

[Cite as *Moon v. Ohio Dept. of Transp.*, 2004-Ohio-5050.]

IN THE COURT OF CLAIMS OF OHIO

WILLIE B. MOON, JR. :
Plaintiff :
v. : CASE NO. 2004-07280-AD
DEPT. OF TRANSPORTATION : ENTRY OF DISMISSAL
Defendant :

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{¶ 1} On July 12, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on June 17, 2004, he was driving north on County Road 21 when he encountered high water and a tree across the traveled portion of the roadway. As a result of this incident, he sustained damage to his vehicle. Plaintiff seeks reimbursement for his automobile repair costs in the amount of \$1,460.00 from defendant. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On July 28, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “Defendant asserts it is not responsible for the maintenance of the roadway where the alleged water and tree was located. Defendant’s investigation reveals that the water and tree in question was located on County Road 21 and this route has not been ODOT’s maintenance responsibility since Interstate 77 was constructed in the late 60’s. County Road 21 falls under the maintenance jurisdiction of the Tuscarawas County Engineer (See Exhibit A). As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

{¶ 4} Plaintiff has not responded to defendant’s motion to dismiss.

{¶ 5} R.C. 5501.11 in pertinent part states:

{¶ 6} “The functions of the department of transportation with respect to highways shall be:

(A) To establish state highways on existing roads, streets, and new locations and to construct, reconstruct, widen, resurface, maintain, and repair the state system of highways and the bridges and culverts thereon . . .”

{¶ 7} R.C. 5501.31 in pertinent part states:

{¶ 8} “The director of transportation shall have general supervision of all roads comprising the state highway system.”

{¶ 9} County Route 21 is not a state highway and, accordingly, not within the maintenance responsibility of defendant. Consequently, plaintiff’s case is dismissed.

{¶ 10} Having considered all 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:

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8/13
Filed 8/24/04
Sent to S.C. reporter 9/22/04

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ENTRY