

Bond Case Briefs

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EMPLOYMENT - MISSOURI

Schumer v. Lee

Missouri Court of Appeals, Western District - July 30, 2013 - S.W.3d - 2013 WL 3880185

Police officer sought judicial review of a decision of the Administrative Hearing Commission that found the officer subject to discipline for committing a criminal offense while on active duty, and the subsequent permanent revocation of his peace officer license by the Director of the Department of Public Safety.

The Court of Appeals held that:

- Commission's finding that officer committed a crime while on active duty did not violate officer's constitutional right of due process;
- One-year criminal statute of limitations for assault did not apply to administrative proceeding;
- Finding that police officer's act of grabbing driver by the throat during a routine traffic stop placed him in apprehension of immediate physical injury was supported by substantial evidence;
- Substantial evidence existed to support finding that police officer acted with reckless disregard for driver's safety;
- It was not inconsistent for the Director to find that police officer acted both purposefully or knowingly in assaulting driver during routine traffic stop, as one basis for finding that discipline was appropriate, and also finding that officer recklessly disregarded driver's safety, as an alternative basis for discipline;
- Director was not required to make additional findings of fact and conclusions of law to justify the permanent revocation of police officer's peace officer license; and
- Officer waived for purposes of appeal his argument that the Director erred in permitting the Deputy Director to make the decision to permanently revoke officer's peace officer license.

The constitutional protections afforded criminal defendants are not extended to a professional licensee subject to discipline, and thus, the administrative decision to permanently revoke police officer's peace officer license after finding officer committed a criminal offense while on active duty was not a violation of officer's constitutional right of due process, even though no criminal charges were brought by a public prosecutor.