

Court Report

***State ex rel. Mo. Auto. Dealers Ass'n v. Mo. Dep't
of Revenue, No. WD80331, 2017 WL 6001528
(Mo. Ct. App. Dec. 5th, 2017)***

Holding on appeal that the trial court's grant of Plaintiffs' motion for summary judgment was incorrect on the basis that there was no standing to hear the suit because (1) There was no express or implied intent authorizing appeals from the Missouri Department of Revenue's grant of a license, (2) The Motor Vehicle Franchise Practices Act did not regulate motor vehicle dealer licensing procedures, (3) The Plaintiffs' challenge was discretionary and not the ministerial duty of the Department, and (4) the expenditure of taxes to pay for the general operations of a governmental department is not sufficient to confer standing as a taxpayer.

The Missouri Automobile Dealers Association, Reuther Ford, Inc., and Osage Industries (collectively "Plaintiffs"), brought suit against the Missouri Department of Revenue and Tesla Motors, Inc. (collectively "Defendants"), alleging an improper grant of license to the company to distribute automobiles under chapter 301 and 407 of Missouri's revised statutes. Plaintiffs sought declaratory judgment and a writ of prohibition from the court. Defendants moved to dismiss for lack of standing, which was denied by the trial court without explanation. Summary judgment was granted for the Plaintiffs. Defendants timely appealed.

On appeal, Defendants asserted Plaintiffs lacked standing as outlined in chapter 536 of the Missouri Administrative Procedures Act, Plaintiffs had no standing merely as economic competitors of Tesla, and Plaintiffs further lacked standing as Missouri taxpayers on the theory that

they had no legally protectable interest at stake in the Department's decisions to grant license to Tesla Motors. The Plaintiffs countered by asserting that they had standing under the following theories: (1) competitor, (2) ministerial, and (3) taxpayer. The Missouri Court of Appeals found this issue dispositive.

The Court began by examining the requirements for standing. It found that standing would result where the party had a legally protectable interest at stake. The court defined this as a pecuniary or personal issue directly in issue or jeopardy which is subject to some consequential relief either immediate or prospective. The party seeking relief has the burden of establishing that standing exists.

The Court then asserted there was no express or implied intent on the part of the legislature in chapter 301 of the Missouri revised statutes to allow an appeal for the grant of a license by the Department of Revenue, and therefore there was no general standing under which the case could be heard.

The Court then turned to Plaintiff's assertion that they had standing as economic competitors to Tesla. It found that economic competition was not sufficient to confer standing by itself, and that a legally protectable interest would arise only where legislature had broadened the class of parties to include those not otherwise having a constitutionally protected interest. Plaintiffs argued that they had been included in the 'zone of interest' of the Motor Vehicle Franchise Practices Act, which they argued granted a constitutional right of competition. The Court found this assertion to be without merit, as the Act was designed to protect franchisees from franchisors, but not to regulate the licensing procedures of the Department of Revenue. Therefore, Plaintiffs were outside of the 'zone of interest' intended by the legislature.

Next, the Court examined the claim of ministerial standing. The court was careful to make a distinction between "ministerial" and "discretionary" behavior. Ministerial duty was the duties that had to be discharged impartially by the Department of Revenue in accord with the laws governing the Department. Discretionary behavior was any activity that occurred within the normal scope of the ministerial duty. As a result, there would be standing to hear the suit only where the Department had breached its ministerial duties. The Court held that the issuance of licenses was an activity that fell within the scope of the discretionary duty, meaning that the Department had not breached any ministerial duties. Consequently, there was no standing under the ministerial theory.

Finally, the Court examined Plaintiffs' claims of taxpayer standing. Under Missouri law, a party can bring suit as a taxpayer, but only under certain conditions. One of these conditions occurs when the party suing was forced to pay taxes which are then expended on the challenged ac-

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tion. Plaintiffs in this case asserted that they were injured as taxpayers under this condition because they would have to pay taxes to the Department of Revenue, which would continue to renew Tesla's license. The court disagreed, stating that the expenditure of funds had to be direct, and that the day to day operations of the Department of Revenue, including the issuance of a licenses, did not meet this criteria, because the funds from taxation would have gone to the daily operations of the Department of Revenue, even if the Department had not granted Tesla's license.

The Court found no merit in Plaintiffs' theories of economic competition, ministerial, or taxpayer standing. Accordingly, the trial court's grant of summary judgment was reversed, and the case was remanded to the trial court with instructions to dismiss the petition for want of standing.

By Jesse Carey

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