IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

OREON J. HUFFMAN) CASE NO. 1:10CV1270
Plaintiff,))) HIDGE LAMES S. CWIN
v.) JUDGE JAMES S. GWIN)
DOLLAR RENT A CAR) <u>MEMORANDUM OF OPINION</u>) AND ORDER
Defendant.) AND ORDER)

Plaintiff *pro se* Oreon J. Huffman brings this action under the Civil Rights Act of 1871, 42 U.S.C. § 1983, against defendant Dollar Rental Car. He alleges that, on April 26, 2008, he was driving a car rented from the Defendant when he was stopped for fictitious license plates. A search of the car resulted in a felony conviction. Plaintiff asserts that Defendant is liable for his conviction and punishment because there was a reckless disregard for his compulsory rights. He allegedly would never been arrested if the vehicle had proper plates. Plaintiff seeks damages in the amount of \$5,000,000.00.

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the district court is required to dismiss an action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996). For the reasons stated below, this action is dismissed pursuant to section 1915(e).

In *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), the Supreme Court stated that "the initial inquiry [in a section 1983 action] must focus on whether the two essential elements ... are present:

(1) whether the conduct complained of was committed by a person acting under color of state law;

and (2) whether this conduct deprived a person of rights, privileges, or immunities secured by the

Constitution or laws of the United States." The person acting under color of law is usually a state

or local government official or employee. Doyle v. Schumann, 2008 WL 397588 * 3 (N.D. Ohio,

Feb. 11, 2008). A plaintiff does not have a cause of action under § 1983 against a private party no

matter how discriminatory or wrongful the party's conduct. Tahfs v. Proctor, 316 F.3d 584, 590 (6th

Cir. 2003)(citing American Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 50 (1999)). A rental car

company is a private party and could not have been acting under color of state law. Therefore,

Plaintiff has no cause of action against this Defendant under § 1983.

Accordingly, Plaintiff's Request to Proceed Without Payment of Fees is granted. (ECF 2).

This action is dismissed pursuant to 28 U.S.C. § 1915(e). The Court certifies, pursuant to 28 U.S.C.

§ 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: July 30, 2010

James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

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