

# Bond Case Briefs

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## **MUNICIPAL ORDINANCE - MISSOURI**

### **City of St. Peters Roeder**

**Supreme Court of Missouri, en banc - August 18, 2015 - S.W.3d - 2015 WL 4929090**

After jury returned guilty verdict in City's prosecution under camera ordinance for failure to stop at red light, the Circuit Court granted defendant's renewed motion to dismiss charge. City appealed.

On transfer from the Court of Appeals, the Supreme Court of Missouri held that:

- Red light ordinance conflicted with state law to extent it prohibited assessment of points against driver's license and was therefore invalid;
- Charge Code Manual did not relieve state agency of statutory duty to assess points against driver's licenses for purposes of determining existence of conflict between ordinance and statute;
- Invalid points assessment portion of ordinance was severable from the ordinance; and
- Ordinance absent severed invalid portion could not be applied retroactively to defendant.

Municipal ordinance, creating an automated red light enforcement system under which motorists would be issued a notice of violation after being detected by a camera running a red light but would not have any points assessed against a motorist's driver's license, was in conflict with state statute requiring Director of Revenue to assess two points against the driver's license of any motorist convicted of a moving violation of a municipal ordinance, and was therefore void.

Although failure to obey a traffic control device, or running a red light, is not an offense specifically listed as a moving violation in state statute requiring Director of Revenue to assess two points against the driver's license of any person convicted of a moving violation of a municipal ordinance, the offense is nevertheless a moving violation encompassed in statute's catch-all category for moving violations not otherwise listed, as the motor vehicle involved in the violation is in motion at the time the violation occurs.

Assessment by Director of Revenue of two points against the driver's license of any person convicted of a moving violation of a municipal ordinance was a mandatory requirement under applicable state statute, such that any indication to the contrary in the Charge Code Manual, a standard manual of codes for all offenses maintained by Department of Public Safety, did not relieve Director or other agency from statutory duty to assess points, for purposes of determining whether municipal ordinance, creating an automated red light enforcement system under which a person would be issued a notice of violation but would not have any points assessed against that person's driver's license, was in conflict with state statute.

Invalid portion of municipal ordinance that conflicted with state statute to extent it prohibited assessment of points against motorist who was detected by camera running a red light was severable from the remaining valid portions. Ordinance contained severability clause, and invalid portion of ordinance did not further expressed intent to authorize the installation and use of automated red light enforcement systems as a means to enforce its traffic law prohibiting the running of a red light.

Remaining valid provisions of municipal ordinance, creating an automated red light enforcement system under which a person would be issued a notice of violation after being detected by a camera running a red light, could not be applied retroactively to defendant after invalid portion, which conflicted with state statute to extent it prohibited assessment of points against person's driver's license, was severed from the ordinance, as to do so would have violated due process and right of protection against ex post facto laws in that defendant did not have fair notice that points would be assessed at the time of the violation.