

[Cite as *Corbett v. Ohio Dept. of Transp.*, 2003-Ohio-5560.]

IN THE COURT OF CLAIMS OF OHIO

ROBERT E. CORBETT, JR. :

Plaintiff :

v. :

CASE NO. 2003-06620-AD

DEPARTMENT OF TRANSPORTATION :

ENTRY OF DISMISSAL

Defendant :

.....

{¶1} THE COURT FINDS THAT:

{¶2} 1) On June 9, 2003, plaintiff, Robert E. Corbett, Jr., filed a complaint against defendant, Department of Transportation. Plaintiff alleges on either April 8, 9, or 10, 2003, his son, while driving the plaintiff's vehicle, struck a pothole in front of either 17 or 81 West Main Street in Amelia, Ohio which caused tire and wheel rim damage. Plaintiff seeks damages in the amount of \$371.00. Plaintiff submitted the filing fee with the complaint;

{¶3} 2) On August 8, 2003, defendant filed a motion to dismiss;

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

{¶5} "Plaintiff claims his son hit a pothole at 17 West Main or 81 West Main Street in Amelia and this area falls under the maintenance jurisdiction of the Village of Amelia (See Exhibit A and maps). As such, this section of roadway is not within the maintenance jurisdiction of the defendant.";

{¶6} 4) Plaintiff has not responded to defendant's motion to dismiss.

{¶7} THE COURT CONCLUDES THAT:

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

{¶9} "Except in the case of maintaining, repairing, erecting traffic signs on, or 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 . . .”;

{¶10} 2) The incident of the property damage causing incident was not within the maintenance responsibility of the defendant.

{¶11} IT IS ORDERED THAT:

{¶12} 1) Having considered all the evidence in the claim file and for the reasons set forth above, defendant's motion to dismiss is GRANTED and plaintiff's case is DISMISSED. The court costs are waived in excess of the filing fee. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Robert E. Corbett, Jr.
3098 South Dunham Road
Amelia, Ohio 45102

Plaintiff, Pro se

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For Defendant

DRB/laa
9/12
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