

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

JAMIR DAVIS,	:	APPEAL NO. C-250024
Plaintiff-Appellee,	:	TRIAL NO. A-2402668
vs.	:	
JOHN BRAZINA,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On June 18, 2024, Jamir Davis filed a complaint in the Hamilton County Court of Common Pleas against John Brazina and the City of Cincinnati. The complaint alleged that on March 23, 2024, while turning left from Third Street West onto the Clay Wade Bailey Bridge, Davis drove over an uncovered manhole. Davis alleged that his car sustained significant damage, and he attached a maintenance estimate to the complaint showing that the car needed \$6,202.06 in repairs.

The City of Cincinnati and John Brazina moved to dismiss the suit against them for failure to state a claim under Civ.R. 12(B)(6). The motion was denied, and both defendants appealed. The City voluntarily dismissed its appeal, leaving only Brazina before this court.

Brazina claims that he is statutorily immune from liability for the damage to Davis's vehicle under R.C. 2744.03(A)(6), which addresses employees of political subdivisions who are sued in their individual capacity. Brazina's sole assignment of error asserts the trial court's failure to dismiss the claims against him was incorrect as a matter of law.

There are no allegations on the face of the complaint suggesting that Brazina was entitled to statutory immunity, or that he works for the city at all. When assessing a motion to dismiss for failure to state a claim, a court may not make a determination based on facts or evidence outside the complaint. *State ex rel. Ames v. Baker, Dublikar, Beck, Wiley & Mathews*, 2023-Ohio-2668, ¶ 10, citing *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St.3d 545, 548 (1992). We therefore cannot conclude that Brazina is entitled to immunity based solely upon Davis's complaint. Accordingly, we overrule Brazina's sole assignment of error and remand this case to the trial court for further proceedings.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

**KINSLEY, P.J., BOCK and MOORE, JJ.**

**To the clerk:**

**Enter upon the journal of the court on 8/1/2025 per order of the court.**

By:   
**Administrative Judge**