IN THE COURT OF CLAIMS OF OHIO

MICHAEL T. GRIFFIN :

Plaintiff :

v. : CASE NO. 2005-04985-AD

OHIO DEPARTMENT OF : ENTRY OF DISMISSAL

TRANSPORTATION

:

Defendant

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

- {¶1}On April 5, 2005, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on March 12, 2005, at approximately 4:30 p.m., his wife was driving his vehicle on State Route 2 near East 9th Street when she struck a large pothole which caused damage to the plaintiff's vehicle. Plaintiff seeks reimbursement for his automobile repair costs in the amount of \$291.45 plus reimbursement of the \$25.00 filing fee he submitted with the complaint. Plaintiff's total damages amount to \$316.45.
- $\{\P\ 2\}$ On May 13, 2005, 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 SR 2 @ East 9th Street falls under the maintenance jurisdiction of the City of Cleveland (See Attached Map and Maintenance Agreement). The Ohio Department of Transportation starts to maintain I-90 at E. 30th Street or Dead Man's Curve (which is highlighted in pink). As such, the section of SR 2 @ East 9th Street is not within the maintenance jurisdiction of the defendant."

- $\{\P 4\}$ Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's incident was within the city limits of Cleveland.
 - $\{\P 5\}$ R.C. 5501.31, in pertinent part states:
- $\{\P 6\}$ "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 5501.49 of the Revised 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 . . ."
- $\{\P 7\}$ The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff's case is dismissed.
- $\{\P 8\}$ 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 absorb the court costs of this case. The clerk 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:

Michael T. Griffin 2012 Dowd Avenue

Plaintiff, Pro se

Lakewood, Ohio 44107

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

DRB/laa 6/20 Filed 7/26/05 Sent to S.C. reporter 8/11/05