

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

TERRY E. DECLUE II,)	No. ED96647
)	
Respondent,)	Appeal from the Circuit Court
)	of Ralls County
vs.)	
)	Honorable David C. Mobley
DIRECTOR OF REVENUE,)	
)	
Appellant.)	FILED: February 28, 2012

The appellant, Director of Revenue for the State of Missouri ("Director"), appeals from a default judgment entered in favor of Terry E. Declue II ("Driver") setting aside the one-year revocation of Driver's driving privileges for refusing to submit to a chemical test.

REVERSED AND REMANDED.

Division One Holds: The circuit court erred by entering a default judgment against Director expressly due to Director's failure to file a responsive pleading. Following a driver's request for hearing on his or her petition for review, Section 577.041.4 RSMo does not require the Director to file an answer or other responsive pleading, thus rendering the entry of default judgment on those grounds plain error.

Opinion by: Roy L. Richter, P.J.
Clifford H. Ahrens, J., and Gary M. Gaertner, Jr., J., concur

Attorney for Appellant: John Winston Grantham

Attorneys for Respondent: Mark R. Bahn

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED