

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

MICHAEL THOMAS,  
Petitioner,

CASE NO.: 2008-CA-4860  
WRIT NO.: 08-19

vs.

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

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Petition for Writ of Certiorari  
from the Florida Department of  
Highway Safety and Motor Vehicles,  
Linda Labbe, Hearing Officer.

Michael J. Snure, Esquire,  
for Petitioner.

Jason Helfant, Assistant General Counsel,  
for Respondent.

Before POWELL, KOMANSKI, LEBLANC, J.J.

PER CURIAM.

**FINAL ORDER DENYING PETITION FOR WRIT OF CERTIORARI**

Petitioner Michael Thomas timely filed this petition seeking certiorari review of the Florida Department of Highway Safety and Motor Vehicles' (Department) Final Order of License Suspension, sustaining the suspension of his driver's license pursuant to section 322.2615, Florida Statutes. This Court has jurisdiction pursuant to section 322.2615, Florida Statutes, and Florida Rule of Appellate Procedure 9.030(c)(1)(C). We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320.

We find and conclude that Officer Schellhorn of the Orlando Police Department was acting within his lawful jurisdiction when he arrested Petitioner within the limits of the City of Orlando and transported Petitioner to the Orange County testing facility outside the limits of the City of Orlando to continue his DUI investigation. We also find that the hearing officer was correct when she refused to exclude evidence of Petitioner's refusal to take the breath test. *See Dep't of Highway Safety & Motor Vehicles v. Swegheimer*, 847 So. 2d 545 (Fla. 5th DCA 2003).

Further, the implied consent warning read to Petitioner, which gave him the alternatives of taking a breath test, a urine test or a blood test, was proper. *See Dep't of Highway Safety & Motor Vehicles v. Nader*, 4 So. 3d 705 (Fla. 2d DCA 2009).

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the Petition for Writ of Certiorari is **DENIED**.

**DONE AND ORDERED** at Orlando, Florida this \_\_11\_\_ day \_\_\_\_\_ February \_\_\_\_\_, 2010.

\_\_\_\_\_/S/\_\_\_\_\_  
**ROM W. POWELL**  
**Senior Judge**

\_\_\_\_\_/S/\_\_\_\_\_  
**WALTER KOMANSKI**  
**Circuit Judge**

\_\_\_\_\_/S/\_\_\_\_\_  
**BOB LEBLANC**  
**Circuit Judge**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing order was furnished via U.S. mail on this 12 day of \_\_\_\_\_ February \_\_\_\_\_, 2010, to the following: **Michael J. Snure, Esquire**, 1150 Louisiana Avenue, Suite 1, Winter Park, Florida 32790 and **Jason Helfant, Assistant General Counsel**, DHSMV-Legal Office, Post Office Box 540609, Lake Worth, Florida 33454-0609.

\_\_\_\_\_/S/\_\_\_\_\_  
Judicial Assistant