

[Cite as *Captain v. Ohio Dept. of Transp.*, 2004-Ohio-3073.]

IN THE COURT OF CLAIMS OF OHIO

LOIS J. CAPTAIN

:

Plaintiff

:

v.

:

CASE NO. 2004-03527-AD

OHIO DEPARTMENT TRANSPORTATION :

ENTRY OF DISMISSAL

Defendant

:

.....

{¶1} On March 16, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 5, 2004, while traveling in the 700 block of North West Street in Hillsboro, Ohio, she struck a pothole which caused damage to her vehicle. Plaintiff seeks reimbursement of \$567.61 for automobile repair costs she incurred as the result of defendant's negligence. Plaintiff submitted the filing fee with the complaint.

{¶2} On April 8, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss defendant stated in pertinent part:

{¶3} "737 North West Street falls under the maintenance jurisdiction of the City of Hillsboro (See Exhibit A). The incident report from the Hillsboro Police Department also shows that her incident happened within the 700 block of N West Street, Hillsboro, Ohio (See Exhibit B). As such, this section of roadway is not within the maintenance jurisdiction of the defendant." Plaintiff has not responded to defendant's motion to dismiss.

{¶4} The site of plaintiff's damage-causing incident was within the city limits of Hillsboro.

{¶5} R.C. 5501.31 in pertinent part states:

{¶6} "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 . . ."

{¶7} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff's case is dismissed.

{¶8} Having considered all the evidence in the claim file, and, for the reasons set forth above, 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 entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Lois J. Captain
232 Johnson Street
Hillsboro, Ohio 45133

Plaintiff, Pro se

Case No. 2004-03527-AD

- 3 -

ENTRY

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For Defendant

DRB/laa
5/4
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Sent to S.C. reporter 6/15/04