

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FIVE

TORRY C. GANNON,	)	No. ED99326
	)	
Respondent,	)	
	)	Appeal from the Circuit Court
vs.	)	of Jefferson County
	)	
DIRECTOR OF REVENUE,	)	Honorable Troy Anthony Cardona
	)	
Appellant.	)	Filed: October 22, 2013

The Director of Revenue, State of Missouri (“the DOR”), appeals the judgment of the trial court in favor of Torry Gannon on his petition for review of the revocation of his driver’s license.

REVERSED AND REMANDED.

Division Five Holds: The trial court erred in reinstating Gannon’s driving privileges because the DOR presented sufficient evidence of probable cause to arrest Gannon for driving while intoxicated to meet its prima facie burden. However, because it is uncertain from the record as to whether Gannon was given the opportunity to present evidence to rebut the DOR’s prima facie case, the cause is remanded for a new trial.

Opinion by: Robert M. Clayton III, C.J.  
Kurt S. Odenwald, J., and Lisa S. Van Amburg, J., concur.

Attorney for Appellant: Chris Koster, Rachel M. Jones

Attorneys for Respondent: Michael E. Reid

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