

R. v. Criminal Injuries Compensation Board, *ex p.*
Williams

Divisional Court
CO/19/91

April 21, 1993

Leggatt L.J. and McCullough J.

Criminal Injuries Compensation Board—reasons for refusing an award—provocative conduct.

Application for judicial review of a decision of the Criminal Injuries Compensation Board whereby an application for compensation was rejected on the ground that the applicant's conduct was provocative. The proceedings before the board arose out of an incident which resulted in the prosecution of a man called Gareth Morgan for an alleged assault on the appellant. The applicant disapproved of Mr Morgan going out with his daughter and had "warned him off" from seeing her. On April 2, 1986 the applicant considered that Mr Morgan was seeing his daughter at a party and he went to the house where the party was held. The applicant insisted on seeing Mr Morgan whom he considered had been indecently assaulting his daughter. The applicant felt that Mr Morgan had broken his word about seeing his daughter and when Mr Morgan came out of the house where the party was held, it is alleged by the applicant that he was assaulted by Mr Morgan. Mr Morgan alleged that the applicant grabbed his collar and dragged him down the road and swung a punch at him and that he and the applicant struggled and fell. Mr Morgan contended at his trial that he acted in self-defence. He called two witnesses who supported his version of events and was acquitted by the jury of the alleged assault on the applicant. In all these circumstances the applicant did not satisfy the Board, that he was an innocent victim of a crime of violence and accordingly the application was rejected under paragraphs 4(a) and 6(c) of the Scheme. At the trial of Mr Morgan the jury acquitted Mr Morgan on all counts and rejected the alternative of common assault which had been proffered by the judge. The application by Mr Williams to the Criminal Injuries Compensation Board was under the 1990 Criminal Injuries Compensation Scheme and provided that the Board would entertain applications for *ex gratia* payments of compensation in any case where the applicant sustained in Great Britain personal injury directly attributable to a crime of violence. Further provisions allowed the Board to withhold to refuse compensation to a crime of violence. Further provisions allowed the Board to withhold to refuse compensation if they considered that having regard to the conduct of the applicant before, during or after the events giving rise to the claim, it was inappropriate

that a full award, or any award at all, be granted. In Notes for Guidance used by the Board, the word "conduct" as used in the Scheme was intended to include provocative behaviour.

Held, refusing the application:

It was impossible to say that there was not available to the Board evidence capable of supporting the conclusion set out in their award that there was evidence of conduct capable of constituting provocation.

W. Gaskell (Everett & Tomlin) for the applicant; *M. Kent* (Treasury Solicitor) for the respondent.

S.M.K.