

[Cite as *Ramirez v. Ohio State Highway Patrol*, 2005-Ohio-2031.]

IN THE COURT OF CLAIMS OF OHIO

JOE RAMIREZ, et al. :
Plaintiffs :
v. : CASE NO. 2004-09444-AD
OHIO STATE HIGHWAY PATROL : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} On August 18, 2004, a vehicle owned by plaintiff, Vicki Rogers, and driven by a person identified as Joe Ramirez, was subjected to a traffic stop by Trooper Christopher Crisafi, an employee of defendant, Ohio State Highway Patrol ("OSHP"). Plaintiff related, her vehicle, a Ford Explorer, was searched by defendant's employee after the traffic stop was made. Plaintiff alleged her air mattress which was stored in the Ford Explorer was damaged beyond repair incident to the vehicle search. Specifically, plaintiff asserted an OSHP employee conducting the vehicle search cut the air mattress with a knife. Plaintiff was not present during the traffic stop and subsequent search of her truck.

{¶2} Plaintiff filed this complaint seeking to recover \$130.00, the estimated replacement value of her air mattress. Although plaintiff did not witness any event on August 18, 2004, involving the search of her truck, she has contended her property was damaged by the deliberate act of defendant's employee in conducting a search of a vehicle and its contents. The filing fee was paid.

{¶3} Defendant submitted a statement from OSHP employee, Trooper Christopher Crisafi, regarding his part in the August 18, 2004, incident. Crisafi stated, while working on August 18, 2004, he stopped a 1997 Ford Explorer traveling on Interstate 71 in Warren County for a minor traffic violation. After making the stop, Crisafi recalled he requested a driver's license and other vehicle documentation from the driver of the Ford Explorer, Joe Ramirez. According to Crisafi, the identification documents Ramirez handed over appeared fraudulent and Ramirez was consequently arrested for uttering a forged document. The 1997 Ford Explorer owned by plaintiff was towed to a local impound lot.

Crisafi related he contacted plaintiff, presumably by telephone, at her Arkansas residence, and informed her that her vehicle had been impounded. Crisafi noted he visually inspected plaintiff's vehicle and conducted an inventory of its contents before the vehicle was towed. Crisafi recollected seeing an air mattress stored in the rear cargo area of the Ford Explorer. Crisafi denied slicing the air mattress and insisted he did not touch the mattress, which he claimed was intact when the vehicle was towed.

CONCLUSIONS OF LAW

{¶4} Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property in the performance of official acts. *Vastine, et al. v. State Highway Patrol*, 2002-10305-AD, 2003-Ohio-1681.

{¶5} Plaintiff has the burden of proving, by a preponderance of the evidence, that she suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD. Plaintiff has failed to produce sufficient evidence to establish any act of defendant's employee

caused the property damage to her property. See *Fuciarelli v. Ohio State Patrol Marion Post*, 2002-03911-AD, 2002-Ohio-4627.

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OHIO STATE HIGHWAY PATROL : ENTRY OF ADMINISTRATIVE
Defendant : DETERMINATION

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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:

Joe Ramirez
Vicky Ramirez
705 Eastwood Drive
Searcy, Arkansas 72143

Plaintiffs, Pro se

Colonel Paul D. McClellan
Ohio State Highway Patrol
P.O. Box 182074
Columbus, Ohio 43218-2074

For Defendant

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