MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JUSTIN RICHARD TURNER

RESPONDENT,

v.

DIRECTOR OF REVENUE

APPELLANT.

DOCKET NUMBER WD83439

DATE: September 29, 2020

Appeal From:

Henry County Circuit Court
The Honorable Harold L. Dump II, Judge

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Alok Ahuja, Judge and Edward R. Ardini, Jr., Judge

---

Attorneys:

J. Eric Mitchell, Clinton, MO, for respondent.

Eric W. McDonnell, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JUSTIN RICHARD TURNER, RESPONDENT,
v.
DIRECTOR OF REVENUE, APPELLANT.

WD83439 Henry County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Alok Ahuja, Judge, and Edward R. Ardini, Jr., Judge

The Director of the Department of Revenue appeals the trial court's judgment setting aside the suspension of Justin Turner's driving privileges pursuant to section 302.505, RSMo. The Director contends that the trial court committed legal error by requiring field sobriety tests and evidence of criminal activity before a traffic stop.

REVERSED AND JUDGMENT ENTERED PURSUANT TO RULE 84.14.

Division Four holds:

1. The trial court committed legal error by relying on a finding that there was insufficient evidence of criminal activity to support a traffic stop to conclude that the Director had not met its burden to establish probable cause to arrest Turner for an alcohol-related traffic offense. In a section 302.505 proceeding, the Director is not required to establish that there was reasonable suspicion for the traffic stop; rather, the Director must establish that there was probable cause to arrest the driver for an alcohol-related traffic offense.

2. The trial court committed legal error by relying on a finding that no field sobriety tests were conducted to conclude that the Director had not met its burden to establish probable cause to arrest Turner for driving in violation of an alcohol-related traffic offense. Field sobriety tests are not mandatory; further, the refusal to take field sobriety tests constitutes evidence of intoxication in administrative license proceedings.

3. The evidence presented by the Director, deemed credible by the trial judge, was sufficient to establish that there was probable cause to arrest Turner for an alcohol-related traffic offense, and that his BAC exceeded the legal limit of .08 percent.

Opinion by: Cynthia L. Martin, Judge September 29, 2020

****

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