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MUNICIPAL ORDINANCE - MISSOURI

[Tupper v. City of St. Louis](#)

Supreme Court of Missouri, en banc - August 18, 2015 - S.W.3d - 2015 WL 4930313

Following dismissal of citations for violations of red light traffic ordinance, record owners of vehicles who were cited for violation of ordinance filed suit against city and Director of Revenue seeking declaratory and injunctive relief based on claim that ordinance, which carried mandatory rebuttable presumption that record owners were driving vehicle at time violation was captured on automated traffic control system, violated due process.

The Circuit Court declared ordinance unconstitutional and denied owners' request for attorney fees. All three parties filed notice of appeal. Appeals were consolidated.

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

- Owners did not have adequate remedy available at law to challenge constitutional validity of ordinance, as required to seek declaratory and injunctive relief in circuit court, after city dismissed prosecutions, overruling *Brunner v. City of Arnold*, 427 S.W.3d 201;
- Constitutional challenge was sufficiently ripe to raise justiciable controversy via action for declaratory judgment;
- Rebuttable presumption impermissibly shifted burden of persuasion to owner to prove that owner was not driving vehicle at time of violation, in violation of due process;
- Criminal law regarding presumptions applied to determination whether ordinance violated due process;
- Denial of owners' request for attorney fees was not abuse of discretion; and
- Director of Revenue lacked standing to appeal judgment.