

[Cite as *McAllister v. Ohio Dept. of Transp.*, 2004-Ohio-5424.]

IN THE COURT OF CLAIMS OF OHIO

| | | |
|--------------------------------------|---|---------------------------|
| CHRIS MCALLISTER | : | |
| | : | |
| Plaintiff | : | |
| | : | |
| v. | : | CASE NO. 2004-08090-AD |
| | : | |
| OHIO DEPARTMENT OF TRANSPORTATION | : | <u>ENTRY OF DISMISSAL</u> |
| | : | |
| Defendant | : | |
| | : | |
| | : | |

{¶ 1} On August 11, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on August 3, 2004, while traveling south bound on State Route 23 south of Delaware, Ohio, she struck a dislodged sewer lid which caused damage to her vehicle’s tire. Plaintiff seeks reimbursement for tire replacement in the amount of \$88.27. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On August 19, 2004, 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 US 23 @ Flint Road falls under the maintenance jurisdiction of the City of Columbus (See Attached Map). Our Transportation Manager was contacted when this happened and he stated that the incident happened at US 23 and Flint Road and the sewer lid was not within ODOT’s jurisdiction. 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 plaintiff’s incident was within the city limits of Columbus.

{¶ 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 serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Chris McAllister
4497 Circle Drive
Hilliard, Ohio 43026

Plaintiff, Pro se

Thomas P. Pannett, P.E.
Assistant Legal Counsel
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

For Defendant

DRB/laa
9/14
Filed 9/21/04
Sent to S.C. reporter 10/11/04