

STATE OF NORTH CAROLINA  
COUNTY OF MONTGOMERY

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
22 CPS 04296

<p>Jimmy F. Crump, Petitioner,</p> <p>v.</p> <p>NC Crime Victims Compensation Commission, Respondent.</p>	<p><b>FINAL DECISION SUMMARY JUDGMENT</b></p>
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**THIS MATTER** came before Jonathan S. Dills, Administrative Law Judge with the Office of Administrative Hearings (“OAH”), upon Respondent’s Motion for Summary Judgment filed on 9 March 2023, pursuant to GS § 1A-1, Rule 56, and 26 NCAC 03.0115. Reviewing Respondent’s Motion in the light most favorable to Petitioner, the undersigned grants the motion as follows:

**FINDINGS**

1. Petitioner filed a Victim Compensation Application (the “Application”) with Respondent, seeking reimbursement for funeral expenses following the death of his son, Ryan Edward Crump (“Ryan”).
2. In the Application, Petitioner states that Ryan failed to stop at a stop sign, ran off the roadway, and collided with the home of resident William C. Dyer (“Dyer”).
3. Following an investigation and review of Petitioner’s claim, including documents submitted by Petitioner, Respondent denied the claim on the grounds that (a) decedent engaged in contributory misconduct per GS § 15B-11(b)(2); and (b) was participating in a felony at or about the time the incident occurred per GS § 15B-11(a)(6).
4. On 23 September 2022, Respondent mailed Petitioner a cover letter and a *Decision of Director: Denied* explaining the denial and giving notice to Petitioner of his right to appeal.
5. On 14 November 2022, Petition for Contested Case Hearing was filed and accepted by OAH.
6. On or about 25 January 2023, Petitioner answered Respondent’s First Requests for Admission, First Set of Interrogatories, and First Request for Production of Documents.

7. Petitioner admits that:
  - a. RFA No. 4 – Prior to his death on 2 June 2022, Ryan, Petitioner’s son, drove his Ford Ranger pickup truck into William C. Dyer’s residence.
  - b. RFA No. 7 – At the time the incident occurred on 2 June 2022, Ryan was under the influence of alcohol.
  - c. RFA No. 8 – Prior to passing away on 2 June 2022, Ryan had been operating a motor vehicle while under the influence of alcohol.
  - d. RFA No. 11 – Ryan’s blood alcohol level on 2 June 2022 was .13 or .14 as tested and verified by the Office of the Chief Medical Examiner.
  - e. RFA No. 12 – On 2 June 2022, Ryan’s blood alcohol level significantly exceeded the legal limit of .08.
  - f. RFA No. 14 – Decedent’s passenger admitted to law enforcement that Ryan missed the stop sign and drove into Dyer’s residence.
  - g. RFA No. 15 – Ryan was inside Dyer’s residence when he was shot.
  - h. RFA No. 24 – Ryan’s driver’s license was revoked 7 March 2014.
8. Respondent’s Motion for Summary Judgment contains a copy of the law enforcement report of the incident whereby law enforcement details that Ryan, once inside Dyer’s residence, got out of the vehicle and was “waiving [*sic*] his arms around and walking towards [Dyer].” *See*, Montgomery County Sheriff’s Office Report, Incident 2206-0713.
9. Dyer gave Ryan lawful orders and directives to stop moving and to sit down. However, Ryan did not comply and instead continued walking towards Dyer and his wife. *Id.*
10. Dyer was in fear for his safety and the safety of his wife and fired “2 or 3 shots.” *Id.*
11. Petitioner has failed to respond to the Respondent’s Motion for Summary Judgment and has proffered or introduced zero evidence to contradict Respondent’s evidence.
12. A duly noticed telephonic hearing was held on Tuesday, 21 March 2023, and Petitioner failed to attend.
13. Telephonic hearing was set to commence at 2:00pm. The Tribunal waited until 2:05pm for Petitioner to join. Petitioner never joined and the Tribunal conducted the hearing in Petitioner’s absentia.
14. As the hearing concluded at 2:40pm, the Tribunal called the case again and Petitioner still did not respond.

### **CONCLUSIONS**

1. OAH has jurisdiction over the parties and subject matter. Venue is proper. Parties are properly designated. There is no issue as to joinder.
2. Where Findings contain Conclusions or vice versa, they should be so considered regardless of labeling. *Charlotte v. Health*, 226 N.C. 750, 755, 440 S.E.2d 600, 604 (1946).

3. Summary judgment is proper where “the pleadings, depositions, answers to interrogatories, and admissions on file . . . show that there is no genuine issue as to any material fact and that the party is entitled to judgment as a matter of law.” GS § 1A-1, Rule 56(c).
4. The movant may meet the burden of proving the lack of any triable issue “by proving that an essential element of the opposing party’s claim is nonexistent, or by showing through discovery that the opposing party cannot produce evidence to support an essential element of his claim or cannot surmount an affirmative defense which would bar the claim.” *Collingwood v. G. E. Real Estate Equities*, 324 N.C. 63, 66, 376 S.E.2d 425, 427 (1989).
5. Petitioner admitted that on 2 June 2022, Ryan had a revoked driver’s license and had been drinking and driving when he ran a stop sign, crashed into Dyer’s home, and was inside Dyer’s home when he was shot and killed.
6. The record indicates that Ryan failed to comply with lawful orders and directives of a homeowner while inside the homeowner’s property.
7. GS § 14-51.2 permits the use of deadly force in defense of one’s home.
8. GS § 14-51.2(f) reads, “A lawful occupant within his or her home, motor vehicle, or workplace does not have a duty to retreat from an intruder in the circumstances described in this section.”
9. Ryan’s negligent actions of driving with a revoked license and driving while intoxicated led to his collision into Dyer’s home.
10. Ryan’s failure to comply with lawful orders and directives of a homeowner while in the homeowner’s property, coupled with his preceding negligent actions, were the proximate causes of his death.
11. But for Ryan’s negligent driving and lack of compliance with lawful orders and directives, he would not have crashed into Dyer’s home; would not have been in Dyer’s home; and would not have been shot by Dyer.
12. As such, Ryan engaged in contributory misconduct pursuant to GS § 15B-11(b)(2).
13. Petitioner failed to forecast, present, or proffer sufficient evidence to establish that the requirements for an award have been met pursuant to GS §§ 15B-2(12a) and 15B-4(a).
14. The record conclusively demonstrates that there is no genuine issue as to any material fact and Respondent is entitled to judgment as a matter of law.
15. Based on the foregoing Findings and Conclusions, the undersigned issues the following:

**DECISION**

Respondent's Motion for Summary Judgment is **GRANTED**; the decision to deny Petitioner's claim for Crime Victims Compensation is hereby **AFFIRMED**.

**NOTICE OF APPEAL**

**This is a Final Decision** issued under the authority of GS § 150B-34. Under the provisions of GS § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 NCAC 03.0102, and the Rules of Civil Procedure, **this Final Decision was served on the parties as indicated by the attached Certificate of Service.** GS § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under GS § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated to ensure timely filing of the record.

**ORDERED** this the 3rd day of April 2023.



The Honorable Jonathan S. Dills  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.

Jimmy F Crump  
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Petitioner

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This the 3rd day of April 2023.



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