
IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
EASTERN GRAND DIVISION

NIAN CHING,)
)
 Claimant,)
)
 v.) Claims Commission No. 20131326
) Regular Claims Docket
 STATE OF TENNESSEE,)
)
 Defendant.)

ORDER GRANTING STATE'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE

These cases arise out of an automobile accident which occurred on July 13, 2012, in Chattanooga, Hamilton County, Tennessee.¹ All of the Claimants appear to be citizens and residents of Bowling Green, Kentucky.

Although the particulars of the accident are not clear from what is in the file before us, it appears that the only arguable connection the State of Tennessee had with this incident was the fact that it involved a Tennessee Highway Patrol Officer. However, it appears that the officer was operating a private vehicle at the time of the incident.

Subsequently, the Claimant filed a claim for damages with the Division of Claims Administration on April 16, 2013. The claim was transferred to the Commission on July 15, 2013. The Rules of the Commission, in Rule 0310-1-1.01(2)(d)(3), require that following

¹ There are apparently a total of four claims which arose out of the same automobile accident. However, there has been no consolidation of these claims, and therefore a decision will be made and entered for each claimant individually. Any reference to the four claims as "cases" in this particular decision is done solely to show that some alleged act or omission is the same in all four claims. The four cases are captioned and assigned claim numbers which are as follows:

- NIAN CHING v. STATE OF TENNESSEE* (Claim No. T20131326)
- KAM KHAI v. STATE OF TENNESSEE* (Claim No. T20131335)
- KHAI LIAN v. STATE OF TENNESSEE* (Claim No. T20131328)
- KAP THANG v. STATE OF TENNESSEE* (Claim No. T20131327)

transfer to this Commission, a claimant must file a Complaint, compliant with Tennessee Rules of Civil Procedure, Rules 8 and 10, within thirty (30) days of the assignment of a Commissioner to the case.

On July 23, 2013, the Notice of Receipt was sent to both the Claimant and the State advising that the Commissioner in the Eastern Grand Division had been assigned to the handling of this case. Therefore, it became incumbent upon Claimant to file a Complaint within thirty (30) days of that notification.

However, although counsel for the State reminded counsel for the Claimants that a Complaint was due, the record in this matter shows that no Complaint has ever been filed in this case.

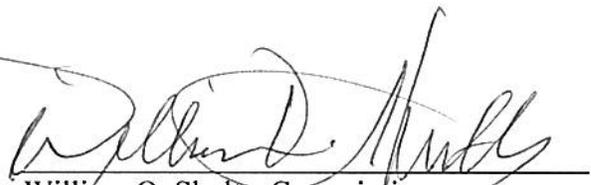
Tenn. Code Ann. § 9-8-402(b) provides, in pertinent part, that should a claimant take no action, within any one year period, to advance their claim to disposition, we have no choice but to dismiss the claim.

A thorough review of all the filings in these cases shows that no action has been taken in these cases since a June 24, 2013, telephone conference counsel for the State had with counsel for the Claimants.

In light of this circumstance, and pursuant to the provisions of Tenn. Code Ann. § 9-8-402(b), and Rule 41.02 of the Tennessee Rules of Civil Procedure, the Commission has no alternative other than to comply with the statutory requirement that we dismiss this claim for failure to prosecute.

Therefore, this claim is DISMISSED.

Entered this the 30th day of January, 2015.

A handwritten signature in black ink, appearing to read "William O. Shults", written over a horizontal line.

William O. Shults, Commissioner

P.O. Box 960

Newport, TN 37822-0960

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Order has been transmitted to:

**Cyndi Crocker, Esq.
Crocker Law Firm
520 East Main Street
Bowling Green, KY 42101**

**Amanda S. Jordan, Esq.
Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202-0207**

This the 20th day of January, 2015.



Paula Swanson, Clerk of the Commission