

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

CASE NO.: 2010-CA-13515-O
WRIT NO.: 10-40

JOSHUA WILLIAM BAER,
Petitioner,

vs.

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

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

Donna P. Levine, Esq.,
for Petitioner.

Richard M. Coln, Assistant General Counsel,
for Respondent.

Before POWELL, THORPE, and O'KANE, J.J.

FINAL ORDER DENYING AMENDED PETITION FOR WRIT OF CERTIORARI

Baer seeks review of an order of a hearing officer after a formal review hearing sustaining the suspension of his driver's license. We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320. After careful review, we reject Petitioner's three arguments. We conclude that there was sufficient competent evidence to support the hearing officer's findings that the officer had probable cause to lawfully arrest petitioner for DUI based upon his observations of Petitioner's erratic driving and signs of impairment, and that Petitioner

refused the breath alcohol test and did not recant the refusal. Petitioner was accorded due process.

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

DONE AND ORDERED at Orlando, Florida this 2nd day of June , 2011.

 /S/
ROM W. POWELL
Senior Judge

 /S/
JANET C. THORPE
Circuit Judge

 /S/
JULIE H. O’KANE
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **Donna P. Levine, Esq.**, 324 Datura Street, Suite 145, West Palm Beach, FL 33401 and **Richard M. Coln, Assistant General Counsel**, Department of Highway Safety and Motor Vehicles, P.O. Box 570066, Orlando, FL 32857, by mail, this 2nd day of June , 2011.

 /S/
Judicial Assistant