

[Cite as *Heintschel v. Ohio Dept. of Transp.*, 2006-Ohio-910.]

IN THE COURT OF CLAIMS OF OHIO

VINCENT P. HEINTSCHEL	:	
Plaintiff	:	
v.	:	CASE NO. 2005-11434-AD
DEPARTMENT OF TRANSPORTATION	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	

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{¶ 1} On December 6, 2005, plaintiff, Vincent P. Heintschel, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on November 12, 2005, he was driving his vehicle following the southbound I280 detour and was on Summit to the southbound I280 ramp when he struck a pothole which caused damage to his vehicle. Plaintiff seeks damages in the amount of \$225.25. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On January 5, 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 Brad Walker of the Maumee River Crossing Project states that this area falls under the maintenance jurisdiction of the City of Toledo (See Attached Map). As part of the detour for I-280, southbound traffic must use northbound Summit Street till they can get back on I-280. There is an agreement with the City of Toledo that the city will maintain Summit Street. There are photos attached to show the condition of northbound Summit Street and the new pavement on the ramp for I-280. (See Exhibit A). 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 Toledo.

{¶ 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:

Vincent P. Heintschel
6545 Seaman Road
Oregon, Ohio 43618

Plaintiff, Pro se

Thomas P. Pannett, P.E.
Department of Transportation
1980 West Broad Street

For Defendant

Case No. 2005-11434-AD

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ENTRY

Columbus, Ohio 43223

DRB/laa

1/25

Filed 2/6/06

Sent to S.C. reporter 2/22/06