

[Cite as *McKenna v. Bur. of Motor Vehicles*, 2004-Ohio-7090.]

IN THE COURT OF CLAIMS OF OHIO

EVAN A. MCKENNA :
Plaintiff :
v. : CASE NO. 2004-08600-AD
BUREAU OF MOTOR VEHICLES : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) On September 1, 2004, plaintiff, Evan A. McKenna, filed a complaint against defendant, Bureau of Motor Vehicles, alleging his driver's license was improperly listed as suspended by defendant. Plaintiff's automobile was towed and impounded as a result of defendant's error concerning plaintiff's driving status. Plaintiff seeks damages in the amount of \$204.00 for work loss from a mandated court appearance and rectifying the suspension issue with defendant. Plaintiff also seeks reimbursement of the \$25.00 filing fee.

{¶2} 2) On September 21, 2004, defendant filed an investigation report admitting error in recording plaintiff's driving status. However, defendant denies liability for plaintiff's work loss contending his court appearance was required due to a speeding violation.

{¶3} 3) On October 4, 2004, plaintiff filed a response. Plaintiff asserts his work loss should be reimbursed since contrary to defendant's argument, he would not have had to appear in court for a speeding offense. But since he was also charged with driving

while under suspension a court appearance was mandatory.

CONCLUSIONS OF LAW

{¶4} 1) Resulting damages may be recovered when a plaintiff proves, by a preponderance of the evidence, his driver's license was erroneously listed as suspended by defendant. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD.

{¶5} 2) Plaintiff has proven, by a preponderance of the evidence, that his driver's license was improperly listed as suspended by defendant. *McGee v. Ohio Bureau of Motor Vehicles* (1997), 97-03999-AD.

{¶6} 3) Defendant is liable to plaintiff for damages plaintiff can prove resulted from defendant's negligence. *Partlow v. Bureau of Motor Vehicles* (1997), 97-07820-AD. Plaintiff has proven that he incurred all work loss claimed as a result of defendant's error.

{¶7} 4) Plaintiff has suffered damages in the amount of \$204.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

IN THE COURT OF CLAIMS OF OHIO

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|--------------------------|---|--------------------------------|
| EVAN A. MCKENNA | : | |
| | : | |
| Plaintiff | : | |
| | : | |
| v. | : | CASE NO. 2004-08600-AD |
| | : | |
| BUREAU OF MOTOR VEHICLES | : | <u>ENTRY OF ADMINISTRATIVE</u> |
| | : | <u>DETERMINATION</u> |
| Defendant | : | |
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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$229.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Evan A. McKenna
215 Central Avenue
Newark, Ohio 43055

Plaintiff, Pro se

John R. Guldin
Associate Legal Counsel
Ohio Department of Public
Safety, Legal Services
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081

For Defendant

Sent to S.C. reporter 12/27/04