

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

GARY M. FOX

Plaintiff

V.

BUREAU OF MOTOR VEHICLES

Defendant

Case No. 2010-12052-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶ 1} On September 27, 2010, plaintiff, Gary M. Fox , was issued a citation for driving under suspension by an officer of the Macedonia Police Department. The citation listed plaintiff's failure to follow the reinstatement procedures as the reason for the license suspension. Plaintiff was not only arrested based on the driving under suspension charge, but his vehicle was towed and impounded. Plaintiff was ordered to personally appear in the Macedonia Mayor's Court on October 7, 2010. According to plaintiff, he paid \$525.00 for bail and incurred a towing charge of \$159.75.

{¶ 2} Plaintiff related that his license had been suspended from February 9 to August 7, 2010, for an offense he committed on November 14, 2009. According to plaintiff, he served the suspension and subsequently paid the reinstatement fee. After he was arrested, plaintiff learned from an employee of the Wayne County Municipal Court that an error had been made. Plaintiff related he appeared at the Macedonia Mayor's Court and "cleaned the problem up." Although he was refunded the bond

money, plaintiff did not receive restitution for the towing charge. Consequently, plaintiff filed this complaint seeking to recover \$159.75, for towing fees. Plaintiff paid the filing fee to prosecute this action.

{¶ 3} Defendant denied liability and stated that it listed plaintiff's license as suspended in response to a court order. Defendant asserted that on September 24, 2010, the Wayne County Municipal Court mistakenly entered a duplicate conviction for plaintiff with a corresponding six-month license suspension, "causing (an) automatic activation of a new suspension" on plaintiff's driver's license. Defendant contended that the Wayne County Municipal Court acknowledged the error on September 28, 2010, and sent notification to BMV of the error. BMV deleted the suspension entry upon receipt of the journal entry from the court. Defendant explained BMV acted upon information supplied by the Wayne County Municipal Court.

{¶ 4} 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. This court has previously held 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*, Ct. of Cl. No. 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.



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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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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