

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

MARTIN PRINS, RESPONDENT

vs.

DIRECTOR OF REVENUE, STATE OF MISSOURI, APPELLANT

DOCKET NUMBER WD71833

DATE: November 16, 2010

Appeal from:

The Circuit Court of Benton County, Missouri
The Honorable Mark B. Pilley, Judge

Appellate Judges:

Division Three: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

Attorneys:

Matthew D. Lowe, for Respondent

Jonathan H. Hale, for Appellant

**MISSOURI APPELLATE COURT OPINION SUMMARY
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WESTERN DISTRICT**

MARTIN PRINS, RESPONDENT

v.

DIRECTOR OF REVENUE, STATE OF MISSOURI, APPELLANT

WD71833

Benton County, Missouri

Before Division Three Judges: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

A Missouri State Highway Patrol trooper pulled over Martin Prins for an alleged traffic violation and eventually arrested him for driving while intoxicated. The Director of Revenue suspended Prins's driving privilege after an administrative hearing, and Prins filed a petition for trial de novo. Prins requested a copy of the video of his arrest taken by two video cameras in the trooper's patrol vehicle. The trooper responded that he did not have the video because the patrol's computer system had purged the video. Prins filed a motion for sanctions against the Director. The trial court granted the motion and sanctioned the Director by disallowing the introduction of any evidence or testimony regarding the stop and arrest. The Director appeals.

REVERSED AND REMANDED.

Division Three holds:

Where the record reveals that the trial court did not believe the trooper intentionally destroyed the video under circumstances indicating fraud, deceit, or bad faith, the spoliation doctrine was inapplicable and was not a proper basis upon which to exclude the Director's evidence. Furthermore, there was no evidence to show that the trooper destroyed the video at the direction or encouragement of the Director. Therefore, the trial court's judgment excluding the evidence is reversed, and the case is remanded for a new hearing on Prins's petition to permit the trial court to determine whether the credible evidence supports the suspension of his driving privilege and to afford Prins the opportunity to present evidence rebutting the Director's contentions.

Opinion by: Victor C. Howard, Judge

Date: November 16, 2010

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