

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

EDDIE M. WILSON

Case No. 2008-01065-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

ENTRY OF DISMISSAL

DEPARTMENT OF
TRANSPORTATION

Defendant

{¶1} On January 3, 2008, plaintiff, Eddie M. Wilson filed a complaint against defendant, Department of Transportation. Plaintiff alleges on April 20, 2007, at approximately 6:45 p.m., he “as driving west on Highland Avenue in Columbia Township. As I came around a curve almost under the railroad tressel, I hit a pot hole. . .” As a result of striking the pothole he sustained damage to his tire and rim in the amount of \$292.07. Plaintiff attributes his resulting damage was caused by the defendant’s negligence in maintaining the roadway. Plaintiff did not submit the filing fee.

{¶2} On February 1, 2008, 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 Highland Avenue is also known as Hamilton County Road 85 and it falls under the maintenance jurisdiction of the City of Cincinnati. (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 the damage-causing incident was located in the City of Cincinnati.

{¶5} Ohio Revised Code Section 5501.31 in pertinent part states:

{¶6} “Except in the case of maintaining, repairing, erecting traffic signs on, or

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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:

Eddie M. Wilson
10771 Bridlepath Lane
Cincinnati, Ohio 45241-2947

Thoms P. Pannett, P.E.
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

DRB/laa
3/5
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