

IN THE COURT OF CLAIMS OF OHIO

IN RE: SUSIE CHRISMAN

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Applicant

Case No. 2023-00658VI

Magistrate Holly True Shaver

DECISION OF THE MAGISTRATE

{¶1} On April 16, 2024, the court held a hearing on Susie Chrisman’s (“applicant”) appeal of the Attorney General’s (“AG”) September 25, 2023 final decision.

{¶2} Applicant’s son was murdered on May 6, 2003, and she witnessed his body being removed from the scene of the crime in a body bag. The AG previously determined that applicant qualified as a victim in her own right (“VIOR”)¹ and awarded her a total of \$14,033.44 for prescription medications, mileage to doctor’s offices and pharmacies, and copays, prior to the current appeal.

{¶3} In the instant claim, applicant requests reimbursement for prescription costs and mileage to the pharmacy since 2018. In its final decision, the AG denied applicant’s claim because there was not a preponderance of the evidence that applicant continues to suffer from the effects of the shock she experienced directly attributable to witnessing her son’s body being removed from the homicide scene. In her appeal, applicant asserted that her prescription costs should continue to be paid because she was found to be a VIOR fifteen years ago and the AG cannot revoke that decision.

{¶4} At the hearing attorney Michael Falleur represented applicant, who did not attend; Assistant Attorney General Melissa Montgomery represented the state. The hearing proceeded with arguments only. Attorney for applicant argued that applicant’s

¹ *In re Clapacs*, 58 Ohio Misc. 2d 1, 567 N.E.2d 1351, established that individuals who experienced emotional stress due to direct awareness of a criminal incident were indirect victims eligible for compensation. This case held that the court should consider the person’s proximity to the location of the crime, the relationship between the indirect and direct victim, and the shock directly attributable to the sensory and contemporaneous observance of the incident when determining VIOR status.

depression from witnessing the crime scene and the depression from her son's untimely death cannot be separated. Therefore, Falleur argued that as long as applicant is being treated for depression, she qualifies as a VIOR and her prescription costs should be covered unless the AG provides medical evidence showing that applicant's depression is not related to her VIOR status. The AG argued that applicant has failed to prove that the direct cause of her depression, as she currently experiences it, is the shock of seeing her son's body being removed from the crime scene.

{¶5} 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.

{¶6} 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).

{¶7} Applicant previously qualified as a VIOR and this status cannot be revoked. However, applicant still has the burden to prove that witnessing the crime scene caused the need for the medication for which she currently seeks compensation.

{¶8} This court has consistently held that a determination of whether an applicant is entitled to an award of reparations for economic loss arising from criminally injurious conduct requires application of principles of traditional proximate cause standards. The trier of fact, at a minimum, must be provided with evidence that a result is more likely to have been caused by an act, in the absence of any intervening cause.

In re Lee, 2022-00628VI, 2023-Ohio-2170 quoting *In re Toney*, Ohio Ct. of Cl. No. V79-3029jud (Sept. 4, 1981).

{¶9} In her request for consideration, applicant included medical notes from her doctor regarding treatment for her depression. The most recent note, dated April 27,

2021, states that applicant has chronic depression related to the murder of her son and that this time of year is particularly difficult because of the anniversary of the death of her son. AG's transmitted file page 163. None of the doctor's notes mention that applicant suffers from depression related to the contemporaneous witnessing of the crime scene.

{¶10} “[T]he court has consistently adopted the standard * * * that applicant has the burden of proof, within a reasonable degree of medical certainty, to establish and prove the casual connection.” *In re H.Z.*, 2015-01010VI, 2020-Ohio-7093 (internal citations omitted). Applicant must prove a causal connection between witnessing the crime scene and the chronic depression that she suffers from today. Unfortunately, the evidence fails to show this causal connection.

{¶11} Upon review of the evidence in the case file and in consideration of the arguments of counsel at the hearing, the magistrate finds that applicant failed to establish by a preponderance of the evidence that witnessing the crime scene over twenty years ago proximately caused to the need for chronic depression medication that she seeks reimbursement for today. The most recent medical professional note states that the death of her son, not her witnessing the crime scene, caused applicant's depression. Applicant did not testify that the sensory experience of witnessing her son's body being removed from the crime scene is the proximate cause of the depression that she currently experiences.

{¶12} Accordingly, the magistrate finds that the AG's final decision was reasonable and lawful. The magistrate recommends that the final decision of the AG be affirmed.

{¶13} *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

Filed 05/28/24
Sent to S.C. Reporter 08/26/24