

[Cite as *In re Fields*, 2007-Ohio-3492.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: WILLIAM FIELDS	:	Case No. V2007-90072
WILLIAMS FIELDS	:	Commissioners:
Applicant	:	Tim McCormack, Presiding
	:	Randi Ostry LeHoty
	:	Lloyd Pierre-Louis
_____	:	
_____	:	<u>ORDER OF A THREE-</u>
	:	<u>COMMISSIONER PANEL</u>
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{¶1} William Fields (“Mr. Fields” or “applicant”) filed a reparations application seeking reimbursement of expenses incurred with respect to a December 16, 2005 robbery incident. On November 29, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that he qualified as a victim of criminally injurious conduct. On December 13, 2006, the applicant filed a request for reconsideration. On December 29, 2006, the Attorney General denied the claim pursuant to R.C. 2743.60(A) claiming that the applicant failed to file a timely police report or to show good cause for the delay. On January 18, 2007, the applicant filed a notice of appeal to the Attorney General’s December 29, 2006 Final Decision. At 11:05 A.M. on April 19, 2007, this matter was heard by this panel of three commissioners.

{¶2} The applicant, the applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony, an exhibit, and oral argument for the panel's consideration. Mr. Fields testified that he was injured during an assault and robbery that occurred behind his apartment building on December 16, 2005, when the two offenders stole his paycheck as he exited his vehicle. Mr. Fields stated that he injured his hand while attempting to defend himself from the robbers. Mr. Fields stated that he remained in his apartment for a few days after the incident, but noticed that several days later his hand became infected and he eventually sought medical treatment at Ohio State University (OSU) Medical Center on December 24, 2005. The applicant noted that he informed the hospital personnel concerning the cause of his injury. The applicant explained that he contacted the Clinton Township Police Department about the incident while he was hospitalized, however he later discovered on April 18, 2007 that the police department simply did not have sufficient staff to send an officer to the hospital to take his written statement. The applicant stated that he then contacted the Columbus Police Department and the Sheriff's Department while he was hospitalized, but he was advised to contact the Clinton Township Police Department because the robbery occurred within that jurisdiction. The applicant related that while in the hospital he also spoke to an OSU police officer who advised him to contact the Clinton Township Police Department. The applicant contended that after making several telephone calls to law enforcement officers about the robbery, he simply became frustrated and ended his efforts to make a written report. Mr. Fields testified that a written police report was finally generated on April 18, 2007 after he went to the

Clinton Township Police Department substation. The applicant stated that he provided the police with a physical description of the offenders and reported that he knew one of the offenders by his street name "T-Down." The applicant related that the Clinton Township Police Department is well-acquainted with T-Down and that he is currently being sought in connection with a variety of charges.

{¶3} Lastly, Mr. Fields clarified that he had contacted the Clinton Township Police Department on December 18, 2005 to report that his automobile had been stolen.¹ Mr. Fields explained that he did not report the assault and robbery at that time because he believed his injury was minor and feared retaliation from the offenders, especially since two individuals had been recently shot and killed outside of his apartment building. The applicant explained that he had resided in that apartment building for only a month and a half prior to the incident.

{¶4} Antoinette Williams ("Ms. Williams"), the applicant's sister, testified that she noticed shortly before Christmas 2005 that her brother's hand appeared swollen and infected. Ms. Williams stated that her brother related to her that his hand was injured during an altercation. Ms. Williams explained that she was concerned about her brother's hand and she and her sister transported the applicant to OSU Medical Center. Ms. Williams stated that her brother was admitted and remained in the hospital for a week, but noted that he was readmitted a few days later when the infection returned. Ms. Williams stated that she believes her brother told her he was mugged, but she

¹The Clinton Township Police Department generated a written report on December 18, 2005.

noted that she is unable to recall all the events surrounding the incident because she was preoccupied with her brother's physical well-being at the time. Ms. Williams indicated that she believes her brother told her that he had spoken to the police while in the hospital because he complained to her about Clinton Township Police Department's lack of response.

{¶5} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, this panel finds the applicant has satisfied the reporting requirement of R.C. 2743.60(A). We believe the applicant had good cause for the delay in reporting the incident to the proper authorities.

{¶6} Revised Code 2743.60(A) states:

(A) The attorney general, a court of claims panel of commissioners, or a judge of the court of claims shall not make or order an award of reparations to any claimant who, if the victim of the criminally injurious conduct was an adult, did not file an application for an award of reparations within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which the victim is seeking an award of reparations or who, if the victim of that criminally injurious conduct was a minor, did not file an application for an award of reparations within the period provided by division (B)(1) of section 2743.56 of the Revised Code. An award of reparations shall not be made to a claimant if the criminally injurious conduct upon which the claimant bases a claim was not reported to a law enforcement officer or agency within seventy-two hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct within the seventy-two-hour period.

{¶7} According to *In re Smith*, V77-0741tc (7-10-78), good cause for failure to timely report an incident should be based upon a “reasonable man standard.” In this case, the applicant testified that he was robbed and injured on December 16, 2005. Once the applicant discovered the seriousness of his injury, he went to the hospital on December 24, 2005. Mr. Fields testified that while in the hospital he orally reported the matter to the Clinton Township Police Department, the Columbus Police Department, and to the Sheriff’s Department to no avail. The applicant also asserted that he feared retaliation from the offenders. In light of the applicant’s circumstances, we find that the applicant acted reasonably in that an oral report was made to law enforcement within two weeks of the robbery. See *In re Rea* (1989), 61 Ohio Misc. 2d 732 and *In re Rose*, V2002-51427tc (1-16-2003).

{¶8} Moreover, this panel reaffirms the tenets of *In re Ries*, V93-69316tc (1-31-95), where the court held the purpose of the reporting requirement is to: (1) verify the occurrence of the incident and (2) ensure the investigation and/or prosecution of the offender. In this case, the goal of R.C. 2743.60(A) was fulfilled because the applicant testified that after providing the police with a description of the offenders it was noted that one of the robbers was well-known by the Clinton Township Police Department and is being sought on a variety of charges unrelated to the December 16, 2005 robbery. Based upon the above, we find the December 29, 2006 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for total economic loss calculations and decision.

{¶9} IT IS THEREFORE ORDERED THAT

{¶10} 1) The December 29, 2006 decision of the Attorney General is REVERSED;

{¶11} 2) This claim is remanded to the Attorney General for total economic loss calculations and decision;

{¶12} 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;

{¶13} 4) Costs are assumed by the court of claims victims of crime fund.

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TIM MC CORMACK
Presiding Commissioner

RANDI OSTRY LE HOTY
Commissioner

LLOYD PIERRE-LOUIS
Commissioner

ID #A1-dld-tad-050107

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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To S.C. Reporter 7-6-2007

Case No. V2007-90072

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ORDER