

[Cite as *Harris v. Ohio Bur. of Motor Vehicles*, 2003-Ohio-1459.]

IN THE COURT OF CLAIMS OF OHIO

SUSAN A. HARRIS :
3395 Rolling Ridge :
N. Canton, Ohio 44721 : Case No. 2002-08050-AD

Plaintiff : MEMORANDUM DECISION

v. :

BUREAU OF MOTOR VEHICLES :

Defendant :

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

For Defendant: John R. Guldin
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 August 23, 2002, plaintiff, Susan A. Harris was driving on Everhard Road in North Canton, Ohio when she was stopped by local law enforcement for a traffic offense. Incident to the stop, plaintiff's driving record was checked and it was discovered her driver's license was recorded as suspended. Consequently, plaintiff's vehicle was impounded and towed to a storage site. Plaintiff contended her driver's license should not have been listed as suspended and an error had been made by the recording agency. Therefore, plaintiff filed this complaint against defendant, Bureau of Motor Vehicles, alleging defendant, as the record keeper for driver's license status, made an error on her license record which resulted in monetary loss. Plaintiff seeks

damage recovery of \$105.00 for towing expenses, plus \$25.00 for filing fee reimbursement.

{¶2} Defendant asserted that its records accurately reflected plaintiff's driver's license status at the time her vehicle was impounded. Defendant denied any errors were made on its part regarding plaintiff's license status. Defendant explained plaintiff was cited for speeding on October 6, 2001 and on October 23, 2001 she was convicted of speeding in the Canton Municipal Court. Subsequently, the Canton Municipal Court sent notice to defendant that plaintiff's driver's license had been forfeited subject to court order. Defendant responded to this notice by sending its own license suspension notice on December 19, 2001 to plaintiff, "under her former name Susan A. Searles, at 7834 Peachmount Av. NW, Canton, Ohio 44720." This unopened notice was returned to defendant as undeliverable mail. Defendant related plaintiff was required by statute (see R.C. 4507.09(C)) to provide notice of any address change. On August 23, 2002, the day plaintiff was cited for speeding and her vehicle was impounded, defendant received a faxed message from the Canton Municipal Court which effectively terminated plaintiff's license forfeiture resulting from the October 23, 2001 conviction. Defendant produced evidence showing no errors were made in recording plaintiff's license status.

{¶3} Considering the information available to defendant, no evidence has been offered to show defendant acted improperly in listing plaintiff's license as suspended. Resulting monetary damages are recoverable 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 her driver's license status. Evidence

indicates defendant's records were accurate under the circumstances when plaintiff's cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2001), 2001-02104-AD, jud.

{¶4} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶5} IT IS ORDERED THAT:

{¶6} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶7} 2) The court shall absorb the court costs of this case in excess of the filing fee.

DANIEL R. BORCHERT
Deputy Clerk

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