

[Cite as *Payton v. Ohio Dept. of Transp.*, 2003-Ohio-2984.]

IN THE COURT OF CLAIMS OF OHIO

JOYCE PAYTON	:	
Plaintiff	:	
v.	:	CASE NO. 2003-03451-AD
OHIO DEPARTMENT OF TRANSPORTATION	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	

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

{¶1} THE COURT FINDS THAT:

{¶2} 1) On March 13, 2003, plaintiff, Joyce Payton, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 23, 2003, while traveling on the U.S. Route 33 south bound exit to James Road in Columbus, Ohio, her vehicle struck a pothole causing a blowout of the left rear tire of her van. Plaintiff seeks damages in the amount of \$131.69, of which \$106.69 represents the cost of the tire and \$25.00 represents reimbursement of the filing fee. Plaintiff submitted the filing fee with the complaint;

{¶3} 2) On March 31, 2003, defendant filed a motion to dismiss;

{¶4} 3) In support of the motion to dismiss, defendant stated in pertinent part:

"Defendant has performed an investigation of this site, the location of the alleged pothole, and the maintenance records of the District Garage responsible for ODOT controlled highways in this region of Franklin County. According to this investigation, the U.S. 33 exit at James Road falls under the maintenance jurisdiction of the City of Columbus .

. . As such, this section of roadway is not within the maintenance jurisdiction of ODOT.”;

{¶5} 4) Plaintiff did not file a response to defendant’s motion to dismiss.

{¶6} THE COURT CONCLUDES THAT:

{¶7} 1) R.C. 5501.31 in pertinent part states:

“Except in the case of maintaining, repairing, erecting traffic signs on, a pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . .”;

{¶8} 2) The site of plaintiff’s incident is not within the maintenance responsibility of the defendant.

{¶9} IT IS ORDERED THAT:

{¶10} 1) Defendant’s motion to dismiss is GRANTED;

{¶11} 2) Plaintiff’s case is DISMISSED;

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

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Joyce Payton Plaintiff, Pro se
813 Healey Place
Gahanna, Ohio 43230

Thomas P. Pannett, P.E. For Defendant
Legal Counsel

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ENTRY

Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

DRB/tad
5/9
Filed 5/22/03
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