

Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center

65 South Front Street, Fourth Floor
Columbus, OH 43215
614.387.9860 or 1.800.824.8263
www.cco.state.oh.us

IN RE: CHERYL A. HARRIS

CHERYL A. HARRIS

Applicant

Case No. V2006-21212

Commissioners:
Thomas H. Bainbridge, Presiding
Karl C. Kerschner
Tim McCormack

ORDER OF A THREE- COMMISSIONER PANEL

{¶ 1} Cheryl Harris (“applicant” or Ms. Harris”) filed a reparations application seeking reimbursement of expenses incurred with respect to an April 16, 2006 assault incident. The applicant contends that she was assaulted by her son, Charles Wright (“offender” or “Charles”). The prosecutor refused to press charges because he was unable to determine who initiated the incident, due to the extreme intoxication of the parties and visible signs of injury to each party. Brittany Wright, Charles’ ex-wife, stated that she witnessed the assault and that the applicant initiated it. On September 14, 2006, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that she qualifies as a victim of criminally injurious conduct. On September 27, 2006, the applicant filed a request for reconsideration. On December 14, 2006, the Attorney General denied the claim once again. On December

21, 2006, the applicant filed a notice of appeal to the Attorney General's December 14, 2006 Final Decision. On October 3, 2007 at 10:30 A.M., this matter was heard before this panel of three commissioners.

{¶ 2} The applicant (via telephone), applicant's attorney, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for the panel's consideration. Ms. Harris testified that on April 16, 2006 she had been at Charles' and Brittany's apartment. The applicant related that she and Brittany decided to walk from the apartment complex to the gas station. Ms. Harris testified that Charles soon arrived at the gas station in his vehicle. Where upon she asked Charles to take her home. The applicant stated that while in the vehicle, she and Charles began to argue. The applicant declared that Charles started hitting her and pulling her hair though the applicant's testimony in this regard is tempered by Ms. Wrights' assertion that the applicant initiated the assault. Ms. Harris recanted that she suffered two black eyes, broken dentures, and a bruised lip and ribs. The applicant stated that she informed the police about the assault, however they refused to allow her to press charges because this was a mutual combat situation. The applicant further asserted Ms. Wrights' position was inaccurate and untrue.

{¶ 3} Ultimately, applicant's counsel argued that, based on the applicant's testimony, she qualifies as a victim of criminally injurious conduct and asserted that the applicant did not initiate the assault, but was attempting to escape from being assaulted.

{¶ 4} The Assistant Attorney General maintained that the applicant failed to prove that she qualifies as a victim of criminally injurious conduct. The Assistant Attorney General maintained the burden is upon the applicant to establish criminally injurious conduct. To that end, the Assistant Attorney General asserted the applicant failed to satisfy her burden and that, pursuant to the evidence, both parties were intoxicated and

that the only sober witness stated that the applicant initiated the assault. Ultimately, the Assistant Attorney General contended that applicant's only evidence was self serving testimony and that applicant did not satisfy burden to establish by preponderance of evidence that she was a victim of criminally injurious conduct. We agree that the applicant failed to provide any persuasive independent evidence or testimony to establish that the dispute here was anything other than mutual combat or that the applicant was the victim of criminally injurious conduct.

{¶ 5} From review of the file and with full and careful consideration given to all the information presented at the hearing, we find that the applicant failed to present sufficient evidence that she qualifies as a victim of criminally injurious conduct. Therefore, the December 14, 2006 decision of the Attorney General shall be affirmed.

{¶ 6} IT IS THEREFORE ORDERED THAT

- 1) The December 14, 2006 decision of the Attorney General is AFFIRMED;
- 2) This claim is DENIED and judgment is rendered for the state of Ohio;
- 3) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Presiding Commissioner

KARL C. KERSCHNER
Commissioner

Case No. V2006-21212

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ORDER

TIM MC CORMACK
Commissioner

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

Filed 12-14-2007
Jr. Vol. 2267, Pgs. 88-91
To S.C. Reporter 2-14-2008