

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**BRIAN F. MILLER,
APPELLANT**

vs.

**DIRECTOR OF REVENUE,
RESPONDENT**

WD69319

DATE: JANUARY 20, 2009

Appeal from:
RAY COUNTY CIRCUIT COURT
THE HONORABLE DAVID L. BUSCH, JUDGE

Appellate Judges:
Division Three: Joseph M. Ellis, Presiding Judge, Ronald R. Holliger¹ and
Joseph P. Dandurand, Judges

Attorneys:
Bruce Brandon Brown, Esq., Kearney, MO., for Appellant

James Robert Layton, Esq., Jefferson City, MO, for Respondent

¹ Ronald R. Holliger, Judge, participated in oral argument but was not a member of the court when this opinion was handed down.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS, WESTERN DISTRICT

BRIAN F. MILLER,
v.
DIRECTOR OF REVENUE,

Appellant
Respondent

WD 69319

Ray County, Missouri

Before Division Three Judges: Joseph M. Ellis, Presiding Judge, Ronald R. Holliger¹ and Joseph P. Dandurand, Judges

After being arrested for driving while intoxicated, Brian F. Miller had his driver's license seized by the arresting officer. Miller held a class A commercial driver's license but was not driving a commercial vehicle at the time of his arrest. The arresting officer sent Miller notice that his driving privileges had been suspended/revoked under § 302.505. Subsequently, the Department of Revenue sent Miller a letter informing him that he was disqualified from driving a commercial vehicle for one year.

Following a hearing, the suspension/revocation of Miller's driving privileges under § 302.505 was sustained. While Miller initially requested trial de novo in that matter, he eventually dismissed his motion with prejudice.

A hearing was later held related to the suspension of Miller's commercial driving privilege. The circuit court eventually entered its judgment affirming the disqualification, relying on the previous adjudication of the suspension/revocation of Appellant's driving privileges to establish a "conviction" under § 302.700(8).

AFFIRMED.

Division Three holds:

- (1) Miller's driving privilege could properly be suspended/revoked under § 302.505 despite the fact that he held a commercial license. The provisions and procedure for disqualifying a person from driving a commercial vehicle under § 302.755.1 do not conflict with or override the provisions of § 302.505 and relate only to disqualifying a person from driving a commercial vehicle and not the driving privilege as a whole.
- (2) Miller could not collaterally attack, in the commercial driving privilege proceeding, the judgment affirming the suspension/revocation of his license based on a claim of insufficient notice related to the suspension/revocation of his driving privilege.

Opinion by: Joseph M. Ellis, J.

January 20, 2009

(This summary is UNOFFICIAL and should not be quoted or cited.)

¹ Ronald R. Holliger, Judge, participated in oral argument but was not a member of the court when this opinion was handed down.