

IN THE COURT OF CLAIMS OF OHIO

IN RE: SHAUNTEE T. McCOY

STAR M. LEWANDOWSKI  
TINIKA A. TOLBERT  
LINDA MITCHELL  
LANETTE LUCAS

Applicants

Case No. 2023-00640VI

Magistrate Holly True Shaver

DECISION OF THE MAGISTRATE

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{¶1} On April 3, 2025, a hearing was held on Star Lewandowski’s (“Applicant”) appeal of the Attorney General’s (“AG”) December 16, 2024 Final Decision. Applicant appeared at the hearing and was represented by attorney Joseph Lewandowski.<sup>1</sup> Assistant AG Heidi James appeared on behalf of the state of Ohio.

***Procedural History***

{¶2} This is the second appeal in this case. Initially, Applicant filed an appeal from the AG’s September 5, 2023 Final Decision wherein the AG denied an award of reparations on the basis that Shauntee McCoy was not a victim of criminally injurious conduct. After a hearing, the magistrate found that Shauntee McCoy qualified as a victim of criminally injurious conduct and recommended that the claim be remanded to the AG for economic loss calculations for McCoy’s minor children as a result of his death. The magistrate’s decision was adopted with modification by the Court on March 27, 2024, and the claim was remanded to the AG to calculate economic loss.

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<sup>1</sup> Applicants Linda Mitchell, Shauntee McCoy’s mother, and Lanette Lucas, Shauntee McCoy’s aunt, also appeared at the hearing and testified. However, Applicants Mitchell, Lucas, and Tinika Tolbert executed requests for full payment and waiver of consideration forms, which are contained in the case file. By signing those waivers, they gave up their rights to appeal the December 16, 2024 Final Decision. Thus, the appeal at issue is Star Lewandowski’s. Both the AG and Applicant made oral motions to strike Mitchell and Lucas’ testimony. Those motions are DENIED, with the understanding that the sole issue on appeal is the claim as it pertains to Star Lewandowski and the minor children of Star Lewandowski and Shauntee McCoy.

{¶3} Upon remand, the AG investigated economic loss as a result of McCoy's death. Pursuant to R.C. 2743.51(N), the maximum recoverable amount for funeral expenses is \$7,500.00. McCoy's funeral expenses exceeded \$7,500.00, so a prorated award was granted to applicants Linda Mitchell, Tinika Tolbert, and Lanette Lucas. As previously mentioned, the award of funeral expenses is not at issue in this appeal.

{¶4} McCoy was the father of two minor children at the time of his death, S.L., born in 2011, and J.L., born in 2013. This appeal concerns the AG's calculation of dependent's economic loss, which is defined in R.C. 2743.51(I) as: "loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death."

{¶5} The AG calculated dependent's economic loss for S.L. as \$5,340.19. This amount was based on information obtained from the Cuyahoga County Child Support Enforcement Agency. Although McCoy was ordered to pay child support in the amount of \$499.99 per month, McCoy owed an arrearage of unpaid child support in the amount of \$53,146.54 at the time of his death. The AG determined that McCoy had actually paid \$12,657.98 in child support for S.L. from the effective date of the order in 2011 until the time of McCoy's death in 2023. The AG determined that McCoy had paid an average of \$90.41 per month in child support from 2011 to 2023. After calculating the number of months until S.L. reaches the age of majority, the AG determined that based upon the amount that McCoy actually paid, he would have paid an additional \$6,509.52 in child support but for his untimely death. The AG also determined that collateral source benefits in the amount of \$1,169.33 from the Ohio Department of Job and Family Services should be deducted from the \$6,509.52 figure, which resulted in a recommended award in the amount of \$5,340.19 for S.L. No award was recommended for J.L. because there was no child support order in place for J.L. at the time of McCoy's death. The AG argues that dependency in fact must be shown, and that the child support arrearage is not a reflection of economic support that McCoy actually provided, but, rather, is a debt that McCoy owed but did not pay. Thus, the AG argues that the proper method of calculating dependent's economic loss should be based on McCoy's contributions of things of economic value to

the children; in this case, the actual amount of child support McCoy paid during his lifetime.

{¶6} Applicant disagrees with the AG's dependent's economic loss calculations. First, Applicant argues that McCoy's child support arrearage is a priority debt and is not dischargeable in bankruptcy. Applicant argues that because McCoy owed \$53,146.54 in child support arrearage at the time of his death, McCoy's minor children should be entitled to recover \$42,500.00, the maximum award allowable after funeral expenses are deducted.<sup>2</sup> Applicant argues that the AG's calculations result in the children being punished, especially because no award was calculated for J.L. Applicant argues that once S.L. reaches the age of majority, J.L. will still be a minor with dependent's economic loss that has not been accounted for. Lastly, Applicant argues that there are no other sources of benefits for the children, such as Social Security benefits or life insurance. Applicant seeks an award for the children of the monthly amount of child support that was in place for the remainder of their minority.

***Testimony and Arguments at the Hearing***

{¶7} Star Lewandowski testified that she and McCoy were the mother and father of S.L. and J.L. Star presented photographs of these four family members at various school and church functions. Star testified that raising children is expensive, and that she does not agree with the AG's calculations because it is impossible to support two children on \$90.00 per month. Star testified that court-ordered child support does not "disappear" because of McCoy's death. Star testified that McCoy was murdered at his home and now his children will suffer. Star explained that the children are not eligible for Social Security benefits because McCoy did not have enough work credits for the children to qualify. Star testified that she appealed the decision from the Social Security Administration but the children have been denied benefits. Star also testified that there was no life insurance policy for McCoy. Star testified that McCoy was a human being who did not deserve to be murdered at his home. Star testified that McCoy's entire family is suffering, and a little bit of relief would be appreciated.

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<sup>2</sup> R.C. 2743.60(H) states that reparations payable to a victim and to all other claimants sustaining economic loss because of injury to or the death of that victim shall not exceed fifty thousand dollars in the aggregate.

{¶8} No testimony was offered to rebut the accuracy of the AG's calculations of the actual amount of child support payments that McCoy made. Evidence in the claim file includes a printout from the Cuyahoga County Child Support Enforcement Agency, which shows McCoy's sporadic payment history from 2011 until his death in 2023. The AG's economic loss calculations show that McCoy paid a total of \$12,657.98 in child support for S.L. from 2011 through 2023. No testimony or other evidence was offered to show that McCoy made additional contributions of things of economic value to his children other than the child support payments documented in the claim file.

***Law and Analysis***

{¶9} R.C. 2743.61(B) states, in pertinent part:

If upon hearing and consideration of the record and evidence, the court decides that the decision of the attorney general appealed from is reasonable and lawful, it shall affirm the same. If the court decides that the decision of the attorney general is not supported by a preponderance of the evidence or is unreasonable or unlawful, the court shall reverse and vacate the decision or modify it and enter judgment thereon.

{¶10} R.C. 2743.51(I) states, in part: "Dependent's economic loss' means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death."

{¶11} Applicant asserts that McCoy's minor children are entitled to an award of dependent's economic loss based upon both the child support order and the amount of the arrearage at the time of McCoy's death. However, this court has consistently held that an award of reparations can only be granted if it is established that there is dependency in fact, rather than dependency in theory. *See, In re Nicholson*, 2008-Ohio-6087, ¶ 4 (Ct. of Cl.), citing *In re Dubcics*, V77-1065jud (8-6-79); *In re Maddox*, V77-0849jud (8-22-70); and *In re Anderson*, V77-1323jud (11-14-79). *See, also, In re Knight*, 61 Ohio Misc.2d 393, 395 (Ct. of Cl. 1989). The rationale is that an applicant must show that the decedent was contributing things of economic value for the care and support of his dependent children. *Id.* Thus, arguments that a legal obligation to pay child support

constitutes dependency have been rejected, because while such obligations may create a right of action, they do not constitute actual dependency. *Id.*

{¶12} In this case, the evidence shows that McCoy was ordered to pay child support for S.L. At the time of his death, McCoy owed an arrearage in excess of \$50,000.00. However, a review of the payments that McCoy made shows that over roughly 12 years, McCoy paid \$12,657.98 in child support. The AG used this number to determine the monthly average that McCoy paid during his lifetime. Applicant has not presented evidence to dispute the actual amount of payments that McCoy made. Thus, the magistrate finds that McCoy contributed things of economic value to his minor children in the amount of \$12,657.98 from 2011 to 2023. The magistrate finds that Applicant has failed to prove, by a preponderance of the evidence, that McCoy contributed additional things of economic value to his minor children.

{¶13} Furthermore, evidence in the claim file shows that J.L. had a child support order of zero dollars. Attorney for Applicant argued at the hearing that once S.L. reached the age of majority, a child support order for J.L. would be activated. However, unfortunately, that did not occur before McCoy's death. Therefore, the magistrate finds that Applicant has failed to prove, by a preponderance of the evidence, that McCoy was contributing things of economic value to J.L. at the time of his death, other than the sporadic child support payments that he made under S.L.'s child support order.

{¶14} Upon review of the evidence in the claim file and the arguments and testimony presented at the hearing, the magistrate finds that the December 16, 2024 Final Decision of the Attorney General is reasonable and lawful and recommends that it be affirmed, such that an award of \$5,340.19 is granted to Applicant for dependent's economic loss pursuant to R.C. 2743.51(I).

{¶15} *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 a 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).*

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HOLLY TRUE SHAVER  
Magistrate

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

Filed 5/20/25  
Sent to S.C. Reporter 9/9/25