before a Magistrate of this court. On May 31, 2023, the Magistrate issued a Decision wherein he found that the applicant established that she was a victim of criminally injurious conduct committed by the offender. Therefore, the Magistrate recommended that the claim be remanded to the Attorney General for calculation of an award of reparations.

{¶14} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” No objections were filed.

{¶15} Upon review of the claim file, and the Magistrate’s Decision, it is the Court’s finding that the Magistrate was correct in his analysis of the issues and application of the law. Accordingly, this court adopts the Magistrate’s Decision and recommendation as its own.

{¶16} IT IS HEREBY ORDERED THAT

{¶17} The May 31, 2023 Decision of the Magistrate is ADOPTED;

{¶18} This claim is REMANDED and judgment entered for applicant;

{¶19} Costs assumed by the reparations fund.

LISA L. SADLER
Judge

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

Filed 6/15/23
Sent to S.C. Reporter 9/20/23