

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
22 CPS 04095

Romeo Kamatari, Petitioner,  v.  NC Crime Victims Compensation Commission, Respondent.	<b>FINAL DECISION SUMMARY JUDGMENT</b>
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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. Having reviewed Respondent’s Motion in the light most favorable to Petitioner, I find and conclude that there is no genuine issue of material fact and Respondent is entitled to judgment as a matter of law.

**FINDINGS**

1. On 21 June 2022, Petitioner filed a Victim Compensation Application (“Application”) with Respondent.
2. Petitioner alleges that he was the victim of a theft which occurred on 6 March 2021 in Guilford County, North Carolina.
3. Specifically, Petitioner contends that he invited a rideshare customer to his apartment who then stole his vehicle and other items of personal property.
4. Following an investigation and review of Petitioner’s claim, including documents submitted by Petitioner, Respondent determined that Petitioner failed to prove that he was the victim of criminally injurious conduct, consistent with GS § 15B.
5. On 23 September 2022, Respondent mailed Petitioner a cover letter and Decision of Director: Denied.
6. On 28 October 2022, Petition was filed and accepted by the OAH.
7. On or about 12 February 2023, Petitioner responded to Respondent’s discovery requests, in which Petitioner admitted:

- a. RFA Page 3 – Petitioner invited an individual he met through Uber/Lyft into his apartment for dinner.
- b. RFA No. 10 – Petitioner did not seek medical attention following the incident in which his car was stolen on 6 March 2021.
- c. RFA No. 16 – At the time the incident occurred on 6 March 2021, Petitioner was covered under an automobile insurance policy.
- d. RFA No. 17 – Petitioner has not initiated any litigation against the perpetrator.
- e. RFA No. 19 – Petitioner requested restitution as part of Angelo Daquan McIntyre’s sentencing.
- f. Interrogatory No. 23 – Discovery Insurance Company declared the vehicle a total loss and issued a check to the dealership for \$5,133.09.

8. The Crime Victims Compensation Act governs the process through which certain victims are eligible for compensation. GS § 15B, Article 1.

9. GS § 15B-2(13) defines a victim as, “A person who suffers personal injury or death proximately caused by criminally injurious conduct.”

### 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 does not qualify as a compensable victim under GS § 15B-2(13).

6. Petitioner failed to proffer or present any evidence to establish that the requirements for an award could be met. GS §§ 15B-2(2), and 15B-4(a).

7. The record conclusively establishes that there is no genuine issue as to any material fact and Respondent is entitled to judgment as a matter of law.

8. Based on the foregoing, 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 30th day of March 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.

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This the 30th day of March 2023.



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