

[Cite as *Parsons v. Bur. of Motor Vehicles*, 2002-Ohio-7240.]

IN THE COURT OF CLAIMS OF OHIO

GARLAND C. PARSONS, III :
311 Reimer Road :
Wadsworth, Ohio 44281 : Case No. 2002-07380-AD

Plaintiff : MEMORANDUM DECISION

v. :

BUREAU OF MOTOR VEHICLES :

Defendant :

: : : : : : : : : : : : : : :

For Defendant: Adrian E. Allison, Associate Legal Counsel
Ohio Department of Public Safety
Legal Services
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

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{¶1} On or about December 7, 2001, plaintiff, Garland C. Parsons, III, was convicted of driving under the influence of alcohol. Incident to plaintiff's conviction, his driver's license was suspended with limited driving privileges granted. Both the suspension notice and limited driving privileges information were forwarded to defendant, Bureau of Motor Vehicles. Defendant then recorded plaintiff's driving status as "suspended but modified." Plaintiff was charged with the responsibility of presenting the modifying document describing his limited driving privileges whenever a circumstance arose, such as a traffic stop by law enforcement personnel.

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{¶2} On April 28, 2002, plaintiff was driving on State Route 18 within Medina Township when he was stopped by a Montville Township police officer. Plaintiff indicated he was driving to a community service project which was a part of his probation program ordered by his driving under the influence conviction. Plaintiff stated he presented his driving privilege modification document to the police officer who stopped him. However, the officer disregarded the document and did not consider driving to a community service assignment a limited driving privilege. Consequently, plaintiff's car was impounded and he incurred \$191.75 in towing and impound fees. Subsequently, the driving under license suspension charges arising from the April 28, 2002 traffic stop were dismissed. The court dismissing the charges noted the Bureau of Motor Vehicles had committed an error. Therefore, plaintiff filed this complaint seeking reimbursement of his towing and impound fees. Plaintiff submitted the filing fee with the complaint. Plaintiff reasoned defendant committed some error in recording his driver's license status which resulted in his car being impounded.

{¶3} Defendant denied making any error or improperly recording plaintiff's driver's license status. Defendant submitted evidence establishing plaintiff's license status as of April 28, 2002 was properly listed as "suspended but modified." Defendant asserted it did not have any control over a local police officer's decision to disregard a modifying document granting limited driving privileges to an individual driving under a suspended license. No evidence was presented to show plaintiff's car was impounded due to an error on the part of defendant.

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{¶4} A plaintiff may recover resulting monetary damages, when plaintiff proves, by a preponderance of the evidence, defendant erroneously listed plaintiff's driver's license as suspended. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD. In the instant action, plaintiff has failed to prove that defendant erroneously recorded his driver's license status. Plaintiff has failed to prove defendant did anything which caused him to incur damages. Plaintiff's claim is denied.

DANIEL R. BORCHERT
Deputy Clerk

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