[Cite as *Taylor v. Ohio Dept. of Transp.*, 2008-Ohio-7097.]

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

CHARLES W. TAYLOR

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2008-08787-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On August 5, 2008, plaintiff, Charles W. Taylor, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on July 17, 2008 at approximately 3:30 p.m. while traveling west in the right lane of Interstate 30 approximately 1/4 mile from the Interstate 77 exit, he struck a piece of metal lying in the traveled portion of the roadway. As the result of striking this piece of debris, he sustained damage to his vehicle in the amount of $500.00. Plaintiff attributes his resulting damage to defendant's negligent maintenance of the highway. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On September 4, 2008, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "US 30 near I-77 falls under the maintenance jurisdiction of the City of Canton. (See Exhibit A) As such, this section of the 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 Canton.

{¶ 5} Ohio Revised Code 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.

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DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
10/21
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