

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

CHAD NICHOLAS AYLER,

Respondent,

v.

DIRECTOR OF REVENUE, STATE OF MISSOURI,

Appellant.

DOCKET NUMBER WD76742

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: August 19, 2014

APPEAL FROM

The Circuit Court of Johnson County, Missouri
The Honorable W. Sue Dodson, Judge

JUDGES

Special Division: Pfeiffer, P.J., Witt, J., and Fischer, Sp.J.

CONCURRING.

ATTORNEYS

John H. Edmiston
Warrensburg, MO

Attorney for Respondent,

Chris Koster, Attorney General
Rachel Jones, Special Assistant Attorney General
Jefferson City, MO

Attorneys for Appellant.



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

CHAD NICHOLAS AYLER,)
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)
) **Respondent,**)
)
)
) **v.**)
)
) **DIRECTOR OF REVENUE, STATE OF**)
) **MISSOURI,**)
)
)
) **Appellant.**)

OPINION FILED:
August 19, 2014

WD76742

Johnson County

Before Special Division Judges: Mark D. Pfeiffer, Presiding Judge, Gary D. Witt, Judge, and Zel M. Fischer, Special Judge

The Director of Revenue of the State of Missouri (“Director”) appeals from the judgment of the Circuit Court of Johnson County, Missouri (“trial court”), arguing that the trial court erred in ordering the Director to set aside the administrative revocation of Chad Nicholas Ayler’s (“Ayler”) driving privileges based on his refusal to submit to a chemical test pursuant to section 577.041. The Director asserts that the trial court erroneously concluded that the arresting officer lacked reasonable grounds to believe Ayler was driving a motor vehicle while in an intoxicated condition. The crux of the Director’s argument is that, given the historical facts as found to exist by the trial court, the trial court erroneously applied the law of “probable cause” to the undisputed historical facts.

AFFIRMED.

Special Division holds:

The Director’s point relied on combined a not-supported-by-substantial-evidence challenge with an against-the-weight-of-the-evidence challenge. We caution attorneys that these two evidentiary bases have distinct and different analytical frameworks, and it is inappropriate to submit these two evidentiary challenges in a single point. However, in this case, we exercised our discretion not to dismiss the appeal.

We review the trial court's probable cause determination in a two-step analysis. First, when evidence is contested by disputing a fact in any manner, we defer to the trial court on factual issues, including the inferences the trial court made from the historical facts. Our standard of review is abuse of discretion. Second, we determine whether these historical facts satisfy the relevant statutory standard. Our standard of review with regard to applying the historical facts to the statutory standard relating to probable cause is *de novo*. We will reverse the trial court's judgment only if it is clearly erroneous.

Here, as much as two hours *after* the car accident, the arresting officer observed indicia of intoxication that existed *at that time*. But, there was conflicting evidence in the record about Ayler's condition *at the time of the accident*. Depending upon the trial court's assessment of the contested evidence of probable cause as to intoxication *at the time of the accident*, either a conclusion that probable cause existed or was lacking was sustainable under this record. We cannot say as a matter of law that the trial court clearly erred in finding that the Trooper did not have reasonable grounds to believe Ayler was driving a motor vehicle while in an intoxicated condition.

Opinion by: Mark D. Pfeiffer, Presiding Judge

August 19, 2014

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