

[Cite as *Lakovic v. Ohio Bur. of Motor Vehicles*, 2004-Ohio-204.]

IN THE COURT OF CLAIMS OF OHIO

DANIEL LAKOVIC :
Plaintiff :
v. : CASE NO. 2003-07634-AD
BUREAU OF MOTOR VEHICLES : ENTRY OF DEFAULT
Defendant : JUDGMENT
: :
: :
: :

{¶1} THE COURT FINDS THAT:

{¶2} 1) On July 10, 2003, plaintiff, Daniel Lakovic, filed a complaint against defendant, Bureau of Motor Vehicles. Plaintiff alleges on September 18, 2002, he was ticketed by the Montgomery County Police Department for an assured clear distance violation. On November 18, 2002, he appeared in the Common Pleas Court of Montgomery County, Juvenile Division and was found delinquent based upon a guilty plea to an Assured Clear Distance violation;

{¶3} 2) On May 21, and May 31, 2003, plaintiff was stopped for a malfunctioning license plate light. In both stops plaintiff was also ticketed under Revised Code Section 4507.02(C) operating a vehicle without the payment of a license reinstatement fee after the license has been suspended. On May 31, 2003, plaintiff's vehicle was impounded as a result of the violation of R.C. 4507.02(C). Plaintiff submitted a bill from Breitenstrater Shell for towing and storage charges which totaled \$135.00;

{¶4} 3) On May 29, 2003, a judge of the Common Pleas Court of Montgomery County, Juvenile Division, issued an entry and order vacating previous adjudication from the Bureau of Motor Vehicle's records. The entry in pertinent part stated:

{¶5} "The Court further finds that this adjudication was sent to the Bureau of Motor Vehicles in error due to technical difficulties with the court's new computer program.

{¶6} “The Court hereby orders that the previous adjudication be and hereby is vacated with regards to the Bureau of Motor Vehicle’s records as of November 18, 2002, along with any probationary suspension that may have incurred, and be deleted from the Bureau of Motor Vehicle’s records.”;

{¶7} 4) On October 3, and November 13, 2003, this court issued entries ordering defendant to submit an investigation report. Defendant failed to comply with this court’s entries;

{¶8} 5) On December 30, 2003, a judge of the Court of Claims issued an entry authorizing the deputy clerk to order appropriate sanctions against defendant including default judgment;

{¶9} 6) Plaintiff has established liability and damages by a preponderance of the evidence.

{¶10} THE COURT CONCLUDES THAT:

{¶11} 1) Civ. R. 55(D) in pertinent part states:

{¶12} “No judgment by default shall be entered against this state . . . or agency . . . unless the claimant establishes his claim or right to relief by evidence satisfactory to the court.”;

{¶13} 2) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶14} 3) Plaintiff has suffered damages in the amount of \$135.00, 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. Plaintiff has failed to submit any documentary evidence to support his claim for lost wages. Accordingly, this expense is denied.

{¶15} IT IS ORDERED THAT:

{¶16} Having considered all the evidence in the claim file and, for the reasons set forth above, default judgment is rendered in favor of the plaintiff in the amount of \$160.00,

which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this default judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Daniel Lakovic
3113 Gardenia Drive
Dayton, Ohio 45449

Plaintiff, Pro se

Bureau of Motor Vehicles
P.O. Box 16528
Columbus, Ohio 43266

Defendant

DRB/laa
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