

[Cite as *In re Martin*, 2006-Ohio-2806.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: AMY M. MARTIN	:	Case No. V2005-80592
AMY M. MARTIN	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} On September 20, 2004, the applicant filed a supplemental reparations application seeking reimbursement of expenses incurred as the result of an assault that occurred on April 3, 2003. On March 28, 2005, the Attorney General issued a decision denying the claim pursuant to R.C. 2743.60(E), contending that the applicant had been convicted of domestic violence on August 31, 2004. On June 1, 2005, the applicant filed a request for reconsideration. On August 1, 2005, the Attorney General issued a Final Decision reversing his position with respect to denying the claim pursuant to R.C. 2743.60(E). The Attorney General's investigation revealed the applicant had not been convicted of domestic violence and that those charges had actually been dismissed. Nevertheless, the Attorney General denied an award to the applicant pursuant to R.C. 2743.52(A), because the applicant failed to provide income information needed to determine her Ohio Hospital Care Assurance Program (HCAP) eligibility and to calculate an award for work loss. On August 15, 2005, the applicant filed a notice of appeal to the Attorney General's Final Decision. Hence, this matter came to be heard before this panel of three commissioners on February 22, 2006 at 10:55 A.M.

{¶ 2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated she had been unable to contact the applicant and that the applicant had failed to provide any income information. Accordingly, the Assistant Attorney General recommended that the Attorney General's Final Decision be affirmed. Under questioning from Commissioner Hewitt, the Assistant Attorney General expressed no objection that the panel decision be issued without prejudice, thereby allowing the applicant to file a supplemental compensation application in the future for unreimbursed economic loss.

{¶ 3} From review of the file and with full and careful consideration given to all the information presented at the hearing, we find the Attorney General's Final Decision should be affirmed without prejudice.

{¶ 4} Pursuant to R.C. 2743.52(A), the applicant has the burden of proof to prove by a preponderance of the evidence that she sustained unreimbursed economic loss. While pursuant to the holding in *In re Wilson*, V92-83935jud (11-30-94), the Attorney General has the duty to investigate and provide this panel with the necessary information concerning the income level of the applicant and her eligibility for HCAP benefits, but the applicant is required to provide the Attorney General with her income information. The applicant has failed to do so in this case. Accordingly, the Attorney General's August 1, 2005 Final Decision is affirmed without prejudice. Should the applicant obtain evidence that she incurred economic loss that would be an appropriate basis for filing a supplemental compensation application.

IT IS THEREFORE ORDERED THAT

- 1) The August 1, 2005 decision of the Attorney General is AFFIRMED without prejudice;
- 2) This claim is DENIED and judgment is rendered for the state of Ohio;
- 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;
- 4) Costs are assumed by the court of claims victims of crime fund.

RANDI OSTRY LE HOTY
Commissioner

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\8-drb-tad-022806

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

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