

Enga, Robert

CRIME VICTIMS COMPENSATION

Out of state location of crime

The term "state" as used in RCW 7.68.020(5), which provides that the criminal act for which benefits are sought is compensable if the criminal act occurred in a state that does not have a crime victims' compensation program, refers to one of the 50 United States, not a sovereign state.*In re Robert Enga, BIIA Dec., 13 C0055 (2014)*

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**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 **IN RE: ROBERT W. ENGA**) **DOCKET NO. 13 C0055**
2)
3 **CLAIM NO. VN-42853**) **DECISION AND ORDER**
4 _____)

5 **APPEARANCES:**

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7 Claimant, Robert W. Enga, Pro Se

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9 Department of Labor and Industries, by
10 The Office of the Attorney General, per
11 Linda Tobin
12

13 The claimant, Robert W. Enga, filed an appeal with the Board of Industrial Insurance
14 Appeals on November 4, 2013, from an order of the Department of Labor and Industries dated
15 November 1, 2013. In this order, the Department affirmed the October 21, 2013 order, in which the
16 Department rejected the claim under the Crime Victims Act, because "[t]he crime occurred in a
17 location that is not a state, territory or possession of the United States," citing RCW 7.68.020(5).
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19 The Department order is **AFFIRMED**.
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22 **DECISION**

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24 As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for
25 review and decision. The Department filed a timely Petition for Review of a Proposed Decision and
26 Order issued on July 15, 2014, in which the industrial appeals judge reversed and remanded the
27 Department order dated November 1, 2013. The claimant filed Enga's Response to Petition for
28 Review on September 22, 2014. The Department filed its Reply to Victim's (Enga) Response to
29 Petition for Review on September 23, 2014.
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32 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that
33 no prejudicial error was committed. The rulings are affirmed.
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36 At issue is whether the crime victims' compensation program provided for at RCW 7.68
37 provides benefits when an alleged crime occurred in the Cayman Islands, a location that is not a
38 state, territory or possession of the United States.
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41 In the Proposed Decision and Order, our industrial appeals judge concluded that Mr. Enga's
42 claim should be allowed even though he was victim of a crime in the Cayman Islands, and reversed
43 and remanded the November 1, 2013 Department order on appeal. We disagree with the
44 conclusion reached by our industrial appeals judge, and have granted review to provide an
45 explanation and to affirm the Department's November 1, 2013 order.
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3 In August 2011, Robert W. Enga and his wife took temporary teaching jobs on Grand
4 Cayman Island and maintained their residence in Sea-Tac, Washington. On November 6, 2011,
5 while on Grand Cayman Island, Mr. Enga's wife returned to the couple's temporary home. She was
6 intoxicated, scraped, bruised, and told her husband she had just been raped. Mr. Enga testified
7 that he immediately called the local police who, responding to his call, came to the home and
8 assaulted Mr. Enga, arrested him without probable cause, and falsely imprisoned him for 40 hours.
9 Mr. Enga was released on bail, and subsequently returned to Washington in February 2012. He
10 was never charged with a crime.
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13 Mr. Enga applied for crime victims' compensation benefits in the state of Washington. On
14 October 21, 2013, the Department issued an order which declared the claim was not allowable
15 under the Crime Victims Act. Mr. Enga was not eligible under the Washington program because the
16 crime occurred in a foreign country, and citing RCW 7.68.020(5), the Department denied the claim
17 because the "crime occurred in a location that is not a state, territory or possession of the United
18 States." On November 1, 2013, the Department issued an order which declared the October 21,
19 2013 order remained in effect, essentially affirming the October 21, 2013 order. This appeal
20 followed.
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27 RCW 7.68.020(5) provides:

28 (5) "Criminal act" means an act committed or attempted in this
29 state which is: (a) Punishable as a federal offense that is comparable to
30 a felony or gross misdemeanor in this state; (b) punishable as a felony
31 or gross misdemeanor under the laws of this state; (c) an act committed
32 outside the state of Washington against a resident of the state of
33 Washington which would be compensable had it occurred inside this
34 state and the crime occurred in **a state** which does not have a crime
35 victims' compensation program, for which the victim is eligible as set
36 forth in the Washington compensation law; or (d) trafficking as defined in
37 RCW 9A.40.100. [Emphasis added.]
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39 Mr. Enga urges us to interpret the term "a state" as one meaning a sovereign politically
40 organized body such as the Cayman Islands. Mr. Enga contends that if the legislature meant to
41 exclude coverage for crime victims in foreign countries that would have been explicit in the statute,
42 and that the legislative intent is to extend coverage to the largest number of crime victims as
43 possible.
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1 The Department urges us to conclude that the Crime Victims' Compensation Act does not
2 apply to crimes in foreign countries. The Department's argument focuses on a plain meaning of the
3 statute analysis, and urges us to interpret the term "a state" as one meaning one of the fifty United
4 States.
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7 Here, we agree with the Department. We find the term "a state" to be well understood
8 according to its natural and ordinary sense and meaning¹. We conclude that a plain reading of the
9 statute results in a conclusion that "a state" refers to one of the fifty United States. We note that a
10 statute is not ambiguous merely because different interpretations are conceivable.²
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12 We find that the November 1, 2013 Department order, which affirmed the October 21, 2013
13 order rejecting the claim under the Crime Victims Act, because "[t]he crime occurred in a location
14 that is not a state, territory or possession of the United States," citing RCW 7.68.020(5), is correct
15 and is **AFFIRMED**.
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19 **FINDINGS OF FACT**

- 20 1. On January 23, 2014, an industrial appeals judge certified that the
21 parties agreed to include the Jurisdictional History in the Board record
22 solely for jurisdictional purposes.
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- 24 2. The claimant, Robert W. Enga, is an adult male who was a resident of
25 Washington State in November 2011.
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- 27 3. In August 2011, Mr. Enga and his wife moved to Grand Cayman Island
28 from Washington State, to take temporary teaching positions.
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- 30 4. On November 6, 2011, while on Grand Cayman Island, Mr. Enga's wife
31 returned to the couple's temporary home. She was intoxicated, scraped,
32 bruised, and reported to Mr. Enga she had just been raped.
33 Mr. Enga immediately called the police who came to the couple's
34 residence. Mr. Enga testified that the police assaulted him; arrested him
35 without probable cause; and falsely jailed him for 40 hours. He was
36 never charged with a crime.
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- 38 5. Mr. Enga made a claim under the Washington Crime Victims'
39 Compensation Act.

40 **CONCLUSIONS OF LAW**

- 41 1. Based on the record, the Board of Industrial Insurance Appeals has
42 jurisdiction over the parties to and the subject matter in this appeal.
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46 ¹ *State v. McCollum*, 88 Wn. App. 977 (1997) (citing *State v. Lewis*, 86 Wn. App. 716 (1997)).

47 ² *State v. Hahn*, 83 Wn. App. 825, 831, (1996).

