

**Summary of SC92288, *James Marcus Hill v. Director of Revenue, State of Missouri***

Appeal from the Montgomery County circuit court, Judge Wesley C. Dalton

Argued and submitted April 4, 2012; opinion issued May 1, 2012

**Attorneys:** The director was represented by Daniel N. McPherson of the attorney general's office in Jefferson City, (573) 751-3321; and Hill was represented by Paul J. Stingley of The Stingley Law Firm LLC in Fulton, (573) 592-0300.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** The director of revenue appeals a trial court's judgment holding that the statute precluding reinstatement of driving privileges for an individual who has been convicted within the previous 10 years of "any offense related to ... drugs" is unconstitutionally vague and reinstating a man's driving privileges despite a 2005 conviction for possession of drug paraphernalia. In a 7-0 decision written by Chief Justice Richard B. Teitelman, the Supreme Court of Missouri reverses the trial court's judgment and remands (sends back) the case. The man's argument that the reinstatement statute was unconstitutional essentially was a challenge to the statute under which he was convicted in 2005, but the law precludes a person from making a collateral attack to an underlying conviction in an action regarding the revocation of driving privileges. Given the facts of this case, the reinstatement statute is not unconstitutionally vague.

Judge Marco Roldan, a circuit judge in the 16th Judicial Circuit (Jackson County), sat in this case by special designation in place of Judge George W. Draper III.

**Facts:** The director of revenue revoked James Hill's driving privileges for 10 years beginning in October 2000. In April 2011, Hill petitioned for reinstatement of his driving privileges, alleging he had not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding 10 years. An exhibit attached to his petition, however, indicated that, in June 2005, Hill had been convicted of misdemeanor possession of drug paraphernalia. The director asserted that the 2005 conviction precluded reinstatement because section 302.060.1(9), RSMo Supp. 2009, bars reinstatement of persons who have been convicted within the previous 10 years of "any offense related to alcohol, controlled substances, or drugs." Hill argued the statute was unconstitutionally vague. The trial court agreed, without explanation, and reinstated Hill's driving privileges. The director appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** The trial court misapplied the law in holding that section 302.060.1(9) is unconstitutionally vague. The plain language of the statute forecloses reinstatement of Hill's driving privileges because of the undisputed fact that he was convicted in 2005 of possession of drug paraphernalia, which unquestionably is an offense "related to ... drugs." Hill's argument that the phrase "convicted of any offense related to ... drugs" is unconstitutionally vague in effect is an argument that section 195.233, RSMo Supp. 2009, defining the crime of possession of drug paraphernalia, is overbroad because it could include convictions for possession of lawfully possessed items that could be used for lawful purposes. This argument, however, is foreclosed by a consistent line of cases holding that a driver cannot attack collaterally a previous conviction in an action to challenge the revocation or suspension of a driver's license. Given the facts of this case, section 302.060.1(9) is not unconstitutionally vague.