[Cite as *Berks v. Dept. of Transp.*, 2004-Ohio-5622.]

IN THE COURT OF CLAIMS OF OHIO

DAVID A. BERKS	:	
Plaintiff	:	
v.	:	CASE NO. 2004-07913-AD
DEPARTMENT OF TRANSPORTATION	:	ENTRY OF DISMISSAL
Defendant	:	

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

{¶ 1} On August 5, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on July 10, 2004, while traveling southbound on State Route 315 at the hospital curve he ran over a metal rod which caused damage to his vehicle. Plaintiff seeks reimbursement for his automobile repair costs in the amount of $896.15 from the defendant. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On September 3, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "Defendant has performed an investigation of this site and SR 315 @ Riverside Hospital falls under the maintenance jurisdiction of the City of Columbus (See Attached Map). As such, this section of roadway is not within the maintenance jurisdiction of the defendant."

{¶ 4} Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's incident was within the city limits of Columbus.

{¶ 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.

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DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
9/28
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