

IN THE COURT OF CLAIMS OF OHIO

IN RE: LEAH J. DIPIPPO

LEAH J. DIPIPPO

Applicant

Case No. 2023-00551VI

Magistrate Holly True Shaver

DECISION OF THE MAGISTRATE

{¶1} On February 27, 2024, the court held an oral hearing via Zoom videoconferencing on Leah J. Dipippo’s (“applicant”) appeal of the Attorney General’s (“AG”) July 18, 2023 final decision.¹ Applicant did not appear at the time of the hearing; Assistant Attorney General Candice Suffren appeared on behalf of the state. The AG presented testimony from one of its investigators, Helen Renee James. After the hearing concluded, applicant contacted the court and stated that she had requested a continuance of the hearing. In an effort to obtain applicant’s testimony, the court held a second Zoom hearing on May 7, 2024. Applicant attended the hearing and testified on her own behalf; Assistant Attorney General Candice Suffren again appeared on behalf of the state.

{¶2} Applicant seeks an award of reparations for property damage and crime scene clean up after an unidentified suspect drove a stolen vehicle into her home on December 6, 2022.

{¶3} In its final decision, the AG found that the incident did not meet the definition of criminally injurious conduct in R.C. 2743.51(C)(1). Specifically, the AG asserted that the criminal action of the stolen vehicle striking applicant’s home did not pose a substantial threat of personal injury or death to her because she was not home when the incident occurred.

¹ The court granted applicant’s requests for a continuance of the hearing on two occasions prior to the February 27, 2024 hearing.

{¶4} Applicant testified that on December 6, 2022, a suspect drove a stolen vehicle into her home in Cincinnati, Ohio. Applicant stated that she was not present in the residence at the time of the incident. Applicant stated that she was on another road near her residence and that she could not access her residence, or even her street, at the time of the incident. Furthermore, applicant testified that she was not present at any time that the offender was near her residence. Applicant stated that she was unable to live in the home after the incident. Applicant clarified that she seeks restitution for the cost of cleaning up the crime scene, fines assessed against her by the local government, and costs to secure the home as required by the local government. Applicant argued that because the offender posed a threat to everyone on the street of the residence when he was recklessly driving the stolen vehicle, she should be entitled to compensation.

{¶5} Helen Renee James, a field investigator supervisor for the AG's office, testified that she spoke with applicant on the phone as part of her investigation and applicant stated that she was not at the residence when the vehicle hit it. Further, James testified that she contacted a law enforcement officer involved with the case, Officer Joshua Jordan, who confirmed that applicant was not at the residence when the vehicle drove into it.

{¶6} In closing, the AG stated that its decision should be upheld because it is undisputed that applicant was not at the scene when the vehicle struck her residence, thus, she does not qualify as a victim of criminally injurious conduct.

{¶7} 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.

{¶8} R.C. 2743.52(A) places the burden of proof on an applicant to satisfy the court of claims that the requirements for an award have been met by a preponderance of the evidence. *In re Rios*, 8 Ohio Misc.2d 4, 455 N.E.2d 1374 (Ct. of Cl. 1983).

{¶9} In order to receive an award of reparations, a claimant must be a victim of criminally injurious conduct and must seek reparations for economic loss. R.C. 2743.51.

{¶10} Criminally injurious conduct is “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 * * *”. R.C. 2743.51(C). Here, applicant failed to establish that the offender driving into her house when she was not present posed a substantial threat of personal injury or death to her. Therefore, applicant does not qualify as a victim of criminally injurious conduct. Furthermore, applicant has failed to claim an allowable expense.

{¶11} R.C. 2743.51(F)(1) states, in pertinent part:

“allowable expense” means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for hearing aids; dentures, retainers, and other dental appliances; canes, walkers, and other mobility tools; and eyeglasses and other corrective lenses.

{¶12} Applicant’s claims for funds to pay local government fines and make repairs to the home do not fall under the definition of an allowable expense but rather consist of reimbursement for property loss. The structural and physical damage to applicant’s home also constitutes property loss. Property loss is not compensable under the program. *In re Navario Banks*, Ct. of Cl. No. V2008-30189, 2008-Ohio-4266; *In re Morris*, 2019-00055VI, 2019-Ohio-5070.

{¶13} Under R.C. 2743.51(T), cost of crime scene cleanup includes “[r]easonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the *criminally injurious conduct* occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.” (Emphasis added.) Inasmuch as the property damage was not caused by criminally injurious conduct as defined in R.C. 2743.51(C)(1), any expenses incurred by applicant related to her property do not constitute costs of crime scene cleanup under R.C. 2743.51(T) and cannot be reimbursed.

{¶14} Upon review of the evidence in the case file, in consideration of the arguments and testimony presenting at the hearings, and for the reasons stated above, the magistrate finds that applicant did not prove, by a preponderance of the evidence, that she qualifies as a victim of criminally injurious conduct as defined in R.C. 2743.51(C)(1). Although the magistrate sympathizes with applicant's loss, the magistrate concludes that the final decision of the AG is reasonable and lawful. Therefore, the magistrate recommends that the final decision of the AG be affirmed.

{¶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 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).*

HOLLY TRUE SHAVER
Magistrate