

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

RODNEY WILSON

Plaintiff

v.

DEPARTMENT OF
TRANSPORTATION

Defendant

Case No. 2007-08791-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶1} On November 16, 2007, plaintiff, Rodney Wilson, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on November 2, 2007, at approximately 5:45 p.m. as he was traveling westbound on State Route 252 approximately 200 feet before the “Welcome to Indiana” sign, he struck a pothole causing damage to his vehicle. Plaintiff seeks damages in the amount of \$222.00 for the cost of a new rim and its installation, which he asserts was caused by defendant’s negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint and also seeks reimbursement of that amount.

{¶2} On December 12, 2007, 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 252 is actually SR 126 when you travel from Ohio into the State of Indiana. (See Attached Map) Bill Davis, District 8 Roadway Services Engineer, traveled this area on November 27, 2007, and there were not any potholes on SR 126. He drove into Indiana as it becomes SR 252 and did see an edge of pavement failure along the right side of the roadway, going into a curve, a situation very similar as that described by the plaintiff. (See Exhibit A) The attached photos show the ending of SR 126 and the smooth surface that was applied in 2005. The last photo shows the sign for westbound Indiana

SR 252. (See Exhibit B) 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 the damage-causing incident was located in the State of Indiana.

{¶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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Rodney Wilson
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Thomas P. Pannett
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DRB/laa
1/16
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