

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

MIKAEL A. RAHEEM

Case No. 2006-06043-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

MEMORANDUM DECISION

BUREAU OF MOTOR VEHICLES

Defendant

{¶ 1} On June 22, 2005, plaintiff, Mikael A. Raheem, was issued a citation for speeding by an officer of the Rocky River Police Department. On July 8, 2005, plaintiff was convicted of the speeding violation in the Rocky River Municipal Court. On August 25, 2005, plaintiff was driving his 1994 Chrysler in Cleveland when he was stopped by Officer D. Svoboda of the Cleveland Police Department. Officer Svoboda cited plaintiff for “running a red light.” The citation listed plaintiff’s address as 15632 Euclid Avenue, East Cleveland, Ohio 44112. Included on the red light violation ticket was a section titled “Proof of Financial Responsibility Shown.” This section indicating if plaintiff offered proof of insurance on his 1994 Chrysler was check marked “yes.” Upon issuance of the citation, plaintiff was ordered to personally appear in the Cleveland Municipal Court on September 8, 2005. Plaintiff appeared in the Cleveland Municipal Court on September 8, 2005, and entered a not guilty plea. Subsequently, on September 22, 2005, plaintiff was found guilty of the red light violation and fined. Plaintiff paid the designated fine and court costs.

{¶ 2} On July 9, 2006, plaintiff was operating a commercial vehicle (ice cream truck) in the City of Painesville, Ohio, when he was subjected to a traffic stop by an officer of the Painesville Police Department. Plaintiff described the traffic stop as an “information check.” Plaintiff related that incident to this stop his driver’s license status was reviewed from information provided by defendant, Bureau of Motor Vehicles (“BMV”). Using the information supplied by BMV, plaintiff was arrested for driving under a suspended license. Apparently BMV had recorded plaintiff’s driver’s license as suspended based on plaintiff’s

Case No. 2006-03532-AD	- 2 -	MEMORANDUM DECISION
------------------------	-------	---------------------

alleged failure to provide proof of financial responsibility (insurance). Plaintiff was not only arrested based on the driving under suspension charge, but the ice cream truck he had leased was towed and impounded. Plaintiff submitted an insurance confirmation form establishing he maintained automobile insurance coverage on his 1994 Chrysler, effective from July 21, 2005 through July 21, 2006. Plaintiff insisted defendant erroneously recorded his driver's license as suspended since he at all times had required insurance coverage. Plaintiff asserted he incurred substantial monetary loss as a result of BMV's alleged erroneous record keeping regarding his driver's license status. Consequently, plaintiff filed this complaint seeking to recover \$2,500.00, the statutory maximum amount recoverable in a claim of this type. Plaintiff has included claims for work loss, travel expenses, towing and impound fees, and "pro-se litigation fees," which appears to be a claim for time and effort spent in clearing up the alleged mistake about his driving status. Plaintiff is not a licensed attorney and any claim designed as an attorney fee claim is not compensable and shall not be further addressed. Plaintiff was not required to pay a filing fee to prosecute this action.

{¶ 3} Defendant stated the Cleveland Municipal Court, sometime after September 22, 2005, reported to BMV, "that [p]laintiff had failed to show proof of financial responsibility either to the officer at the time of the traffic stop (August 25, 2005, red light violation) or to the court at the time of conviction as required by R.C. 4509.101.¹ Defendant explained

¹ R.C. 4509.101(A)(3)(b) states:

"(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle under any of the following circumstances:

"(b) The person receives a traffic ticket indicating that proof of the maintenance of financial responsibility was not produced upon the request of a peace officer or state highway patrol trooper made in accordance with division (D)(2) of this section."

R.C. 4509.101(D)(4)(a) states:

"(4)(a) If a person who has failed to produce proof of the maintenance of financial responsibility appears in court for a ticketed violation, the court may permit the defendant to present evidence of proof of financial responsibility to the court at such time and in such manner as the court determines to be necessary

Case No. 2006-03532-AD	- 3 -	MEMORANDUM DECISION
------------------------	-------	---------------------

BMV acted upon information supplied by the Cleveland Municipal Court indicating plaintiff had failed to produce proof of insurance coverage when he was convicted on September 22, 2005, of the red light violation that occurred on August 25, 2005. It was previously noted plaintiff produced a copy of the citation he received on August 25, 2005, and this citation is marked: FINANCIAL RESPONSIBILITY PROOF SHOWN; ✓ YES. Plaintiff also produced a copy of a Court Journal from the Cleveland Municipal Court chronicling his red light violation case. An entry on this Journal dated September 8, 2005, provides Mikael Raheem, “notified of Financial Responsibility Law requirement.” Defendant continued to assert BMV received the information from the Cleveland Municipal Court reporting plaintiff did not produce proof of financial responsibility during the prosecution of his red light violation case. BMV contended all subsequent actions regarding plaintiff’s license status were precipitated by information received from the Cleveland Municipal Court.

{¶ 4} On or about March 29, 2006, defendant mailed a “Notice of Suspension” letter to plaintiff at his listed address at 15632 Euclid Avenue, East Cleveland, Ohio 44112. This letter was designed to inform plaintiff his driver’s license was being suspended for a failure to provide proof of financial responsibility. The suspension was to last from April 28, 2006, to April 28, 2009. The “Notice of Suspension” letter provided the following instructive language:

{¶ 5} “This suspension is because you did not prove insurance to a police officer or to the court after you received a traffic ticket. (R.C. 4509.101).

{¶ 6} “YOU CAN AVOID THIS SUSPENSION if you can prove to us that you did have insurance or other financial responsibility coverage (FR coverage) PRIOR to the time of your traffic offense and IN EFFECT FOR THE ABOVE VIOLATION DATE. To prove insurance or other FR coverage, return this notice along with ONE of the following WITHIN FIFTEEN (15) DAYS:

or appropriate. In a manner prescribed by the registrar, the clerk of courts shall provide the registrar with the identity of any person who fails to submit proof of the maintenance of financial responsibility pursuant to division (D)(3) of this section.”

Case No. 2006-03532-AD	- 4 -	MEMORANDUM DECISION
------------------------	-------	---------------------

{¶ 7} “A copy of your automobile insurance identification (ID) card;

{¶ 8} “Or a copy of the declarations page of your policy;

{¶ 9} “Or a letter on insurance company letterhead signed by your insurance agent.

The letter must include the following information:

{¶ 10} “Name of insurance company

{¶ 11} “Name and address of local agent

{¶ 12} “Name in which policy was issued

{¶ 13} “Policy number

{¶ 14} “Effective dates of policy (must include date of traffic offense)

{¶ 15} “Phone number of local agent (REQUIRED for verification)”

{¶ 16} Plaintiff did not timely respond to the suspension letter; probably due to the fact he never received it. Defendant related the mailed suspension letter was returned to BMV marked “Not Deliverable as Addressed-Unable to Forward.” BMV records show plaintiff’s address as 15632 Euclid Avenue, East Cleveland, Ohio 44112. The traffic citation plaintiff was issued on August 25, 2005, lists plaintiff’s address as 15632 Euclid Avenue, East Cleveland, Ohio 44112. An insurance confirmation form (dated July 10, 2006) plaintiff filed lists his address as “15632 Euclid Ave., Cleveland, Ohio 44112.” To date, BMV records have plaintiff’s address as 15632 Euclid Avenue, East Cleveland, Ohio 44112. Defendant acknowledged plaintiff’s driver’s license was suspended despite the fact the “Notice of Suspension” letter was returned marked not deliverable. Defendant advised the license suspension went forward based solely on information supplied by the Cleveland Municipal Court. Plaintiff’s license suspension status was deleted by BMV on July 10, 2006, in connection with information received from plaintiff. In a response to defendant’s investigation report, plaintiff disputed BMV’s assertion that information was received from the Cleveland Municipal Court regarding a failure to produce satisfactory proof of insurance coverage. Plaintiff did not provide any statements from representatives of the Cleveland Municipal Court explaining what kind of information was or was not forwarded to BMV in connection with his September 22, 2005, court appearance.

Case No. 2006-03532-AD	- 5 -	MEMORANDUM DECISION
------------------------	-------	---------------------

{¶ 17} Defendant is required to give written notice of driver's license suspensions by regular mail sent to the last known address of the person whose license is suspended. *State v. May* (July 19, 1995), Ross App. No. 94CA2075, 1995 Ohio App. LEXIS 3161. In the instant claim, evidence has shown BMV complied with requisite notice requirements in mailing the "Notice of Suspension" letter to plaintiff's listed address in East Cleveland. Notwithstanding the fact the notice of suspension was returned and not delivered, defendant complied with requirements for sending notice and shall not be held liable for damages resulting from plaintiff's failure to receive this notice.

{¶ 18} Considering the information available to defendant, insufficient evidence has been offered to show that BMV acted improperly in listing plaintiff's license as suspended. Resulting monetary damages are recoverable when plaintiff proves, by a preponderance of the evidence, defendant erroneously records driver's license information. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD. In the instant action, plaintiff has failed to prove that defendant erroneously recorded his driver's license status. In situations based on financial responsibility noncompliance, BMV may not bear liability for damages proximately caused from suspending a driver's license in reliance upon erroneous information supplied by a municipal court. *Sullivan v. Bureau of Motor Vehicles*, 2006-04393-AD, 2007-Ohio-1267. Defendant's records were accurate under the circumstances when plaintiff's cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2002), 2001-02104-AD, jud.



Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

MIKAEL A. RAHEEM

Plaintiff

v.

BUREAU OF MOTOR VEHICLES

Defendant

Case No. 2006-06043-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF ADMINISTRATIVE
DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Mikael A. Raheem
P.O. Box 12121
East Cleveland, Ohio 44112

John R. Guldin
Associate Legal Counsel
Ohio Department of Public Safety
Legal Services
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

RDK/laa
3/22
Filed 3/29/07
Sent to S.C. reporter 4/25/07