

[Cite as *Graves v. Ohio Dept. of Transp.*, 2003-Ohio-7141.]

IN THE COURT OF CLAIMS OF OHIO

MATTHEW S. GRAVES :

Plaintiff :

v. :

CASE NO. 2003-09963-AD

DEPARTMENT OF TRANSPORTATION :

ENTRY OF DISMISSAL

Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On September 24, 2003, plaintiff, Matthew S. Graves, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on September 15, 2003, while traveling northwest on State Route 33 between Hamilton Road and Interstate 270, he struck a truck tire in the traveled portion of the roadway. As a result of this incident, he sustained damage to his vehicle in the amount of \$1,359.67. Consequently, he filed this complaint against defendant to recover this amount plus reimbursement of the filing fee he submitted with the complaint;

{¶3} 2) On October 22, 2003, defendant filed a motion to dismiss;

{¶4} 3) In support of the motion to dismiss, defendant stated in pertinent part:

{¶5} “Defendant has performed an investigation of this site and this section of US 33 between Hamilton Road and I-270 falls under the maintenance jurisdiction of the City of Columbus . . . As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”;

{¶6} 4) Plaintiff did not respond to defendant’s motion to dismiss.

{¶7} THE COURT CONCLUDES THAT:

{¶8} 1) R.C. 5501.31 in pertinent part states:

{¶9} “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 . . .”;

{¶10} 2) The site of plaintiff’s incident was not within the maintenance jurisdiction of the defendant. Accordingly, the defendant is not the appropriate party to sue.

{¶11} IT IS ORDERED THAT:

{¶12} 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:

Matthew S. Graves
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Plaintiff, Pro se

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ENTRY

DRB/laa

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