

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

DAVID W. PRUESSNER, Respondent,	)	No. ED91249
	)	
vs.	)	Appeal from the Circuit Court
	)	of St. Louis County
DIRECTOR OF REVENUE,	)	
STATE OF MISSOURI, Appellant.	)	Filed: December 16, 2008

The Director of Revenue (Director) appeals from the trial court's judgment, following a bench trial in which the trial court reinstated the driving privileges of David Pruessner (Petitioner), after the Director suspended Petitioner's driving privileges pursuant to Sections 302.505 and 302.525, RSMo (2000). The trial court found that the Director's evidence failed to show that the arresting officer had probable cause to arrest Petitioner for driving while intoxicated and that Petitioner had a blood alcohol concentration (BAC) of .08% or more by weight.

Director claims the trial court erred in reversing the revocation of Petitioner's driver's license because the Director established a prima facie case pursuant to Section 302.505. The trial court's judgment is reversed and the case is remanded with directions.

**REVERSED AND REMANDED WITH DIRECTIONS.**

Division One Holds: The record contains no substantial evidence to support the trial court's judgment that the Director failed to present evidence establishing the required elements of its prima facie case, and thus was a misapplication of the law. We reverse the trial court's decision and remand with directions to enter a judgment reinstating the suspension of Petitioner's driving privileges.

Opinion by: Kurt S. Odenwald, J. Glenn A. Norton, J. and Patricia L. Cohen, J., Concur

Attorneys for Appellant: Jeremiah W. (Jay) Nixon and Charles L. Clark

Respondent Appearing Pro Se: David W. Pruessner

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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