

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

THOMAS LYNN,

Petitioner,

CASE NO.: 2006-CA-2261-O

WRIT NO.: 06-27

v.

STATE OF FLORIDA,
DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,

Respondent.

**ORDER ON PETITIONER'S MOTION FOR REHEARING AND MOTION TO
CORRECT FINAL JUDGMENT**

THIS MATTER came before this Court on “Mr. Lynn’s Motion for Rehearing and Clarification,” filed on June 19, 2007, and on “Mr. Lynn’s Motion for Correction of Information Contained Within The Court’s May 30, 2007 Order Denying Petition For Writ of Certiorari,” filed on June 21, 2007. The Court finds as follows:

Florida Rule of Appellate Procedure 9.330(a) provides that a motion for rehearing or clarification may be filed within fifteen days of an order. Here, the “Final Order Denying Petition for Writ of Certiorari” was entered on May 30, 2007. The Petitioner filed his motion for rehearing and clarification on June 19, 2007. Thus, the motion for rehearing is untimely and therefore, it is denied.

In his motion to correct facts in the final order, the Petitioner asserts that language in the final order attributes observations made by the second officer on the scene, Officer MacAllaster, to the first officer, Officer Puig. After reviewing the pertinent language, the Court finds that there is only one instance where observations made by Officer

MacAllaster are seemingly attributed to Officer Puig. Thus, on page five, paragraph number four, the second to the last sentence is corrected to reflect that it was the second officer who detected the strong odor of alcohol on the Petitioner.

The Petitioner additionally contends that the final order incorrectly states that the results of the Petitioner's breath tests were .113 and .178 when in fact the results were .113 and .128. After reviewing the record, the Petitioner is correct that the breath test results were .113 and .128.

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** as follows:

1. "Mr. Lynn's Motion for Rehearing and Clarification" is **DENIED**.
2. "Mr. Lynn's Motion for Correction of Information Contained Within The Court's May 30, 2007 Order Denying Petition For Writ of Certiorari" is **GRANTED**. On page five, paragraph number four, the second to the last sentence is corrected to reflect that it was the second officer who detected the strong odor of alcohol on the Petitioner. The final order is corrected to reflect that the Petitioner's breath test results were .113 and .128.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida on this _____ day of _____, 2007.

JAY P. COHEN
Circuit Judge

A. THOMAS MIHOK
Circuit Judge

ALICIA L. LATIMORE
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished via U.S. mail to **Jerome Hennigan, Esq.**, 2220 Hillcrest St., Orlando, FL 32803; and **Jason Helfant, Assistant General Counsel**, Florida Department of Highway Safety and Motor Vehicles, 2515 W. Flagler St., Miami, Florida 33135, on the ____ day of _____, 2007.

Judicial Assistant