

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

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**COMPLETE TITLE OF CASE**

JOHN H. PEER, JR., R.Ph.,

Respondent,

v.

MISSOURI BOARD OF PHARMACY,

Appellant.

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**DOCKET NUMBER WD77471**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** November 12, 2014

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**APPEAL FROM**

The Circuit Court of Cole County, Missouri  
The Honorable Daniel R. Green, Judge

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**JUDGES**

Division II: Howard, P.J., and Pfeiffer and Witt, JJ.

CONCURRING.

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**ATTORNEYS**

James B. Deutsch, Thomas W. Rynard, and Stephanie S. Bell  
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Attorneys for Respondent,

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Attorneys for Appellant.

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

JOHN H. PEER, JR., R.Ph., )  
 )  
 Respondent, )  
v. ) **OPINION FILED:**  
 ) **November 12, 2014**  
MISSOURI BOARD OF PHARMACY, )  
 )  
 Appellant. )

**WD77471**

**Cole County**

**Before Division II Judges:** Victor C. Howard, Presiding Judge, and Mark D. Pfeiffer and Gary D. Witt, Judges

In 2006, John H. Peer, Jr. (“Peer”), entered into a Settlement Agreement with the Missouri Board of Pharmacy (“Board”) for the purpose of resolving the question of whether his license as a pharmacist would be subject to discipline. Peer’s pharmacist license was placed on five years’ probation. In 2011, the Board filed a complaint for violation of the 2006 Settlement Agreement’s disciplinary order. The Board issued its 2011 order of discipline, which replaced the 2006 Settlement Agreement, placing Peer on probation for two years effective August 4, 2011. On January 31, 2013, the Board filed a complaint, alleging that Peer violated the terms of the 2011 Order. After two continuances requested by Peer, a violation of disciplinary order hearing was held on July 17, 2013. At the hearing, Peer stipulated to a briefing schedule in which the Board would file its brief by August 2, 2013, and Peer would file a response by August 12, 2013. On September 30, 2013, the Board issued its order of discipline, finding that Peer violated the terms of probation as alleged. The Board revoked Peer’s pharmacist license and prohibited him from reapplying for seven years.

Peer petitioned the circuit court for judicial review of the Board’s 2013 Order. The circuit court found that Peer’s probationary period expired on August 4, 2013, and that the Board lost jurisdiction and authority to impose additional discipline as of that date. The circuit court thus concluded that the Board’s 2013 Order was null and void.

The Board appealed. Peer filed the appellant’s brief under Rule 84.05(e) because he was aggrieved by the Board’s decision.

**REVERSED AND REMANDED.**

**Division II holds:**

1. If the Board receives information during the period of a licensee's probation that any condition of that probation has been violated, the Board's filing of a complaint within the section 324.043.1 time constraints authorizes the Board to proceed with further disciplinary proceedings against the licensee's license.

2. The Board's action in pursuing a violation of the terms of probation imposed because of a violation of a previously imposed probation is within the parameters of section 338.055.3, is separately authorized and contemplated by sections 324.042 and 324.043, and is consistent with the waiver of rights originally waived by Peer in 2006.

3. There was sufficient competent and substantial evidence to support the Board's finding that Peer violated the terms of probation imposed in the 2011 Order.

4. Under the factual circumstances of Peer's case, the Board's decision to revoke his pharmacy license was within the statutory range of discipline available to the Board, and such discipline was not arbitrary, capricious, or disproportionate. Likewise, Peer's constitutional rights were not violated, and the Board's decision did not constitute an abuse of discretion.

**Opinion by: Mark D. Pfeiffer, Judge**

November 12, 2014

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.