

STATE OF NORTH CAROLINA  
COUNTY OF IREDELL

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
12 CPS 00195

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Alexander R Hayes, )  
Petitioner, )  
 )  
vs. )  
 )  
North Carolina Division of Crime Victim )  
Compensation Services, )  
Respondent. )

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**FINAL DECISION**

The above entitled contested case was heard before administrative law judge Beecher R. Gray on May 11, 2012, in Morganton, North Carolina. At the conclusion of the evidence and arguments, a decision was announced in favor of Petitioner.

**APPEARANCES**

Petitioner: Alexander Hayes, appearing *pro se*  
Respondent: Tammera Hill, Assistant Attorney General

**ISSUE**

Whether Respondent's decision to deny Petitioner's application for crime victim compensation because he failed to cooperate with law enforcement is supported by the evidence.

**FINDINGS OF FACT**

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing, and each stipulated on the record that notice was proper.
2. On October 31, 2010, Petitioner was a student at East Carolina University in Greenville, North Carolina. Petitioner resided off-campus in an apartment in Greenville.
3. On the evening of October 30, 2010, Petitioner and some friends went to another friend's house to visit. While there, Petitioner—who was 21 years of age at the time—drank two beers. Petitioner left his friend's house just after his other friends left, all with the agreed purpose of meeting at another location in downtown Greenville. Petitioner was walking to the next destination to meet his friends but could not see them ahead of him as he walked at about 11:30 p.m.
4. As he was walking, a dark-colored car approached him from the rear and stopped, its occupants cursing and yelling from its windows. The occupants of the car attacked Petitioner as he ran in an attempt to escape. Petitioner was tackled; beaten; and kicked by the three male occupants of the car. Petitioner was struck with a metal object, suffering

numerous bruises. Petitioner believes that he may have been unconscious for a short period of time. He was not robbed as he had no cash on his person.

5. When able, Petitioner made his way back to the friend's house from which he had departed and lay down. His other friends, who had departed the house just before Petitioner left, returned looking for him and transported Petitioner to Pitt County Memorial Hospital's ("PCMH") emergency room ("ER").
6. In the ER, Petitioner was administered CT scans of his face, head, and cervical spine. He was given Oxycodone and Hydrocodone for pain management during the early morning hours at PCMH and placed in room G-5 of the hospital.
7. Hospital Police Department Officer Conley Mangum went to Petitioner's room at 6:01 a.m. to interview him about the assault. Petitioner told Officer Mangum that he could not identify the assailants and that there was no use in pressing charges. Petitioner was, at this time, enduring the continued effects of the assault and was also under the influence of the narcotics Oxycodone and Hydrocodone, as administered by the PCMH medical staff earlier that morning. Officer Mangum left Petitioner's room at 6:10 a.m. and never told Petitioner that he had to do anything further about the assault case. No other police officer from any jurisdiction visited Petitioner or asked questions about the assault.
8. The Greenville Police Department was told by Officer Mangum that Petitioner did not want to press charges. Based on that communication, the Greenville Police Department elected not to visit Petitioner to get a report or to follow up on the assault. No police report was prepared by any police officer of any jurisdiction. Officer Mangum prepared an Operations Report, admitted into evidence as Respondent's Exhibit 1, which reports that he visited Petitioner in his room for 9 minutes on the morning of October 31, 2010.
9. Petitioner's mother was informed about the Crime Victims Compensation program while at PCMH and began to assist Petitioner in filing an application for compensation for his medical expenses. Petitioner sought a police report for the Crime Victims application process from both the Hospital and from the Greenville Police Department, neither of which had a police report.
10. Respondent denied Petitioner's application for compensation on November 10, 2011, on the ground that Petitioner had not reported the crime to law enforcement within 72 hours.
11. On February 7, 2012, Respondent issued a "Substitute Decision of Director: Denied" in which Respondent changed its reason for denial from failure to report the crime within 72 hours to failure by Petitioner to cooperate with law enforcement.
12. The total medical expenses charged to Petitioner by PCMH for this incident was approximately \$7,741.00 of which \$2,840.95 was adjusted on the basis of a Blue Cross and Blue Shield policy held by Petitioner's parents. The approximate uncompensated cost to Petitioner for his care is \$5,475.48.

Based upon the foregoing findings of fact, I make the following:

**CONCLUSIONS OF LAW**

1. The parties properly are before the Office of Administrative Hearings.
2. Petitioner was a victim of criminally injurious conduct which Petitioner reported to law enforcement within 72 hours of its occurrence by and through his interview with the PCMH Police Officer Mangum.
3. The evidence in this contested case demonstrates that Petitioner cooperated with law enforcement and made efforts to obtain police reports from PCMH and the Greenville Police Department which did not exist. PCMH Police Officer Mangum's 9 minute interview of Petitioner while Petitioner was under the effects of a recent assault and recently-administered narcotics does not constitute a knowing refusal to cooperate with law enforcement.

Based upon the foregoing findings of fact and conclusions of law I make the following:

**FINAL DECISION**

Respondent's decision to deny Petitioner's application on the basis that Petitioner failed to cooperate with law enforcement is not supported by the evidence and is REVERSED. This is a Final Decision under the authority of N.C.G.S. §150B-34.

**NOTICE**

Under G.S. 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge may commence such appeal by filing a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The party seeking review must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Decision and Order (see date on Certificate of Service, last page). Under G.S. 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 in order to ensure the timely filing of the record.

This the 25th day of June, 2012.

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Beecher R. Gray  
Administrative Law Judge