

SUPREME COURT OF MISSOURI

Doughty v. Director of Revenue

387 S.W.3d 383 (Mo. banc 2013) · Decided January 8, 2013

SUMMARY

The Missouri Supreme Court affirmed judgments denying Norman and David Doughty's petitions for review of one-year driver's-license revocations based on their refusals to submit to breathalyzer tests. The court held that admitting certified Department of Revenue records under section 302.312.1 did not violate due process rights to confront and cross-examine adverse witnesses because the Doughtys could have subpoenaed and examined the arresting officers. The court rejected their constitutional challenge to section 302.312.1 under both the United States and Missouri Constitutions.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Patricia Breckenridge; Richard B. Teitelman; Zel M. Fischer; Charles E. Stith; Mary R. Russell; Lisa White Hardwick Draper
JURISDICTION	Missouri
DECIDED	January 8, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Norman and David Doughty appealed judgments of the Vernon County Circuit Court denying their petitions for review of the Director of Revenue's one-year revocations of their driving privileges for refusing to submit to breathalyzer tests. The Supreme Court of Missouri exercised exclusive jurisdiction because the appellants challenged the constitutional validity of section 302.312.
STANDARD OF REVIEW	Constitutional challenges to the validity of a statute are reviewed de novo. Statutes are presumed constitutional and will be held unconstitutional only when they clearly contravene a constitutional provision; the challenger bears the burden of proving a clear and undeniable violation.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Missouri
PARTIES	Norman C. Doughty, David T. Doughty v. Director of Revenue

TOPICS

procedural due process

due process

evidence

appellate jurisdiction

standard of review

PRACTICE AREAS

constitutional law

administrative law

driver's license revocation

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether section 302.312.1 of the Missouri Revised Statutes violates the Fourteenth Amendment to the United States Constitution or article I, section 10 of the Missouri Constitution by permitting certified Department of Revenue records to be admitted without testimony from the officers who prepared them.
2. Whether admitting the Director's certified records without requiring the arresting officers to testify denied the Doughtys due process rights to confront and cross-examine adverse witnesses.

HOLDINGS

1. Section 302.312.1 does not violate the Doughtys' federal or state due process rights because the Doughtys had the ability to subpoena and cross-examine the arresting officers at their review trials.
2. The circuit court properly admitted the Director's certified records under section 302.312.1, and the admission did not require testimony to identify or authenticate the records or establish foundation.

KEY QUOTATIONS

“Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision.” (387 S.W.3d at 387)

“The existence of this unbridled subpoena right undercuts any argument that the administrative hearing procedure was unfair.” (387 S.W.3d at 388)

“If the Doughtys desired to confront and cross-examine the police officers who arrested them, they had the ability to subpoena the officers to appear at their trials.” (387 S.W.3d at 388)

FACTUAL BACKGROUND

Norman and David Doughty were separately arrested for driving while intoxicated after attending a wedding. Both performed poorly on field sobriety tests, and preliminary breath tests indicated blood-alcohol concentrations above the legal limit. Norman agreed to a breathalyzer test but failed to provide sufficient breath, while David refused to take the test. At their separate review trials, the Director introduced certified Department of Revenue records, including police and alcohol-influence reports, without testimony from the arresting officers; the Doughtys testified that the reports omitted or contradicted aspects of their accounts.

PROCEDURAL HISTORY

After their arrests for driving while intoxicated and refusal to provide sufficient breath samples or to take breathalyzer tests, the Director revoked each Doughty's driving privileges for one year. Each Doughty filed a petition for review in the Vernon County Circuit Court. The circuit court admitted the Director's certified records

without foundational testimony from the arresting officers and denied both petitions. The Supreme Court of Missouri reviewed the consolidated constitutional challenge and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Vaughn, 366 S.W.3d 513, 517 (Mo. banc 2012)
- City of Arnold v. Tourkakis, 249 S.W.3d 202, 204 (Mo. banc 2008)
- State v. Pribble, 285 S.W.3d 310, 313 (Mo. banc 2009)
- Franklin County ex rel. Parks v. Franklin County Commission, 269 S.W.3d 26, 29 (Mo. banc 2008)
- Manzella v. Director of Revenue, 363 S.W.3d 393, 395-96 (Mo. App. 2012)
- Goldberg v. Kelly, 397 U.S. 254, 267-70 (1970)
- Grannis v. Ordean, 234 U.S. 385, 394 (1914)
- Dabin v. Director of Revenue, 9 S.W.3d 610, 615 (Mo. banc 2000)
- Stone v. Missouri Department of Health & Senior Services, 350 S.W.3d 14, 27 (Mo. banc 2011)
- Jamison v. State, 218 S.W.3d 399, 405 n.7 (Mo. banc 2007)
- State v. Rushing, 935 S.W.2d 30, 34 (Mo. banc 1996)
- Belton v. Board of Police Commissioners, 708 S.W.2d 131, 136 (Mo. banc 1986)
- Collins v. Director of Revenue, 691 S.W.2d 246, 249, 254-55 (Mo. banc 1985)
- Wei v. Director of Revenue, 335 S.W.3d 558, 566 (Mo. App. 2011)