

[Cite as *Oldham v. Ohio Dept. of Transp.*, 2006-Ohio-7182.]

IN THE COURT OF CLAIMS OF OHIO

DANIEL OLDHAM	:	
Plaintiff	:	
v.	:	CASE NO. 2006-01947-AD
OHIO DEPARTMENT OF TRANSPORTATION	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	
: : : : : : : : : : : : : : :		

{¶ 1} On February 15, 2006, plaintiff, Daniel Oldham, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on January 18, 2006, he was traveling on State Route 29 near the edge of Sidney, Ohio, when he struck a dislodged manhole lid. Plaintiff asserts he sustained automobile damage in the amount of \$466.00 as the result of defendant's negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On March 10, 2006, 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 29 on the edge of Sidney falls under the maintenance jurisdiction of the City of Sidney. Our County Manager was contacted when this happened and he forwarded the call to the City of Sidney. (See Exhibit A.) The Ohio Department of Transportation does maintain SR 29 outside the city limits and there are not any manhole covers outside the city limits. 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 of Sidney.

{¶ 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 under 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:

Daniel Oldham  
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Plaintiff, Pro se

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For Defendant

DRB/laa  
5/18  
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