

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**RENADA LORENE HURSH,
APPELLANT,**

v.

**DIRECTOR OF REVENUE,
RESPONDENT.**

WD69285

January 13, 2009

Appeal From:
JOHNSON COUNTY CIRCUIT COURT
THE HONORABLE SUE DODSON, JUDGE

Appellate Judges:
Division Two: Joseph P. Dandurand, P.J., Harold L. Lowenstein and James M. Smart,
Jr., JJ.

Attorneys:
J. Eric Mitchell, Clinton, MO, **for appellant.**

Nicole L. Loethen, Associate Solicitor, Jefferson City, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RENADA LORENE HURSH, APPELLANT

v.

DIRECTOR OF REVENUE, RESPONDENT

WD69285

JOHNSON COUNTY CIRCUIT COURT

Before Division Two Judges: Joseph P. Dandurand, P.J., Harold L. Lowenstein and James M. Smart, Jr., JJ.

Renada Hursh's driver license was revoked because she failed to submit to a breath test after being arrested for driving while intoxicated. She claimed in the trial court that she did not refuse to take the breath test. She stated that she tried to take the test but was unable because she was crying. Her license revocation was affirmed. She appeals.

AFFIRMED.

Division Two Holds:

Where the issue is a factual dispute about whether a driver refused to cooperate and take a breath test appropriately, when the trial court determined that the driver refused to take the test and evidence exists to support that conclusion, the trial court's judgment will be affirmed because the trial court has the authority to evaluate witness credibility and to determine whether a driver willfully refused when there is contrary evidence.

Opinion by James M. Smart, Jr., Judge

January 13, 2009

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