

[Cite as *Raheem v. Svoboda*, 2010-Ohio-5367.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 94678**

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**MIKA'EL A. RAHEEM**

PLAINTIFF-APPELLANT

vs.

**OFFICER DANIEL SVOBODA, ET AL.**

DEFENDANTS-APPELLEES

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**JUDGMENT:  
AFFIRMED**

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Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CV-704706

**BEFORE:** Celebrezze, J., Rocco, P.J., and Boyle, J.

**RELEASED AND JOURNALIZED:** November 4, 2010

## **FOR APPELLANT**

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FRANK D. CELEBREZZE, JR., J.:

{¶ 1} Plaintiff-appellant, Mika'el A. Raheem, appeals the trial court's dismissal of his complaint against defendants-appellees, Officer Daniel Svoboda and the Cleveland Municipal Court. After a thorough review of the record and pertinent case law, we affirm.

{¶ 2} On August 25, 2005, Raheem was stopped by Officer Svoboda and issued a traffic citation for running a red light. According to Raheem, Officer Svoboda mistakenly indicated in his computer system that Raheem failed to provide proof of financial responsibility despite the fact that the paper ticket

issued to Raheem indicated otherwise. Raheem was subsequently stopped on July 9, 2006. He was informed that his license was suspended for failure to provide proof of financial responsibility, and his vehicle was towed.

{¶ 3} On September 22, 2009, Raheem filed a complaint in the common pleas court against Officer Svoboda and the Cleveland Municipal Court (collectively referred to as “the defendants”). In his complaint, Raheem sought compensation for monetary damages he incurred as a result of Officer Svoboda’s alleged error in entering Raheem’s August 25, 2005 traffic ticket into the computer database. On December 21, 2009, the defendants filed a Civ.R. 12(B)(6) motion to dismiss arguing that Officer Svoboda was immune from liability and the Cleveland Municipal Court was not sui juris and could not be sued. This motion to dismiss was granted on January 14, 2010. This appeal followed.

### **Law and Analysis**

{¶ 4} In this appeal, Raheem argues that the trial judge improperly dismissed his complaint against Officer Svoboda. Raheem makes no such argument pertaining to the Cleveland Municipal Court. The record reflects that on December 31, 2009, Raheem filed a motion to continue the case and a motion to dismiss Cleveland Municipal Court as a party. This motion was ultimately denied in the same journal entry that dismissed Raheem’s complaint. As such, we will analyze whether the complaint was properly

dismissed as it related to both Officer Svoboda and the Cleveland Municipal Court.

### **Standard of Review**

{¶ 5} We review a trial court's decision granting a Civ.R. 12(B)(6) motion to dismiss de novo. *Messina v. Clawges*, Cuyahoga App. No. 93323, 2010-Ohio-3311, ¶6. Under this analysis, we must accept all of Raheem's factual allegations as true, and we must draw all reasonable inferences in his favor because he is the nonmoving party. *Id.* at ¶7, citing *Byrd v. Faber* (1991), 57 Ohio St.3d 56, 565 N.E.2d 584.

### **Cleveland Municipal Court**

{¶ 6} We must first determine whether the trial judge properly dismissed the complaint as it related to the Cleveland Municipal Court. "Absent an express statutory authority, a court can neither sue or be sued in its own right." *State ex rel. Pruitt v. Cuyahoga Cty. Common Pleas Court*, Cuyahoga App. No. 94155, 2009-Ohio-6657, ¶2, quoting *Malone v. Court of Common Pleas of Cuyahoga Cty.*, (1976), 45 Ohio St.2d 245, 248, 344 N.E.2d 126. Raheem has set forth no statutory authority, nor have we found any, that indicates that the municipal court could be sued in this matter. Also, Raheem has alleged no wrongdoing on the part of the municipal court. Accordingly, we find that Raheem failed to state a claim for which relief could be granted against the Cleveland Municipal Court.

## **Officer Svoboda**

{¶ 7} Employees of political subdivisions will generally be immune from liability unless, “one of the following applies:

{¶ 8} “(a) The employee’s acts or omissions were manifestly outside the scope of the employee’s employment or official responsibilities;

{¶ 9} “(b) The employee’s acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner;

{¶ 10} “(c) Civil liability is expressly imposed upon the employee by a section of the Revised Code. \* \* \*” R.C. 2744.03(A)(6).

{¶ 11} The record shows that Officer Svoboda was acting within the scope of his employment when he issued Raheem a traffic citation and allegedly entered into the computer database that Raheem failed to show proof of financial responsibility. Similarly, Raheem has failed to set forth any provision in the Revised Code that would expressly impose liability upon Officer Svoboda for his alleged mistake. Finally, the facts alleged by Raheem reveal that Officer Svoboda acted, at best, negligently when he mistakenly indicated that Raheem failed to provide proof of financial responsibility. Even construing the facts of the complaint in a light most favorable to Raheem, nothing indicates that Officer Svoboda’s actions fall within the exceptions delineated in R.C. 2744.03(A)(6); therefore, Officer Svoboda is immune from liability.

## **Conclusion**

{¶ 12} Raheem has set forth no facts alleging wrongdoing on the part of the Cleveland Municipal Court. Nonetheless, we have found no statutory authority that expressly allows the municipal court to be sued in this instance. Likewise, assuming the facts alleged in the complaint are true, and construing those factual allegations in a light most favorable to Raheem, we cannot find that Officer Svoboda's actions fall within the exceptions to immunity set forth in R.C. 2744.03(A)(6). As such, Officer Svoboda, as an employee of a political subdivision, is immune from liability. The trial court properly granted the defendants' Civ.R. 12(B)(6) motion to dismiss. Raheem's sole assignment of error is overruled.

Judgment affirmed.

It is ordered that appellees recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

FRANK D. CELEBREZZE, JR., JUDGE

KENNETH A. ROCCO, P.J., and

MARY J. BOYLE, J., CONCUR