

**Missouri Court of Appeals, Western District  
Special Division**

**Cynthia L. Martin, Presiding Judge  
Gary D. Witt, Judge  
Zel M. Fischer, Special Judge**

**March 5, 2025  
William Jewell College  
Liberty, Missouri**

**WD87185**

**Stephen Connelly, Appellant,**

**v.**

**Director of Revenue, Respondent.**

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Appellant Stephen Connelly appeals the judgment of the Circuit Court of Clay County affirming the decision of the Director of Revenue to revoke Connelly's driving privileges. As alleged at trial, on April 14, 2023, at approximately 11:15 p.m., an officer with the Kansas City Police Department stopped Connelly's vehicle and another vehicle for speeding. The officer obtained licenses and other information from both drivers, gave a written citation to the other driver, and released the other driver from the stop. The officer then spoke with Connelly about his citations. The officer testified that, during this interaction, the officer began to smell the odor of an alcoholic beverage coming from Connelly's vehicle. The officer attempted to conduct a horizontal gaze nystagmus test with Connelly in his vehicle, but Connelly closed his eyes and turned his head. The officer then ordered Connelly from his vehicle and informed Connelly that the officer intended to perform a series of field sobriety tests. Connelly declined to participate. After Connelly declined participation a second time, the officer arrested him for driving under the influence. Following his arrest, the officer read Connelly Missouri's implied consent warning and asked Connelly to perform a breath test. Connelly declined. On April 15, 2023, the Director of Revenue revoked Connelly's driving privileges for one year for refusal to submit to an alcohol breathalyzer test. Connelly filled a petition for review in the circuit court. Following a bench trial, the circuit court upheld the revocation, and this appeal followed.

Appellant's point on appeal:

1. The trial court erred in affirming Respondent Director of Revenue's sanction of Appellant Stephen Connelly's driving privileges pursuant to Mo. Rev. Stat. § 302.574 (2019) in that there was no substantial evidence to support a finding that there were reasonable grounds to believe that

Connelly was driving a motor vehicle while in an intoxicated or drugged condition because evidence of Connelly's alleged intoxicated or drugged condition consisted of a faint odor of an intoxicating beverage emitting from his vehicle, Connelly's admission to having consuming a couple of glasses of wine with dinner and his refusal to participate in voluntary field testing.

**WD86719**

**State of Missouri, Respondent,**

**v.**

**Brian L. Mefford, Appellant.**

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Appellant Brian Mefford appeals the judgment of the Circuit Court of Dekalb County, following a jury trial, finding him guilty of felony driving while intoxicated. As alleged at trial, a Corporal with the Missouri Highway Patrol was on patrol on Highway 6 on the night of the June 20, 2021. The Corporal observed an all-terrain vehicle (ATV) in a ditch. At that time, Mefford was in the driver's seat, and a female was in the passenger seat. At the time the Corporal arrived, the ATV was still running, and the Corporal believed it to be in gear. The Corporal conducted several field sobriety tests on Mefford, after which he placed Mefford under arrest for driving while intoxicated. Following Mefford's arrest, the Corporal attempted to move the ATV out of the ditch. At that point, he determined that the ATV was between gears. The Corporal transported Mefford to the Daviess/Dekalb County Regional Jail where, after being read Missouri's implied consent instructions, Mefford refused to take a breathalyzer test. The jury found Mefford guilty of driving while intoxicated. The court sentenced Mefford as a habitual offender to eleven years' imprisonment. This appeal followed.

Appellant's points on appeal:

1. The trial court plainly erred in failing to, sua sponte, declare a mistrial after the prosecution injected inadmissible and prejudicial evidence during opening statement, the direct examination of the Corporal, and during closing argument that referred to Appellant's post-arrest silence and his failure to volunteer to the arresting officer an exculpatory statement denying he was driving the vehicle after he had been placed under arrest and informed of his rights, which violated Appellant's rights to due process and against self-incrimination guaranteed under the Fifth and Fourteenth Amendments to the United States Constitution and Article I, § 19 of the Missouri Constitution.
2. The trial court erred in denying Appellant's motion for judgment of acquittal at the close of all the evidence and imposing judgment and sentence against Appellant for the crime of driving while intoxicated in

violation of his right to due process of law guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, § 10 of the Missouri Constitution because the evidence adduced at trial, viewed in a light most favorable to the prosecution, was legally insufficient to prove beyond a reasonable doubt the essential element of the offense that Appellant was operating a motor vehicle while in an intoxicated condition.

**WD86412**

**Leesa Wiseman, Respondent,**

**v.**

**Missouri Department of Corrections, Appellant.**

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The Missouri Department of Corrections appeals the judgment of the Circuit Court of Jackson County finding in favor of Leesa Wiseman on her claims against the Department for retaliation and hostile work environment. As alleged at trial, the Department employed Wiseman in the Department's Division of Probation and Parole, beginning in 1989. In 2013, Wiseman was promoted to an associate superintendent position at the Department's Kansas City Reentry Center. In 2015, the Kansas City Reentry Center was transitioned to a minimum-security prison, which required significant changes to its operating structure and facilities. Wiseman changed job duties, eventually being promoted to the deputy warden over offender management. It was alleged that the transition was chaotic and had significant management issues resulting in a number of lawsuits against the Department. On October 18, 2016, Wiseman was deposed as part of one of those lawsuits. During the deposition she expressed concerns about the facility's problems. On October 25, 2016, the Center's warden indicated that Wiseman was being placed on a performance plan requiring her to maintain civility and maintain professional open communication. On November 2, 2016, Wiseman filed a staff member complaint alleging discrimination compliant based on race, color, sexual orientation, gender, ancestry, a hostile work environment and unprofessional conduct and sought to have the performance plan removed. In January 2017, the warden informed Wiseman that she had failed her performance plan. In March 2017, the Department Director transferred the entire Center's leadership team, including Wiseman. The transfer resulted in a demotion for Wiseman. On May 12, 2017, Wiseman filed a complaint of discrimination with the Missouri Human Rights Commission. Wiseman alleged she continued to have issues with the Department throughout 2018, and, on October 23, 2018, Wiseman brought a civil suit against the Department. Wiseman also filed a second complaint of discrimination in 2019, those allegations were added to the first suit by an amended petition. Following a jury trial, the jury found in favor of the Department on Wiseman's discrimination claims but found in favor of Wiseman on her claims for hostile work environment and retaliation. The circuit court entered judgment awarding Wiseman back pay and other damages as well as attorney's fees, costs and expenses, and post-judgment interests. This appeal followed.

Appellant's points on appeal:

1. The trial court erred in excluding evidence from the unredacted versions of Exhibits 537 and 538, because the interview summaries and resultant findings in the investigative report and supporting attachments were not hearsay, in that all employees had a business duty to transmit that information to the investigator, such that the redacted portions fell within the business record exception and were not hearsay.
2. The trial court erred in prohibiting a Department investigator from accessing unredacted versions of Exhibits 537 and 538, because it is clear that a testifying witness may review inadmissible hearsay to refresh his recollection or as a past recollection recorded, in that the investigator had written hundreds of reports in the almost six years that had passed between his two-month investigation and 12- page report, and his testimony that constituted a core part of the Department's defense at trial.
3. The trial court erred in permitting Wiseman's counsel and her witnesses to repeatedly read from exhibits on direct and redirect examination, because such statements are not testimony, in that they did not come from the witness's present, independent recollection of relevant facts, but instead detailed the fact that a particular exhibit contained the read statement.
4. The trial court erred in not ordering a new trial, because the cumulative evidentiary errors deprived the Department of its right to a fair trial, in that the combination of rulings preventing the admission of interviews and conclusions as business records and a Department investigator from providing adequate levels of detail regarding his investigation and report written six years prior coupled with Wiseman's improper reading of documents in lieu of testimony exponentially prejudiced the Department's ability to defend itself.