

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**SALVADOR LARA, JR.,
RESPONDENT
vs.**

**DIRECTOR OF REVENUE,
APPELLANT**

DOCKET NUMBER WD75989

DATE: OCTOBER 15, 2013

Appeal from:

The Circuit Court of Lafayette County, Missouri
The Honorable Randall W. Shackelford, Judge

Appellate Judges:

Division One: Victor C. Howard, Presiding Judge, Joseph M. Ellis, Judge and Anthony Rex Gabbert, Judge

Attorneys:

Scott C. Hamilton, for Respondent

Daniel N. McPherson, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

SALVADOR LARA, JR., RESPONDENT

v.

DIRCTOR OF REVENUE, APPELLANT

WD75989

Lafayette County, Missouri

Before Division One: Victor C. Howard, Presiding Judge, Joseph M. Ellis Judge and Anthony Rex Gabbert, Judge

The Director of Revenue appeals from the trial court's judgment reinstating the driving privileges of Salvador Lara, Jr. Director argues that the trial court erroneously declared and applied the law in finding that the arresting officer did not have probable cause to believe that Lara was operating the vehicle.

REVERSED AND REMANDED.

Division One Holds:

Where uncontested facts showed that the trooper found Lara sleeping or unconscious in the driver's seat of the car with the rear lights on and the engine running, the evidence showed that Lara caused the car to function and gave the trooper probable cause to believe that Lara was operating the vehicle. The trial court, therefore, erroneously declared and applied the law.

Where the trial court issued written findings and conclusions, and it discussed only the issue of whether the trooper had probable cause to believe Lara was operating a motor vehicle and did not make findings regarding the credibility of the evidence on the second part of probable cause, indicia of intoxication, which was contested at trial, remand was necessary for such findings.

Opinion by: Victor C. Howard, Judge

Date: October 15, 2013

This summary is *UNOFFICIAL* and should not be quoted or cited.