## IN THE COURT OF CLAIMS OF OHIO

ANTHONY MCCOY :

Plaintiff :

v. : CASE NO. 2004-09711-AD

OHIO DEPARTMENT OF : ENTRY OF DISMISSAL

TRANSPORTATION

:

Defendant

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

- $\{\P 1\}$  On October 25, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on June 15, 2004, while traveling southbound on US 42 toward I-275, he struck a pothole while turning onto I-275 eastbound at the intersection of the bridge beam and the pavement. Plaintiff seeks reimbursement for his automobile repair costs in the amount of \$1,005.85. Plaintiff submitted the filing fee with the complaint.
- $\{\P\ 2\}$  On December 1, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:
- ${\P 3}$  "Defendant has performed an investigation of this site and this section of US 42 at eastbound I-275 and it falls under the maintenance jurisdiction of the City of Sharonville (See Attached Map). Plaintiff mentions that he spoke to the Ohio Department of Transportation and the City of Sharonville and the responsibility was tossed back and forth between the two. ODOT's Hamilton County Manager contacted the City of Sharonville and they fixed the pothole. As such, this section of roadway is not within the maintenance jurisdiction of the defendant."
  - $\{\P 4\}$  Plaintiff has not responded to defendant's motion to

dismiss.

 $\{\P 5\}$  The site of plaintiff's incident was within the city limits of Sharonville.

 $\{\P 6\}$  R.C. 5501.31, in pertinent part states:

 $\{\P \}$  "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 . . ."

 $\{\P \}$  The site of the damage-causing incident was not within the maintenance jurisdiction of defendant. Consequently, plaintiff case is dismissed.

 $\{\P 9\}$  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 absorb the court costs of this case. The clerk shall serve upon all parties notice of the entry of dismissal and its date of entry upon the journal.

> DANIEL R. BORCHERT Deputy Clerk

Entry cc:

Anthony McCoy 12132 S. Pine Dr. #244 Sharonville, Ohio 45241 Plaintiff, Pro se

Thomas P. Pannett, P.E. Department of Transportation 1980 West Broad Street

For Defendant

ENTRY

Columbus, Ohio 43223

DRB/laa 1/18 Filed 2/4/05 Sent to S.C. reporter 2/28/05