

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[Filed: August 5, 2016]

JONATHAN P. CORRENTE

VS.

C.A. No. PC-2013-4763

GINA M. RAIMONDO, GENERAL
TREASURER, CRIME VICTIM
COMPENSATION PROGRAM,
IWONA RUSEK RAMIAN, ESQ.,
DEPUTY PROGRAM
ADMINISTRATOR AND MELISSA A.
MALONE, DESIGNEE OF THE
GENERAL TREASURER, DEPUTY
GENERAL TREASURER/GENERAL
COUNSEL

DECISION

TAFT-CARTER, J. The matter before the Court is Jonathan P. Corrente’s (Mr. Corrente) appeal from an August 29, 2015 decision (CVCP Decision) of the Crime Victim Compensation Program (CVCP), denying his application for compensation (the Application). Jurisdiction is pursuant to G.L. 1956 § 42-35-15.

I

Facts and Travel

On May 24, 2013, Mr. Corrente filed the Application with the CVCP requesting compensation as a victim of a violent crime. Compl. ¶ 22. In the Application, Mr. Corrente alleged that he was the victim of abuse by family members from 1981 to 1985.¹ See Pl.’s Mem.,

¹ Mr. Corrente alleges in his Complaint that the abuse occurred between 1981 and 1987. Compl. ¶ 9. However, Mr. Corrente listed the years 1981 through 1985 in the Application. See Pl.’s

Ex. A. Mr. Corrente maintains that until his recovery from alcohol and drug abuse in 2013, the memory of the abuse was repressed. Id.

On June 6, 2013, the CVCP Deputy Administrator denied the Application because of Mr. Corrente's failure to (1) file the Application within the limitation period; and (2) report the crimes within ten days of their occurrence. Pl.'s Mem., Ex. C. Mr. Corrente submitted a request for reconsideration pursuant to G.L. 1956 § 12-25-18(g) on June 16, 2013. Pl.'s Mem., Ex. D. In his request for reconsideration, Mr. Corrente made several arguments including repressed memory to explain the untimeliness of the Application. Id. The request for reconsideration was received and considered by the CVCP. Id.; see also Pl.'s Mem., Ex. E.

On August 29, 2013, the CVCP denied Mr. Corrente's request for reconsideration in a formal decision. Pl.'s Mem., Ex. F. The CVCP Decision concurred with the analysis of the CVCP Deputy Director, finding that Mr. Corrente failed to timely file the Application and report the crimes. Id.

Mr. Corrente appealed the CVCP Decision to the Superior Court on September 23, 2013. In November 2015, Mr. Corrente moved to present additional evidence.² On appeal, he argues that the CVCP Decision is in violation of constitutional or statutory provisions and clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Pl.'s Mem. 5. More pointedly, Mr. Corrente contends that the CVCP violated statutory provisions, as it did not properly analyze whether his particular case fell into one of the exceptions to the limitation period. Mr. Corrente concedes that CVCP Rules and Regulations § 1.06(1)(a) cannot apply, as the Application was not filed within three years of his eighteenth birthday. It is

Mem., Ex. A. The Court uses the dates listed in the Application, as those were the dates used by the CVCP when considering the Application.

² This motion is discussed infra in Section III A.

maintained that the record documents that the limitation period should have been tolled under § 1.06(1)(b), due to the fact that the abuse was not discovered within the limitation period. Likewise, Mr. Corrente posits that the limitation period should have been tolled for good cause under § 1.06(1)(c), as he was abused as a child and repressed the memories of his abuse until later in his adult life. For similar reasons, Mr. Corrente argues that the record indicates that he was justified in filing his police report late. Mr. Corrente contends that he did not discover his abuse until 2013, and after he realized it, he immediately filed a report with the Cranston Police Department (the Police). Mr. Corrente maintains that a view of the reliable, probative, and substantial evidence on the whole record demonstrates that the CVCP Decision was clearly erroneous.

In opposition, the CVCP argues that it properly considered all of the exceptions and their applicability to Mr. Corrente's case. Nevertheless, the CVCP posits that the exceptions are either inapplicable or unsupported by objective evidence on the record.

II

Standard of Review

Rhode Island General Laws § 12-25-18(i) explicitly states that appeals of the Rhode Island General Treasurer's Designee may be brought in the Superior Court pursuant to the Administrative Procedures Act. Section 42-35-15(g) sets forth the standard by which the Court shall review the CVCP Decision:

“The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;

- (3) Made upon unlawful procedure;
- (4) Affected by other error or law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Sec. 42-35-15(g).

The Court “lacks [the] authority to weigh the evidence, to pass upon the credibility of witnesses, or to substitute [its] findings of fact for those made at the administrative level.” Restivo v. Lynch, 707 A.2d 663, 665 (R.I. 1998) (internal quotation marks omitted).

III

Analysis

A

Motion to Present Additional Evidence

As a threshold matter, the Court will address Mr. Corrente’s motion to present additional evidence pursuant to § 42-35-15(e). Mr. Corrente asks this Court to allow him to present additional evidence in this proceeding. While the Superior Court has the discretion to remand a case to the agency for additional findings of fact, this Court has no authority to expand the administrative record before it. Section 42-35-15(f) states that “[t]he review shall be conducted by the court . . . and . . . confined to the record.”³ See also R.I. Public Telecomms. Auth. v. R.I. State Labor Relations Bd., 650 A.2d 479, 484-85 (R.I. 1994) (“The Superior Court is limited to an examination of the certified record to determine whether the agency’s decision is supported by any legally competent evidence in the record.”). The Court’s limited standard of review gives “finality to findings of fact made by administrative agencies, when such findings are supported

³ Section 42-35-15(f) only permits evidence to be taken by the Court if irregularities in procedure occurred before the agency. Mr. Corrente has not alleged that any irregularities in procedure occurred before the CVCP.

by competent evidence and are procedurally proper.” Lemoine v. Dep’t of Mental Health, Retardation & Hosps., 113 R.I. 285, 291, 320 A.2d 611, 614-15 (1974). Mr. Corrente seeks to introduce documentation that was necessary to support the Application while the Application was being reviewed by the CVCP. Consequently, the Court does not have the authority to “include said evidence into the judicial record to assist the Court with its review.” Pl.’s Mot. to Present Additional Evidence 1. These documents would do more than merely assist the Court with its review—they would supplement the administrative record. Therefore, the motion to present additional evidence to this Court is denied.

To the extent that Mr. Corrente seeks a remand, § 42-35-15(e) authorizes the Court to remand the case to the administrative agency for the presentation of additional evidence. Section 42-35-15(e) permits the presentation of additional evidence before an administrative agency if the additional evidence is material and the moving party provides good reasons as to why the evidence was not presented during the agency proceedings. Furthermore, the additional presentation of evidence is only permitted if the administrative appeal has not yet been heard. Sec. 42-35-15(e). Since the administrative appeal has been heard and decided, the motion to remand is denied.

B

Administrative Appeal

The CVCP is administered by the office of the Rhode Island General Treasurer. Sec. 12-25-18(a). Rhode Island General Laws § 12-25-18(c) directs the CVCP Administrator to “promulgate all rules and regulations necessary to effectuate the provisions and overall purpose [of the CVCP].” Under the CVCP, victims of violent crimes may be awarded with compensation up to \$25,000 for expenses resulting from violent crimes. See § 12-25-22(b). These expenses

include, among other things, mental health counseling, medical expenses, and loss earnings. See CVCP Rules and Regulations § 1.07. Claims are administered pursuant to §§ 12-25-1 et seq. and the CVCP Rules and Regulations. After a claim is considered by the CVCP, a claimant can move for reconsideration of an unfavorable decision pursuant to § 12-25-18(g). The decision that results from the reconsideration is then appealable to the Superior Court pursuant to § 12-25-18(i).

Section 12-25-22 sets forth various limitations on awarding compensation, including a limitation period. All applications to the CVCP must be filed within three years after the date of the crime. Sec. 12-25-22(a). In addition, the crime must be reported to the appropriate law enforcement authority within ten days of the crime's occurrence. Id. Here, it is undisputed that Mr. Corrente neither filed the Application within three years of his alleged abuse nor filed a police report with the appropriate agency within ten days of the crime's occurrence.

The CVCP Rules and Regulations further define the scope of the limitation period. Three exceptions to the limitation period are listed in § 1.06(1). The CVCP "may allow an application for compensation to be filed with the office after the expiration of the statute of limitations if the victim was of unsound mind or for good cause shown." Sec. 1.06(1)(c). In addition, an applicant may be excused from reporting the crime within ten days of its occurrence if "good cause" exists for the delay. Sec. 1.06(3). Good cause is defined as a "delay caused by physical or psychological incapacity which prevented the making of a report" Sec. 1.06(3)(b).

Mr. Corrente argues that the delay in reporting until 2013 was justified. After his alcohol and drug rehabilitation, the memories became apparent, and he immediately filed the Application. Therefore, he argues, there is good cause for the delay. Mr. Corrente further maintains that a review of the entire record indicates that his filing delays were supported by

good cause, rendering the CVCP Decision clearly erroneous. The CVCP, Mr. Corrente contends, violated statutory provisions by failing to adequately consider the time period exceptions in light of his particular story.

The Court cannot agree. First, the tolling exception for delayed discovery, found in § 1.06(1)(b), tolls the limitation period until after the crime is discovered or should have been discovered. Although Mr. Corrente argues that at a tender age he was unaware the abuse was wrong, a further review of the record indicates that he was aware of the abuse in his youth. Notwithstanding, he failed to file the Application upon reaching the age of maturity. CVCP Decision 2. Furthermore, the record also reveals that he reached the age of maturity on October 28, 1996 but failed to file the Application before October 28, 1999. Id.

Second, § 1.06(1)(b) mandates that the criminal violation alleged to have taken place must result in “the issuance of a criminal complaint, indictment or criminal information, or other judicial determination of probable cause that an act constituting a crime occurred.” Here, no criminal proceeding was initiated. Consequently, this argument too must fail. See Webster v. Perrotta, 774 A.2d 68, 75 (R.I. 2001) (“In matters of statutory interpretation our ultimate goal is to give effect to the purpose of the act as intended by the Legislature.”).

Finally, Mr. Corrente has provided no objective documentation to the CVCP in support of the delayed filing. Mr. Corrente alleges that merely listing the date of discovery is sufficient to explain his delay. As the applicant, it is Mr. Corrente’s burden to supply the CVCP with evidence to support the Application. CVCP Rules and Regulations § 1.10(1)(C) (“The application must be accompanied by copies of bills and other supporting documentation necessary to verify the application.”). A detailed review of the record indicates that the CVCP

Decision, upholding the CVCP Deputy Administrator's decision, was not clearly erroneous.⁴ The CVCP considered all of the evidence that had been presented, and determined that the evidence was not sufficient to justify the filing delays. The record indicates that Mr. Corrente's description of events, in and of itself, was not enough to support his assertions.

In light of the above, this Court finds that the CVCP's conclusion as to the timeliness of Mr. Corrente's Application and police report is sufficiently supported by substantial evidence on the whole record.⁵ The CVCP Decision is not clearly erroneous or in violation of statutory provisions.

IV

Conclusion

Based on the findings and conclusions of this Court, the CVCP Decision is supported by legally competent evidence and was not in violation of constitutional or statutory provisions; in

⁴ The Court finds it is of no moment that the CVCP stated that Mr. Corrente failed to provide documentation that he was not of sound mind, when, in fact, Mr. Corrente was not claiming he was of unsound mind. First, Mr. Corrente's request for reconsideration does not specifically state that he was not claiming to be of unsound mind. However, it does state that he repressed his memories due to alcohol and substance abuse. See Addictions, Am. Psych. Assoc., <http://www.apa.org/topics/addiction/> (2016). As a result, it was reasonable for the CVCP to conclude that Mr. Corrente was claiming his delay was caused by an unsound mind. Second, Mr. Corrente still did not produce any corroborating documentation to support his good cause argument under § 1.06(1)(c).

⁵ It is unnecessary for the Court to separately discuss the timeliness of Mr. Corrente's police report as the Court can affirm the CVCP Decision on the untimeliness of the Application. Nevertheless, the Court notes that Mr. Corrente claims that he did not originally file a police report when he recalled his abuse because he only remembered the abuse by his deceased grandfather. It does appear to the Court that Mr. Corrente contacted the Police the day after he remembered that he was abused by other, living, members of his family. CVCP Rules and Regulations § 1.06(3)(a) provides that "[a] crime is reported within ten days of its occurrence if it is reported within ten days of when the crime was discovered, or reasonably should have been discovered." While Mr. Corrente did file the police report within ten days of when he remembered the abuse committed by his living family members, Mr. Corrente still did not provide any objective documentation supporting the large lapse of time. Without objective documentation, the CVCP was unable to consider whether (1) Mr. Corrente should have reasonably discovered the crime sooner, or (2) good cause existed for the delay.

excess of statutory authority of the CVCP; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Substantial rights of Mr. Corrente have not been prejudiced. For the reasons set forth, the Court affirms the CVCP Decision. Counsel shall submit an appropriate order and judgment for entry consistent with this Decision.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: Jonathan P. Corrente v. Gina M. Raimondo, et al.

CASE NO: PC 2013-4763

COURT: Providence County Superior Court

DATE DECISION FILED: August 5, 2016

JUSTICE/MAGISTRATE: Taft-Carter, J.

ATTORNEYS:

For Plaintiff: Jonathan P. Corrente, *Pro Se*

For Defendant: Amy L. Crane, Esq.; Jeffrey Padwa, Esq.