

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STEVEN J. BABER, RESPONDENT,

v.

**DIRECTOR OF REVENUE,
STATE OF MISSOURI, APPELLANT.**

DOCKET NUMBER WD71620

DATE: August 17, 2010

Appeal From:

PLATTE COUNTY CIRCUIT COURT

THE HONORABLE DANIEL M. CZAMANSKE, JUDGE

Appellate Judges:

Division One: James M. Smart, Jr., P.J., Mark Pfeiffer and Cynthia L. Martin, JJ.

Attorneys:

Jonathan H. Hale, Jefferson City, MO, **for appellant.**

Jeffrey S. Eastman, Gladstone, MO, **for respondent.**

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

STEVEN J. BABER,

RESPONDENT,

v.

**DIRECTOR OF REVENUE,
STATE OF MISSOURI,**

APPELLANT.

No. WD71620

Platte County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin, Judges

Steven Baber was arrested for driving while intoxicated. As a result, the Director of Revenue suspended Baber's base driving privilege and disqualified his commercial driving privilege (CDL). The circuit court heard both matters and issued its judgment affirming the suspension of Baber's base privilege but reversing the disqualification of his CDL. As to Baber's CDL, the circuit court found that the director failed to prove a "conviction" as defined in section 302.700.2(8). Baber does not appeal the suspension of his base privilege. The director appeals the circuit court's reversal of Baber's CDL disqualification.

REVERSED.

Division One holds:

Pursuant to *Strup v. Director of Revenue*, 311 S.W.3d 793, 795 (Mo. banc 2010), the circuit court erred in reversing the disqualification of Baber's commercial driving privilege because the suspension of Baber's base driver's license constitutes a conviction of driving under the influence of alcohol for the purposes of the Commercial Driver's License Act, which is a first violation that merits disqualification of a person's commercial driver's privilege for a period of not less than one year.

Opinion by: James M. Smart, Jr., Judge

August 17, 2010

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