

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

Associate Division 22

██████████	████████████████████)	
)	
	Petitioner,)	
)	
vs.)	Case No. ██████████-██████████
)	
DIRECTOR OF REVENUE)	
)	
	Respondent.))	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the 21ST day of February, 2020, Plaintiffs appeared in person with attorney ██████████ Defendants appeared by attorney ██████████ Trial was held on the matter. The parties were given until March 23, 2020 to submit briefs.

The Court, having considered all the evidence presented and being fully advised in the premises, finds the issues alleged in Plaintiff’s Petition in favor of Plaintiff and against Defendants.

Findings of Fact

On January 13, 2019, Officer ██████████ ██████████ responded to a motor vehicle accident at ██████████ ██████████ in Springfield, Greene County, Missouri in which a car struck a parked vehicle and then a house. Officer ██████████ contacted the suspected driver, the Petitioner. The Petitioner told Officer ██████████ that he was driving home after leaving ██████████ ██████████ Bar.

The Officer testified that the Petitioner smelled of the odor of intoxicants coming from Petitioner’s breath and he asked how much he had to drink to which the

Petitioner said a shot and a beer. Officer [REDACTED] also observed that Petitioner's eyes were bloodshot and glassy. He was also having trouble speaking coherently and would mumble.

Petitioner consented to field sobriety tests being performed. Petitioner was positive to all six indicators of impairment on the Horizontal Gaze Nystagmus test. Officer [REDACTED] did not observe any physical injury to the Petitioner. Petitioner swayed on while performing the one leg stand test and was then placed under arrest.

He refused to perform a portable breath test. He was then transported to the Greene County Jail where he was advised of No Refusal and Missouri Implied Consent law.

A blood draw search warrant was obtained. Officer [REDACTED] testified that he was present and observed the nurse draw the blood and place it in the evidence box which was sealed with evidence tape and he then placed the box in the refrigerator.

Criminalist [REDACTED] [REDACTED] who works in the Missouri State Highway Patrol Crime Laboratory Division testified that she received the blood draw specimen for testing testified. She testified that the box was labeled and sealed. The tubes containing the blood inside the box were not labeled. She said that sometimes the tubes are themselves are labeled and sometimes they are not. She said that these samples were in a sealed box when received from law enforcement and that the box showed no signs of tampering.

The sample was tested and showed a blood alcohol content of 0.0211.

Conclusions of Law

The sole issue presented to the court is whether there was probable cause to arrest the Petitioner. After carefully considering all of the evidence, I find that there was probable cause to arrest the defendant supported by the evidence as a whole, including the fact that an accident had occurred, Petitioner made a voluntary statement that he was driving the vehicle at the time, Petitioner admitted to consuming alcohol, the Officer observed the odor of intoxicants and Petitioner was incoherent and mumbled, the Petitioner failed field sobriety tests.

WHEREFORE, the Court finds that the revocation of Petitioner's driving privilege is sustained and Order Staying Petitioner's Revocation of Driving Privileges is hereby lifted. All costs taxed to Petitioner.

SO ORDERED: _____

Margaret Palmietto
Associate Circuit Judge