

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

JARED SCOTT MOORE,

RESPONDENT,

vs.

DIRECTOR OF REVENUE,

APPELLANT.

DOCKET NUMBER WD73042

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: November 8, 2011

Appeal from:

The Circuit Court of Lafayette County, Missouri
The Honorable Randall W. Shackelford, Judge

Appellate Judges:

Division Two: Mark D. Pfeiffer, P.J., Victor C. Howard and James Edward Welsh, JJ.

Attorneys:

Scott C. Hamilton
Lexington, MO

Attorney for Respondent,

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Attorneys for Appellant.

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

JARED SCOTT MOORE,

RESPONDENT

v.

DIRECTOR OF REVENUE,

APPELLANT

WD73042

Lafayette County, Missouri

Before Division Two: Mark D. Pfeiffer, P.J., Victor C. Howard and James Edward Welsh, JJ.

The Director of Revenue appeals the judgment of the trial court reinstating the driving privileges of Jared Moore. The Director contends that the trial court erroneously declared and applied the law in excluding from evidence the Datamaster breath test results and maintenance reports. The trial court found that the officers' permits to operate and maintain the breathalyzer were invalid due to Executive Order 07-05, which ordered the Missouri Department of Health and Senior Services (DHSS) and the Missouri Department of Transportation (MoDOT) to cooperate to transfer the responsibility and authority for the Breath Alcohol Testing Program (BAP) from DHSS to MoDOT.

REVERSED AND REMANDED.

Division Two holds:

Where Executive Order 07-05 merely authorized the process of transfer of BAP-related authority from DHSS to MoDOT, and control over the program was never transferred due to subsequent executive orders rescinding 07-05, the officers' permits to operate and maintain the breathalyzer were not invalid, and the trial court misapplied the law in excluding the test results and maintenance reports.

Opinion by: Victor C. Howard, Judge

Date: November 8, 2011

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