

[Cite as *Bencivengo v. Ohio Dept. of Transp.*, 2003-Ohio-235.]

IN THE COURT OF CLAIMS OF OHIO

ROBERT BENCIVENGO

:

Plaintiff :

CASE NO. 2001-11821

V.

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JUDGMENT ENTRY

OHIO DEPARTMENT OF
TRANSPORTATION, etc.

:

Judge Fred J. Shoemaker

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Defendant

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{¶1} This case was tried to the court on January 6-7, 2003, on the issue of liability. The trial included consideration of civil immunity issues raised pursuant to R.C. 2743.02(F) and 9.86.

{¶2} Based upon the totality of the evidence presented at trial, the court found that Karen Capizzi, George Goard, Clayton Morris and Thomas O’Leary, acted within the scope of their employment with defendant at all times and during all interactions regarding plaintiff that are at issue in this case. The court further found that the above-listed individuals did not act with malicious purpose, in bad faith, or in a wanton or reckless manner toward plaintiff. Consequently, the above-mentioned individuals are entitled to personal immunity pursuant to R.C. 2743.02(F) and 9.86, and the courts of common pleas do not have jurisdiction over civil actions against them based on the alleged actions or inactions in this case.

{¶3} Upon review of all the evidence submitted and after considering the credibility of the witnesses as well as the arguments of counsel, the court finds that plaintiff has failed to prove, by a preponderance of the evidence, all of his claims for relief. Therefore, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff.

The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

FRED J. SHOEMAKER
Judge

Entry cc:

Howard V. Mishler
The Atrium Building, Suite 108
30400 Detroit Road
Westlake, Ohio 44145-1855

Attorney for Plaintiff

Velda K. Hofacker Carr
65 East State St., 16th Fl.
Columbus, Ohio 43215

Assistant Attorney General

SJM/cmd
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