

[Cite as *Montgomery v. Ohio Bur. of Motor Vehicles*, 2006-Ohio-7210.]

IN THE COURT OF CLAIMS OF OHIO

ROBERT J. MONTGOMERY :

Plaintiff :

v. :

CASE NO. 2006-02684-AD

OHIO BUREAU OF MOTOR VEHICLES :

MEMORANDUM DECISION

Defendant :

: : : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) On March 24, 2006, plaintiff, Robert J. Montgomery, filed a complaint against defendant, Bureau of Motor Vehicles ("BMV"), alleging his driver's license was improperly listed as suspended and he was subsequently arrested based on this improper listing. Plaintiff stated he incurred vehicle towing expenses as a result of defendant's error concerning his driving status. Plaintiff seeks damages in the amount of \$134.51 for towing and impound fees. The filing fee was paid.

{¶ 2} 2) On March 31, 2006, defendant filed an investigation report admitting error in recording plaintiff's driving status.

CONCLUSIONS OF LAW

{¶ 3} 1) Resulting damages may be recovered when a plaintiff proves, by a preponderance of the evidence, his driver's license was erroneously listed as suspended by defendant. *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.

{¶ 4} 2) Plaintiff has proven, by a preponderance of the

evidence, that his driver's license was improperly listed as suspended by defendant. *McGee v. Ohio Bureau of Motor Vehicles* (1997), 97-03999-AD.

{¶ 5} 3) Defendant is liable to plaintiff for damages plaintiff can prove resulted from defendant's negligence. *Partlow v. Bureau of Motor Vehicle* (1997), 97-07820-AD. Plaintiff has proven that he incurred towing and impound fees as a result of defendant's error.

{¶ 6} 4) Plaintiff has suffered damages in the amount of \$134.51, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

IN THE COURT OF CLAIMS OF OHIO

ROBERT J. MONTGOMERY :

Plaintiff :

v. :

CASE NO. 2006-02684-AD

OHIO BUREAU OF MOTOR VEHICLES :

ENTRY OF ADMINISTRATIVE
DETERMINATION

Defendant :

: : : : : : : : : : : : : : : :

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 plaintiff in the amount of \$159.51, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Robert J. Montgomery
5986 Paint Creek Way
Hilliard, Ohio 43026

Plaintiff, Pro se

John R. Guldin
Associate Legal Counsel
Department of Public Safety
Legal Services

For Defendant

1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

RDK/laa
6/14
Filed 6/22/06
Sent to S.C. reporter 3/21/07