



Missouri Court of Appeals  
Southern District

Division Two

ASHLEY E. MORSE, )  
)  
Petitioner-Respondent, )  
)  
v. ) No. SD30653  
) Filed: April 18, 2011  
DIRECTOR OF REVENUE, )  
)  
Respondent-Appellant. )

APPEAL FROM THE CIRCUIT COURT OF CRAWFORD COUNTY

Honorable William C. Seay, Circuit Judge

**AFFIRMED**

The Director of Revenue (the Director) appeals from a judgment ordering her to stay a suspension and reinstate the driving privileges of Ashley Morse (Morse). This Court affirms.

**I. Factual and Procedural Background**

The relevant facts are not in dispute. In August 2003, Morse was 19 years old. She was arrested for driving while intoxicated (DWI) in violation of § 577.010 RSMo (2000).<sup>1</sup> As a result, the Director administratively suspended Morse's driving privileges

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<sup>1</sup> Unless otherwise specified, all further references to statutes are to RSMo Cum. Supp. (2003).

for 90 days (hereinafter referred to as the DWI suspension), pursuant to § 302.505.<sup>2</sup> Morse did not appeal and complied with the 90-day suspension period. She fulfilled all the requirements for reinstatement by: (1) completing a substance abuse traffic offender program (SATOP); (2) showing proof of financial responsibility by filing a form known as an SR-22, verifying automobile liability insurance coverage; and (3) paying reinstatement fees.<sup>3</sup> Morse maintained the automobile insurance identified in the SR-22 form for two years as required. When Morse turned 21 years of age, the Director expunged the record of her administrative suspension pursuant to § 302.545 RSMo (2000).

Morse also was prosecuted criminally for the incident. That prosecution, however, did not result in a conviction at that time. After pleading guilty to the DWI charge, Morse received a suspended imposition of sentence (SIS) and was placed on probation.<sup>4</sup> Because Morse later violated her probation by failing to report, she was convicted of DWI in April 2008 based upon the August 2003 incident. The court

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<sup>2</sup> Section 302.505 requires the Director to administratively suspend the license of any person upon a determination that, *inter alia*, “such person was less than twenty-one years of age when stopped and was stopped upon probable cause to believe such person was driving while intoxicated in violation of section 577.010 ...” § 302.505.1. The Director is required to make the determination of the facts “independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect any suspension ... under this section.” § 302.505.3.

<sup>3</sup> The reinstatement requirements are found generally in § 302.304.5 and then more specifically in: § 302.304.14 (completion of a SATOP); § 302.304.5-.7 (proof of financial responsibility); and § 302.304.12 and § 302.541 (payment of reinstatement fees).

<sup>4</sup> Upon Morse’s guilty plea to the § 577.010 charge, the court was required to order Morse to participate in and successfully complete a SATOP. § 577.049.1.

suspended execution of Morse's sentence and again placed her on probation, which she later completed.

Morse's DWI conviction caused eight points to be added to her driving record. In October 2008, the Director sent Morse a letter stating that, based on the eight points added to her record, her driving privileges again would be suspended for 30 days pursuant to § 302.304.<sup>5</sup> The letter also indicated that Morse had to comply with all of the same requirements (completing a SATOP, filing an SR-22 form and paying reinstatement fees) to obtain a reinstatement of her driving privileges. After receiving the letter, Morse filed a petition for a *de novo* review of the second suspension (the points suspension) in the circuit court pursuant to § 302.311 RSMo (2000).

Morse's petition relied on § 302.525.4, which requires that the period of a points suspension must be credited against any other suspension arising from the same occurrence. In the Director's answer, she conceded: (1) this statute required that Morse be given credit for her previous suspension; and (2) the Director would not be seeking an additional 30-day suspension based on the assessment of the points. The Director contended, however, that Morse was not entitled to a reinstatement of her driving privileges unless she paid reinstatement fees, filed an SR-22 form and completed a SATOP again.

In May 2010, a hearing was held on Morse's petition. The parties informed the court that they had been unable to find any other case like this one involving a nearly five-year delay between Morse's DWI arrest in 2003 and conviction in 2008. Counsel for the Director argued that the Director regularly imposes both a DWI suspension and a

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<sup>5</sup> As required by this statute, the Director must suspend driving privileges when "the driver has accumulated eight points in eighteen months." § 302.304.3; see *Brown v. Director of Revenue*, 772 S.W.2d 398, 400 (Mo. App. 1989).

points suspension for the same occurrence. These dual suspensions typically occur around the same time period, so fulfilling the reinstatement requirements once generally suffices for both suspensions. Under the unusual circumstances present here, counsel for the Director argued that Morse should be required to satisfy all three requirements again before her driving privileges could be reinstated for this points suspension. Relying on § 302.525.4, the trial court disagreed. The judge concluded that requiring Morse “to again complete an alcohol education or treatment program, file proof of financial responsibility and pay a reinstatement fee would violate Section 30[2].525, RSMo, as it would not give her credit for the previous period of suspension and all of the requirements accompanying that period of suspension.” The Director was ordered to stay Morse’s points suspension and reinstate her driving privileges. This appeal followed.

## II. Standard of Review

When the issue is one of statutory interpretation, an appellate court reviews that question of law *de novo*. *Akins v. Director of Revenue*, 303 S.W.3d 563, 564 (Mo. banc 2010); *Pavlica v. Director of Revenue*, 71 S.W.3d 186, 189 (Mo. App. 2002). “In interpreting statutes, we are to ascertain the intent of the legislature.” *Pavlica*, 71 S.W.3d at 189. This Court avoids interpretations that are unjust, absurd, or unreasonable, and considers the statute in the context of the entire statutory scheme on the same subject in order to discern legislative intent. *Sheedy v. Missouri Highways and Transp. Comm’n*, 180 S.W.3d 66, 72 (Mo. App. 2005). “Statutory provisions relating to the same subject matter are considered *in pari materia* and are to be construed together.” *Baldwin v. Director of Revenue*, 38 S.W.3d 401, 405 (Mo. banc 2001). In doing so, this Court attempts to read the legislation consistently and harmoniously. *Id.*; see *State ex rel. Director of Revenue v. Scott*, 919 S.W.2d 296, 301 (Mo. App. 1996) (noting that “[t]he

law favors statutory construction that harmonizes with reason, gives effect to the legislature's intent, and tends to avoid absurd results").

### III. Discussion and Decision

In the Director's single point, she contends the trial court misapplied the law by ordering the reinstatement of Morse's driving privileges without requiring her to satisfy all the reinstatement requirements a second time. The Director argues that the trial court misinterpreted § 302.525.4, which states:

Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the *same occurrence* for a violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section and any other suspension or revocation arising from such convictions shall be imposed, but the *period of suspension* or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation arising from such convictions, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

§ 302.525.4 (emphasis added); see *Robbins v. Director of Revenue*, 893 S.W.2d 894, 898 (Mo. App. 1995) (credit for the period of suspension is limited to 30 days).

The Director asserts that this provision, which authorizes credit for a suspension arising out of the same occurrence, only applies to the "period of suspension" and not to the reinstatement requirements, which are specified in separate statutes. See §§ 302.304.14 (SATOP), 302.304.5-7 (financial responsibility), 302.304.12 and 302.541 (reinstatement fees). The Director maintains that the trial court acted contrary to legislative intent by interpreting § 302.525.4 to include the reinstatement requirements. Relying on *State v. Mayo*, 915 S.W.2d 758, 762 (Mo. banc 1996), and *Rudd v. David*, 444 S.W.2d 457, 459 (Mo. banc 1969), the Director argues that this statutory scheme purposely imposes multiple suspensions and reinstatement requirements to protect the

public and ensure greater safety on the highways. According to the Director, this purpose can only be satisfied by requiring Morse to again meet all of the reinstatement requirements. This interpretation of the statute would, in the Director's view, allow for "additional checks on the person's ability to safely operate a vehicle on Missouri highways." We disagree.

If the Director's assessment of legislative intent were valid, one would expect the foregoing legislative scheme to prohibit Morse from receiving credit for her prior completion of a SATOP. In point of fact, the legislature has done just the opposite. The Director has ignored a provision of § 302.540, which states:

Court-ordered participation in a substance abuse traffic offender program, pursuant to section 577.049, RSMo [governing alcohol-related traffic offenses requiring a SATOP], shall satisfy the requirements of this section if the court action arose out of the *same occurrence* that resulted in a person's license being administratively suspended or revoked.

§ 302.540.4 (emphasis added). In other words, the legislature expressly intended that a driver only be required to complete a SATOP one time per occurrence. Based upon this provision, Morse's completion of a SATOP as part of her criminal prosecution satisfied the requirement that she do so to obtain reinstatement of her driving privileges after an administrative suspension. Reading § 302.525.4 and § 302.540.4 together, as we must, it becomes clear that the legislature did not intend for a driver to repeat either the first 30 days of a second period of suspension or a second SATOP based upon the same occurrence. If the legislature had intended for either of these to be repeated, it would have said so explicitly.

In any event, the 30-day credit for the previous suspension imposed pursuant to § 302.505 is exactly equal to the length of the second suspension mandated by § 302.304. Yet, suspending Morse's license for zero time, as the Director seems to suggest is

required by the latter statute, is a temporal impossibility. A reasonable solution to this temporal conundrum is simply to conclude that, under the unique facts of this case, no second suspension has actually occurred. In light of this conclusion, and reading § 302.525.4 and § 302.540.4 together with the other reinstatement requirements found in § 302.304.5-.7 (proof of financial responsibility) and § 302.304.12 and § 302.541 (payment of reinstatement fees), we further conclude the legislature likewise intended that these latter reinstatement requirements need only be satisfied once where the per-occurrence credit mandated by § 302.525.4 is equal to the length of suspension time required by § 302.304. This interpretation comports with the rule of statutory construction that the provisions of an entire legislative act must be considered together and all of the provisions harmonized with reason, if possible. *See Baldwin v. Director of Revenue*, 38 S.W.3d 401, 405 (Mo. banc 2001); *State ex rel. Director of Revenue v. Scott*, 919 S.W.2d 296, 301 (Mo. App. 1996). Furthermore, we are not persuaded by the Director's argument that requiring Morse to pay SR-22 insurance premiums and reinstatement fees a second time affords greater safety and protection on our highways. Given the unique facts in this case, we hold that Morse's initial completion of all reinstatement requirements for this one occurrence satisfied the requirements of the relevant statutes discussed above. Therefore, the Director's point is denied.

The judgment of the trial court is affirmed.

Jeffrey W. Bates, Judge

RAHMEYER, P.J. – Concur

FRANCIS, J. – Concur

Appellant's Attorney: Jonathan H. Hale of Jefferson City, MO

Respondent acting pro se

Division II