

1.8/94

ADMINISTRATIVE APPEALS TRIBUNAL**JOYCE v CCT****Deputy President Mr Galvin****20 August 1993**

THE APPLICANT WHILST IN PRISON WAS SLASHED TO THE HEAD AND NECK BY AN UNKNOWN ASSAILANT. THE APPLICANT HAD A LONG CRIMINAL HISTORY INCLUDING CRIMES OF VIOLENCE. APPLICATION REFUSED.

".... [7] I find that the applicant was the victim of a criminal act when he was attacked in Pentridge and sustained injury in consequence. I also find that he experienced resultant pain and suffering. The issue is quantum of compensation payable having regard firstly to the extent of his pain and suffering and secondly to the relevance of s20(1) of the Act. Nothing in the evidence leads to the conclusion that the criminal history of the applicant directly or indirectly contributed to the assault upon him and therefore to the injuries sustained in consequence. But were there other circumstances relevant for purposes of determining an award of compensation? In my view, the criminal history of the applicant does constitute relevant circumstances. That is not to say that a criminal history in itself, necessarily precludes the Tribunal from making an award. (*re Bonney and Crimes Compensation Tribunal* (1989) 3 VAR 127 at p129). I reiterate and adopt the following passage from the reasons for decision in that case (at p129):

"I do not consider that there should be imported into the Act a prohibition against compensation to persons whose criminal behaviour has seriously offended the community. I do not regard section 20(1) as having that purpose or effect. Whilst arguably, a criminal past might impact on a particular criminal act, e.g. where it resulted from an association with criminals or from criminal behaviour over a period of time, there is no evidence in this case that the particular assault was in any way (i.e. either directly or indirectly) a result of or associated with the applicant's past criminal behaviour. (See also *re Ward and Crimes Compensation Tribunal* 2 VAR 210 and *Lakeman and Crimes Compensation Tribunal* (31st October 1988 AAT of Victoria (Unreported))."

[8] I also adopt the following passage from *Bonney's case* (at 131):

"It is undeniable that a criminal record might reasonably be considered a relevant circumstance and that the extent of that record might reasonably lead the Tribunal to conclude that it would be an unacceptable application of public funds to compensate one who, by his criminal conduct, had been a cause of regular and substantial detriment to the community. However, that is not to say that a criminal record in itself necessarily disqualifies and applicant from being awarded compensation. In this case, there is evidence of a serious effort over a significant period of time on the part of the applicant to reform."

In my view the extent of the applicant's criminal history, the nature of many of the offences which he has committed, the comparatively recent occurrence of a number of them and the absence of any evidence of endeavour to reform, constitute circumstances which ought persuade the Tribunal to refuse him any award of criminal injuries compensation. The public purse to which the applicant now looks would necessarily have borne a considerable burden resulting from his regular criminal activities to date. In the circumstances, I decline to make an award in favour of the applicant, confirm the decision of the respondent and dismiss the application for review."