

MISSOURI COURT OF APPEALS EASTERN DIVISION  
OPINION SUMMARY

JOHN JOSEPH JARBOE,	)	No. ED100283
	)	
Respondent,	)	Appeal from the Circuit Court of
vs.	)	St. Louis County
	)	
DIRECTOR OF REVENUE,	)	Hon. Thomas Prebil
STATE OF MISSOURI,	)	
	)	
Appellant.	)	FILED: May 27, 2014

The Director of Revenue appeals the trial court’s judgment reinstating John Jarboe’s driving privileges after they were revoked due to Jarboe’s refusal to submit to a breathalyzer. The trial court found, in check-the-box format, that: (1) Officer Frauenfelder lacked probable cause to arrest Jarboe for driving while intoxicated, (2) Jarboe did not refuse to submit to a breath test, and (3) “no admissible evidence of driving while intoxicated was presented.” The Director appeals, asserting that the trial court misapplied the law in that §577.041, governing license revocation for failure to submit to a breathalyzer, only requires that an officer have reasonable grounds to believe that a person was driving while intoxicated.

REVERSED AND REMANDED.

DIVISION ONE HOLDS: The trial court’s second finding is directly contradicted by the record, and its third finding suggests that it erroneously applied the law by deeming the officer’s report inadmissible and by examining whether Jarboe actually drove while intoxicated rather than whether the officer had reasonable grounds to believe so, which is all that §577.041 requires. Thus, the trial court’s erroneous second and third findings cast doubt whether it properly considered the entire record to arrive at its critical first finding on probable cause. The case is remanded for that determination.

Opinion by: Clifford H. Ahrens, J. Roy L. Richter, P.J., and Glenn A. Norton, J.

Attorney for Appellant: Chris Koster

Attorney for Respondent: William Goldstein

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