

[Cite as *Smith v. Bureau of Motor Vehicles*, 2005-Ohio-2030.]

IN THE COURT OF CLAIMS OF OHIO

LORETTA SMITH :
 :
Plaintiff :
 :
v. : CASE NO. 2004-04957-AD
 :
OH BUREAU OF MOTOR VEHICLES : MEMORANDUM DECISION
 :
Defendant :

.....

{¶1} On December 3, 2003, Jonzell R. Byrd, was driving a 1998 Saturn sedan within the village limits of Linndale, Ohio when he was stopped by a local law enforcement officer for speeding. Incident to a check of his driver's license status, Byrd was issued a citation for driving under license suspension. In addition to the license suspension and citations, Byrd was issued a citation for failure to show proof of insurance. The Saturn sedan Byrd was driving was towed and impounded. The impounded vehicle was owned by plaintiff, Loretta Smith, the mother of Jonzell Byrd.

{¶2} Plaintiff has alleged defendant, Bureau of Motor Vehicles ("BMV"), improperly recorded Jonzell Byrd's license as suspended which resulted in her car being impounded. Consequently, plaintiff filed this complaint seeking to recover \$110.00 for towing and impound fees, plus \$25.00 for filing fee reimbursement. Plaintiff also requested damages of \$60.00 for court costs she paid and a net amount of \$6.00, "to get my son out of jail." Total damages claimed amount of \$201.00.¹

{¶3} Defendant has insisted Jonzell Byrd's driver's license was

¹ The \$25.00 filing fee was paid.

validly listed as suspended on December 3, 2003, the day he was issued multiple citations including driving under a license suspension. Defendant explained BMV received information from the Bedford Municipal Court on October 23, 2003, establishing Jonzell Byrd failed to provide proof of insurance on September 20, 2003, when he was stopped for a speeding violation. Based on the information supplied by the Bedford Municipal Court, BMV entered a non-compliance license suspension on Jonzell Byrd's record effective November 28, 2003. Defendant maintained a notice of the suspension letter was sent to Jonzell Byrd's residence notifying him of the suspension action effective November 28, 2003. Defendant denied receiving any documentation necessary to clear Jonzell Byrd's suspension status prior to December 3, 2003. On December 4, 2003, proof of insurance was submitted to BMV and Jonzell Byrd's non-compliance suspension based on the September 20, 2003, incident was deleted from defendant's records. Defendant asserted Jonzell Byrd's driver's license was accurately listed as suspended on December 3, 2003. Defendant supplied BMV records supporting this assertion.

{¶4} Considering the information available to defendant, no evidence has been offered to show BMV acted improperly in listing Jonzell Byrd'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 her son's driver's license status. *McKenzie v. Bureau of Motor Vehicles*, 2002-06642-AD, 2003-Ohio-2430.

Evidence indicates defendant's records were accurate under the circumstances when this cause of action accrued. *Elliott v. Bureau of Motor Vehicles* (2001), 2001-02104-AD, jud.

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CASE NO. 2004-04957-AD

OH BUREAU OF MOTOR VEHICLES

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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 defendant. Court costs are assessed against plaintiff. 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:

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