

[Cite as *In re Bolt*, 2005-Ohio-3320.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: JASON A. BOLT	:	Case No. V2004-61268
JASON A. BOLT	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a June 7, 2003 incident. The applicant, a Columbus police officer, contends that he was a victim of criminally injurious conduct because he was injured while attempting to remove an intoxicated and disorderly person, Kenneth White, from an unsafe area. On September 8, 2004, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to qualify as a victim of criminally injurious conduct since Mr. White's conduct posed no substantial threat of personal injury or death to the applicant. On October 7, 2004, the applicant filed a request for reconsideration. On December 6, 2004, the Attorney General denied the applicant's claim once again. On December 27, 2004, the applicant filed a notice of appeal to the Attorney General's December 6, 2004 Final Decision. Hence, this matter came to be heard before this panel of three commissioners on March 23, 2005 at 11:10 A.M.

{¶ 2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration. Officer Bolt testified that he was dispatched to the intersection of I-70 and Livingston Avenue, a heavily

traveled intersection in Columbus, concerning a homeless man laying in the street. Officer Bolt stated that when he arrived at the scene Kenneth White had been safely removed from the street by the Fire Department. Officer Bolt explained that in the past Mr. White had never caused any major problems but is a constant nuisance in the neighborhood, since he starts fires, begs for money, and regularly becomes intoxicated. Officer Bolt stated that he had the option of either arresting Mr. White or transporting him to an engagement center for treatment. Officer Bolt explained that he had decided to have Mr. White transported to the engagement center, but had to wait for more appropriate transportation. Officer Bolt stated that Mr. White had been sitting on the sidewalk, however he kept attempting to stand ignoring all orders to remain seated until transportation arrived. Officer Bolt testified that Mr. White staggered and when he attempted to place Mr. White into his squad car he injured his back. Lastly, Officer Bolt stated that as a result of Mr. White's conduct he lost six months of special duty pay.

{¶ 3} Applicant's counsel contended that the claim should be allowed based on the testimony presented. Counsel argued that Mr. White's disorderly conduct and public intoxication posed a substantial threat of personal injury or death to the applicant. Counsel noted that Mr. White had previously been found laying in the middle of the road and was removed by the Fire Department. Counsel also argued that Mr. White's failure to cooperate with Officer Bolt's commands to remain seated and not to return to the street posed a danger to Mr. White, Officer Bolt and motorists, which is noted by Officer Bolt's injury.

{¶ 4} The Assistant Attorney General maintained that the applicant's claim should be denied since he was not faced with any threat of personal injury or death. The Assistant Attorney General contended that since Mr. White was on the curb and was not in the street when

the injury occurred that the applicant does not qualify as a victim of criminally injurious conduct. The Assistant Attorney General asserted that the panel should look at the underlying conduct in order to determine whether Officer Bolt qualifies as a victim of criminally injurious conduct. The Assistant Attorney General argued that the underlying conduct, Mr. White's intoxication, did not pose a substantial threat of personal harm or death to the applicant, especially since Mr. White was not charged with any crime. R.C. 2743.51(L) states:

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

{¶ 5} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, this panel makes the following determination. Officer Bolt stated that he was injured while attempting to prevent Mr. White from reentering into traffic, whereby Mr. White, Officer Bolt, and motorists could have been harmed by Mr. White's illegal emergence into traffic. Officer Bolt testified that Mr. White is a fairly large individual who was initially discovered intoxicated and laying in the middle of Livingston Avenue, a heavily traveled avenue, in Columbus Ohio around midnight. Even though Mr. White was safely removed from the street when Officer Bolt arrived on the scene, Officer Bolt testified that Mr. White continued to disregard his requests to remain seated on the curb until he could be transported to an engagement center for treatment. We find that Mr. White's public intoxication and disorderly conduct posed a substantial threat of personal injury or death to the applicant. We also believe

that Officer Bolt was also attempting to prevent further criminally injurious conduct by removing the disorderly and intoxicated Mr. White to a more secure environment. Therefore, the December 6, 2004 decision of the Attorney General shall be reversed and this claim shall be remanded to the Attorney General for economic loss calculations and decision.

IT IS THEREFORE ORDERED THAT

{¶ 6} 1) The December 6, 2004 decision of the Attorney General is REVERSED;

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

{¶ 8} 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;

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

JAMES H. HEWITT III
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

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:

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To S.C. Reporter 6-28-2005

