

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JAMES L. WILLIAMS,

Respondent

v.

DIRECTOR OF REVENUE, STATE OF MISSOURI.

Appellant

DOCKET NUMBER WD72147

DATE: March 8, 2011

Appeal From:

Circuit Court of Benton County, MO
The Honorable Mark Brandon Pilley, Judge

Appellate Judges:

Division Three
Cynthia L. Martin, P.J., James Edward Welsh, and Gary D. Witt, JJ.

Attorneys:

Jonathan H. Hale, Jefferson City, MO

Counsel for Appellant,

Attorneys:

James O. Kjar, Warsaw, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JAMES L. WILLIAMS, Respondent, v. DIRECTOR OF
REVENUE, STATE OF MISSOURI, Appellant**

WD72147

Benton County

Before Division Three Judges: Martin, P.J., Welsh, and Witt, JJ.

The Director of Revenue revoked James L. Williams's driving license based on an alleged refusal to submit to a breath or blood test pursuant to section 577.041, RSMo. The circuit court reversed the Director's decision and reinstated Williams's driving privileges. The Director appeals, asserting that the circuit court's finding that Williams did not refuse to submit to a breath test was unsupported by substantial evidence and erroneously declared and misapplied the law.

REVERSED AND REMANDED.

Division Three holds:

The ambiguities surrounding the officer's second request of Williams to submit to a breath test occurred after Williams's alleged initial refusal in this case. It was these ambiguities that caused the circuit court in this case to reverse the Director's revocation of Williams's driving license. Once a driver refuses to submit to a breath or blood test, even if the driver changes his mind and agrees to take the test later, the driver is not entitled to reinstatement of his driving license. The circuit court, therefore, erroneously declared the law when it suggested that the ambiguities that occurred after the alleged refusal were grounds to reverse the Director's revocation of Williams's driving license.

Opinion by James Edward Welsh, Judge

Date: March 8, 2011

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