

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

LOUIS STUART

Plaintiff

v.

OHIO DEPT. OF TRANSPORTATION

Defendant

Case No. 2007-05211-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶1} On April 4, 2007, at approximately 10:00 p.m., plaintiff, Louis Stuart, was driving his 2004 Jeep Grand Cherokee on the Route 422 East Ramp, when he lost control of the vehicle causing it to collide with a car parked on the roadway berm. Plaintiff stated he saw two cars stopped on the roadway berm and began to slow his vehicle as he approached a bridge on US Route 422 spanning Interstate 271 South. Plaintiff related as he traveled on the bridge he, “realized it was a sheet of ice” and consequently, “had no control of the vehicle.” Furthermore, plaintiff noted, “the pitch angle of the bridge made the vehicle slide into the car that was on the inside berm of the bridge.” After plaintiff’s Jeep collided with the car stopped on the roadway berm, the Jeep was struck by another vehicle traveling on the icy bridge roadway. Plaintiff contended the April 4, 2007 motor vehicle collision was caused by, “black ice and [defendant, Ohio Department of Transportation] O.D.O.T. not salting the bridge.”

{¶2} Plaintiff asserted the April 4, 2007, accident and resulting damage to his vehicle was proximately caused by negligence on the part of defendant, Department of Transportation (“DOT”). Specifically, plaintiff argued DOT was negligent in failing to apply salt to the bridge on US Route 422 Ramp in Warrensville Heights, Ohio. Therefore, plaintiff filed this complaint seeking to recover \$500.00, his insurance coverage deductible for automotive repair costs. The filing fee was paid.

{¶3} Defendant denied any liability in this matter based on the contention that

no DOT personnel had any knowledge regarding the condition of the roadway surface prior to plaintiff's incident. Defendant denied receiving any calls or complaints about ice on the roadway at the particular area of plaintiff's damage occurrence which DOT located at state milepost 28.0 on Interstate 271 in Cuyahoga County. Defendant reasoned, "it is more likely than not that the road surface existed in that location for only a relatively short amount of time before plaintiff's incident." Presumably, defendant seems to be arguing the icy slippery roadway conditions appeared suddenly before DOT could respond to ameliorate the conditions.

{¶4} Defendant asserted plaintiff failed to prove DOT acted negligently in conducting its roadway maintenance responsibilities. Defendant's records point out it rained all day on April 4, 2007, and DOT crews were called in at 10:00 p.m. to salt the roads. Also, DOT records show snow plow drivers salted Interstate 271 and US Route 422 beginning after 10:00 p.m. on April 4, 2007. Defendant stated DOT, "is not an insurer of the highways." Defendant denied DOT acted negligently in maintaining the roadway in question on April 4, 2007.

{¶5} Defendant has a duty to maintain the roadways in a safe reasonable manner. See *Knickel v. Ohio Department of Transportation* (1976), 49 Ohio App. 2d 335, 3 O.O. 3d 413, 361 N.E. 2d 486. However, pursuant to R.C. 5501.41, DOT does not have a statutory duty to remove snow and ice from its roads. See, also, *King v. Ohio Dept. of Transportation* (Mar. 10, 1994), Franklin App. No. 93AP-918, unreported.

{¶6} Furthermore, DOT's duty to maintain the roadways does not extend to removal of natural accumulations of snow and ice. Therefore, since defendant had no duty to remove natural accumulations of snow and ice from the roadway, no liability shall attach even under such circumstances where a plaintiff proves he suffered damages as a proximate cause of DOT's failure to clear snow and ice from the roadway. See *Mingus v. Ohio Dept. of Transp.* (March 29, 1994), Franklin App. No. 93API11-1543 unreported. Based on the above mentioned holdings, plaintiff's claim is denied.

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- 3 -

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ENTRY OF ADMINISTRATIVE
DETERMINATION

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 defendant. Court costs are assessed against plaintiff.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Louis Stuart
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James G. Beasley, Director
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RDK/laa
11/28

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