

[Cite as *Holliday v. Ohio Dept. of Transp.*, 2003-Ohio-6435.]

IN THE COURT OF CLAIMS OF OHIO

LYNN M. HOLLIDAY	:	
Plaintiff	:	
v.	:	CASE NO. 2003-09131-AD
OHIO DEPARTMENT OF TRANSPORTATION, DISTRICT 5	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	
	:	

{¶1} THE COURT FINDS THAT:

{¶2} 1) On August 20, 2003, plaintiff, Lynn M. Holliday, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on August 2, 2003, her car was damaged when she struck a pavement cutout with her vehicle. The cutout was approximately 18" wide and 24" long with an unknown depth. The cutout was located on St. Rt. 256 at the beginning of the entrance ramp of I70 East. Plaintiff asserts she sustained damages in the amount of \$158.95. Plaintiff submitted the filing fee with the complaint;

{¶3} 2) On September 12, 2003, defendant filed a motion to dismiss;

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

{¶5} "Defendant has performed an investigation of this site and Licking County manager, Jim Valentine, visited the location of the 18" x 24" square that was cut out of the pavement on SR 256 adjacent to the entrance of the eastbound ramp to Interstate 70 and this portion of SR 256 falls under the maintenance jurisdiction of the City of Pickerington . . . As such, this section of roadway is not within the maintenance jurisdiction of the

defendant.”;

{¶6} 4) On October 23, 2003, plaintiff filed a response to defendant’s motion to dismiss. Plaintiff asserts the cut out was located on the entrance ramp not near the entrance ramp. However, plaintiff has offered no evidence which disputes defendant’s position. Plaintiff has the burden of proof to prove her claim.

{¶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 roadway where plaintiff’s incident occurred was not within the maintenance responsibility of defendant.

{¶11} IT IS ORDERED THAT:

{¶12} Upon review, defendant's motion to dismiss is GRANTED. Plaintiff’s case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Lynn M. Holliday  
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Plaintiff, Pro se

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For Defendant

DRB/laa  
10/17  
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