

# 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

JACOB L. CONLEY

Plaintiff

v.

OHIO BUREAU OF MOTOR VEHICLES

Defendant

Case No. 2007-06497-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

{¶ 1} Plaintiff, Jacob L. Conley, filed this complaint against defendant, Bureau of Motor Vehicles (BMV), alleging that BMV improperly recorded his driver's license status as suspended on May 18, 2007 and, subsequently, he was arrested and his vehicle was towed due to this alleged error in record keeping on the part of BMV. Plaintiff stated that he was stopped on June 10, 2007 while traveling on State Route 235 in Hancock County by a Trooper of the Ohio State Highway Patrol (OSHP). Plaintiff related that the OSHP Trooper told him that his driver's license was recorded by BMV as suspended. In reliance upon the information supplied by BMV, plaintiff was arrested and his motorcycle was impounded. Plaintiff explained that his attorney later discovered "that my license had never been suspended (and) (i)t had been valid the entire time." Plaintiff further explained that the driving under suspension charge "was then thrown out of court due to 'BMV Error'" as stated in the court document" (copy submitted of relevant entry from the Findlay Municipal Court). Plaintiff contended that he suffered damages as a proximate cause of defendant's purported recording error and that he consequently filed this complaint seeking to recover \$749.78 representing unreturned bail expenses, impound fees, and work loss. Plaintiff also requested reimbursement of the \$25.00 filing fee in addition to his damage claim. The filing fee was paid.

{¶ 2} Defendant denied liability in this matter asserting that BMV records accurately reflected the status of plaintiff's driver's license on June 10, 2007. Defendant

noted that plaintiff “received a uniform traffic ticket for a miscellaneous traffic offense” on January 21, 2007. BMV records indicate that plaintiff entered a guilty plea and was convicted of the offense in the Hardin County Municipal Court on March 19, 2007. Defendant related that BMV received information from the Hardin County Municipal Court that plaintiff had failed to show proof of financial responsibility (insurance) either to the law enforcement officer at the time he received a citation (January 21, 2007) or to the Court at the time of conviction (March 19, 2007) as required by R.C. 4509.101.<sup>1</sup> Defendant maintained that BMV’s reliance on the reported information supplied by the Hardin County Municipal Court concerning plaintiff’s failure to provide proof of financial responsibility does not create liability. Defendant recorded the reported information on plaintiff’s Ohio driver’s record (copy submitted).

{¶ 3} On April 18, 2007, defendant, acting on the information supplied by the Hardin County Municipal Court, sent plaintiff a Notice of Suspension letter pursuant to R.C. 4509.101(D)(5).<sup>2</sup> Defendant submitted a copy of the Notice of Suspension letter

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<sup>1</sup> R.C. 4509.101(D)(2)(3)(4)(a) and (b) state:

“(2) A peace officer shall request the owner or operator of a motor vehicle to produce proof of financial responsibility in a manner described in division (G) of this section at the time the peace officer acts to enforce the traffic laws of this state and during motor vehicle inspections conducted pursuant to section 4513.02 of the Revised Code.

“(3) A peace officer shall indicate on every traffic ticket whether the person receiving the traffic ticket produced proof of the maintenance of financial responsibility in response to the officer’s request under division (D)(2) of this section. The peace officer shall inform every person who receives a traffic ticket and who has failed to produce proof of the maintenance of financial responsibility that the person must submit proof to the traffic violations bureau with any payment of a fine and costs for the ticketed violation or, if the person is to appear in court for the violation, the person must submit proof to the court.

“(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 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.

“(b) If a person who has failed to produce proof of the maintenance of financial responsibility also fails to submit that proof to the traffic violations bureau with payment of a fine and costs for the ticketed violation, the traffic violations bureau, in a manner prescribed by the registrar, shall notify the registrar of the identity of that person.”

<sup>2</sup> R.C. 4509.101(D)(5)(a)(b) and (c) state:

sent to plaintiff. The letter provided information regarding the reasons for BMV's actions and advised plaintiff of documents he needed to provide to avoid the suspension from taking effect (proposed effective dates May 18, 2007 to May 18, 2010). The letter contained the following reprinted content:

{¶ 4} "YOUR DRIVER'S LICENSE IS SUSPENDED starting on the date listed in the 'Important Case Information' box above. If a license plate number is listed, YOUR LICENSE PLATES ARE ALSO SUSPENDED starting on the same date.

{¶ 5} "This suspension is because you did not prove insurance to a police

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"(5)(a) Upon receiving notice from a clerk of courts or traffic violations bureau pursuant to division (D)(4) of this section, the registrar shall order the suspension of the license of the person required under division (A)(2)(a), (b), or (c) of this section and the impoundment of the person's certificate of registration and license plates required under division (A)(2)(d) of this section, effective thirty days after the date of the mailing of notification. The registrar also shall notify the person that the person must present the registrar with proof of financial responsibility in accordance with this section, surrender to the registrar the person's certificate of registration, license plates, and license, or submit a statement subject to section 2921.13 of the Revised Code that the person did not operate or permit the operation of the motor vehicle at the time of the offense. Notification shall be in writing and shall be sent to the person at the person's last known address as shown on the records of the bureau of motor vehicles. The person, within fifteen days after the date of the mailing of notification, shall present proof of financial responsibility, surrender the certificate of registration, license plates, and license to the registrar in a manner set forth in division (A)(4) of this section, or submit the statement required under this section together with other information the person considers appropriate.

"If the registrar does not receive proof or the person does not surrender the certificate of registration, license plates, and license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person and the impoundment of the person's certificate of registration and license plates to take effect.

"(b) In the case of a person who presents, within the fifteen-day period, documents to show proof of financial responsibility, the registrar shall terminate the order of suspension and the impoundment of the registration and license plates required under division (A)(2)(d) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

"(c) Any person adversely affected by the order of the registrar under division (D)(5)(a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension or impoundment under division (D)(5)(a) or (b) of this section is upheld."

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:

{¶ 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. This 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} Of particular relevance to the instant claim, the Notice of Suspension letter provided this advisement to plaintiff:

{¶ 17} “YOU WILL BE NOTIFIED BY THE BUREAU OF MOTOR VEHICLES WHEN YOU HAVE MET THE NECESSARY REQUIREMENTS.”

{¶ 18} Defendant stated that, “[o]n May 16, 2007, twenty-eight (28) days after the mailing of the Notice of Suspension, the BMV received a letter from (p)laintiff’s attorney, along with an insurance card purporting to show proof of financial responsibility.” Defendant submitted copies of both documents received. Defendant pointed out that the purported proof of insurance card “appeared to be a fax copy, was illegible, and contained hand notations or alterations.” After examining the submitted copy of the purported proof of insurance card, the trier of fact agrees with defendant’s assessment

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that the document is indeed illegible and contains hand written notations. Defendant related that, “[b]ecause the BMV receives many altered and false documents purporting to show insurance coverage where none exists, the BMV rejected the illegible and altered insurance card submitted on behalf of (p)laintiff.” Essentially, defendant determined that the insurance card submitted did not constitute sufficient proof of insurance for BMV to alter plaintiff’s driver’s license status and prevent the suspension from taking effect.

{¶ 19} In fact, defendant notified plaintiff by mail that the purported proof of insurance card submitted was not being accepted. Defendant provided a copy of the letter sent to plaintiff on May 16, 2007 which informed him of the decision being made by BMV. This letter clearly noted:

{¶ 20} “The document(s) recently submitted can not be accepted as evidence of liability of insurance in effect at the time of the above traffic offense or random selection.

{¶ 21} “REASON: The insurance ID card was not legible and we are unable to accept the card with the information written in. Please submit one of the documents listed below for proof of coverage.”

{¶ 22} In the body of this letter, plaintiff was again advised of proof of insurance submissions that he could provide to BMV to have his driver’s license suspension lifted. Apparently, there was no response from plaintiff to this letter until after the incident forming the basis of this claim had occurred.

{¶ 23} Defendant deleted plaintiff’s driver’s license suspension on June 27, 2007, after receiving a letter from plaintiff’s attorney dated June 22, 2007 that contained “acceptable proof of financial responsibility.” Plaintiff’s Ohio driver’s record (copy submitted) maintained by BMV reflects the change made on plaintiff’s driver’s license status.

{¶ 24} Defendant denied that BMV made any error in recording plaintiff’s driver’s license status as suspended despite the evidence plaintiff submitted contained on the hand written notation on the entry from the Findlay Municipal Court providing,

“Defendant should not have been charged with DUS. BMV error.” In response to the handwritten language from the Findlay Municipal Court entry, defendant observed that, “BMV was not a party to that action, had no notice of that action, and vehemently denies any error on its part.” Defendant denied making any error in regard to recording plaintiff’s driver’s license status at any time asserting plaintiff’s Ohio driver’s record was properly maintained. Defendant related that the facts of this claim support the contention that BMV records were accurate on June 10, 2007 in recording plaintiff’s driver’s license as suspended. Defendant denied any negligent act or omission and argued the sole cause of any damages plaintiff may have suffered was plaintiff’s own negligent conduct in failing to provide sufficient proof of insurance to a law enforcement officer, the Court, or BMV.

{¶ 25} Monetary damages are recoverable when it is established, by a preponderance of the evidence, that defendant erroneously listed plaintiff’s driver’s license as suspended. *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. Plaintiff’s failure to notify defendant with sufficient proof of financial responsibility resulted in his license listed as under suspension. *Miller v. Bd. of Motor Vehicles*, Ct. of Cl. No. 2003-08738-AD, 2004-Ohio-4599. Evidence reveals that defendant’s records were accurate under the circumstances when plaintiff’s cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2001), 20014-02104-AD, jud. Consequently, plaintiff’s case is denied.

Case No. 2006-03532-AD

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MEMORANDUM DECISION

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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.

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MILES C. DURFEY  
Clerk

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