

Court upholds crime victim's right to sue state victim compensation director Marsetta Lee and DAG Mary Beth Wood for violating the victim's constitutional rights.

On Friday, July 23 the Superior Court of New Jersey gave the green light to the New Jersey Crime Victims' Law Center (NJC VLC) to proceed with its lawsuit against Marsetta Lee, the executive director of the N.J. Victims of Crime Compensation Office (VCCO) and Deputy Attorney General Mary Beth Woods for violating a crime victim's rights under the federal and state constitutions. NJC VLC is representing the victim *pro bono*.

The case arises out of a claim by a young man, who was molested as a child by his adoptive father. In June 2008, the victim's claim for \$25,000 in compensation was approved, and an order of payment was signed and filed accordingly. Five months later the victim was advised by the VCCO that the Order of Payment would not be honored and his claim was now deemed to be denied.

It took more than a year from the denial for the victim's appeal to be scheduled by Lee and Woods for a hearing by the newly formed Hearing Board. During this hearing the victim was emotionally traumatized as he was compelled to publicly testify about being sexually abused and having to live on his own since the age of 14. Certain actions taken at the hearing by Woods

led the victim's counsel to conclude that there was an attempt to withhold important evidence from the Hearing Board. Furthermore, the Board members seemed to be appalled at the reasons given by the VCCO for unilaterally reversing its prior order of payment.

On December 10, 2009 the Hearing Board reversed the denial and unanimously ordered the defendants to pay to plaintiff his just compensation "within ten (10) days." Despite requests to the office of the executive director, Lee, the claim remained unpaid and the requests unanswered. It was communicated to Lee by the victim's counsel that the victim was destitute and he did not even have money to pay for gas for his car in order for him to drive to his job as a car washer. The requests for Lee to follow the directive of the Hearing Board by paying the victim within 10 days fell on deaf ears.

On January 25, 2010, NJCVLC filed a lawsuit in lieu of prerogative writs against Lee and Woods individually to compel the payment of the award to the victim. The lawsuit raised issues about the conduct of Woods during the appeal hearing and the victim sensitivity of Lee towards innocent victims of violence.

In early February, 2010, Lee finally issued the payment to the victim. By then, it had been 20 months after the claim was

originally approved and 2 months after the Hearing Board reversed. It took a lawsuit against two public officers to compel them to do their jobs.

In the civil lawsuit, Woods and Lee filed a motion to dismiss the remaining counts of the complaint. They were given the opportunity by the victim's counsel to end the lawsuit by simply apologizing to the victim and paying to him the \$200 court filing fee. They refused.

On July 23, 2010, a motion hearing was held before Judge Rothschild in Essex County Superior Court. The judge chastised the defendants for their conduct and refusal to apologize to the victim. The court then denied their motion to dismiss the lawsuit on the count alleging a violation of the victim's federal due process rights and state constitutional right to fairness, compassion and respect under the Victim's Rights Amendment. The victim's attorneys, Richard Pompelio and David Gray again expressed their client's willingness to dismiss the lawsuit conditioned on an apology from Woods and Lee to the victim. Once again, these defendants refused to apologize to the victim, as they are apparently willing to have the taxpayers of New Jersey pay for the ongoing costs associated with defending them.

This is a lawsuit about the civil rights of a crime victim. Unlike most lawsuits, it is not about money. Victims' rights in America came about three decades ago because of the harsh way that victims were treated by certain employees of the government. If the words in the State Constitution, "fairness, compassion and respect" are to have any meaning, they must be vigorously advocated.

In these times of budget deficits and employee layoffs, the taxpayers of New Jersey will be forced to continue to foot the bill for this lawsuit. As public employees, these two individuals were paid by the taxpayers to assist crime victims, not revictimize them.

Copies of the suit papers will soon be placed on NJCVLC's website, www.njcvlc.org.