

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

MICHAEL J. MULLEN,

Respondent

v.

DIRECTOR OF MISSOURI DEPARTMENT OF REVENUE.

Appellant

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DOCKET NUMBER WD69874

DATE: June 9, 2009

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Appeal From:

Circuit Court of Henry County, MO  
The Honorable Wayne Patrick Strothmann, Judge

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Appellate Judges:

Division One: James Edward Welsh, P.J., Victor C. Howard and Alok Ahuja, JJ.

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Attorneys:

Jonathan M. Hensley, Jefferson City, MO

Counsel for Appellant

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Attorneys:

Matthew D. Lowe, Clinton, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**MICHAEL J. MULLEN, Respondent, v. DIRECTOR OF  
MISSOURI DEPARTMENT OF REVENUE, Appellant**

**WD69874**

**Henry County**

**Before Division One Judges:** Welsh, P.J., Howard and Ahuja, JJ.

The Director of Revenue appeals the circuit court's judgment setting aside the Director's suspension of Michael J. Mullen's driving license for driving while intoxicated. The circuit court found that the Director did not establish that the arresting officer had probable cause to believe that Mullen was driving while intoxicated. The Director contends that the circuit court's judgment is against the weight of the evidence and misapplies the law.

**AFFIRMED.**

**Division One holds:**

The facts that officer possessed prior to Mullen's arrest supported a conclusion that Mullen was intoxicated at the time of the arrest, but the evidence did not establish that the officer had sufficient information at the time of the arrest to have probable cause to believe that Mullen was the driver of the motor vehicle.

**Opinion by: James Edward Welsh, P. J.**

June 9, 2009

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**