

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

CASE NO. 2021-CA-007573-O

ROBERT REESE,  
Petitioner,

v.

STATE OF FLORIDA, DEPARTMENT OF  
HIGHWAY SAFETY AND MOTOR VEHICLES,  
DIVISION OF DRIVER LICENSES,

Respondent.

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Petition for Writ of Certiorari from the  
Department of Highway Safety and  
Motor Vehicles, Division of Driver Licenses,  
George L. Winslow, Jr., Hearing Officer.

Matthew Leibert, Esq., Orlando,  
for Petitioner.

Christie S. Utt, General Counsel, Tallahassee, and  
Elena J. Jones, Assistant General Counsel, Tallahassee,  
for Respondent.

Before CHIU, WOOTEN, and CALDERON, JJ.

PER CURIAM.

The petitioner challenges the decision of a hearing officer of the State of Florida, Department of Highway Safety and Motor Vehicles, affirming the suspension of his driver's license, on the basis that it departed from the essential requirements of the law and was not supported by competent substantial evidence that the law enforcement officer in this case made a valid arrest without a warrant under Section 901.17, Florida Statutes. The petitioner's request for relief focuses on the asserted failure of the record before the hearing officer to include

evidence that the arresting law enforcement officer either stated his authority to arrest the petitioner or told the petitioner the reason for his arrest.

Upon review of the petition, appendix, and response filed in this case, this Court finds that the hearing officer complied with the essential requirements of law. We adopt the reasoning of the Twelfth Circuit in *Hughes v. Dep't Highway Safety & Motor Vehicles*, 1 Fla. L. Weekly Supp. 381a (Fla. 12th Cir. Ct. April 28, 1993), where that petitioner presented a virtually identical argument. Further, based on that decision, we also find that competent, substantial evidence was presented to the hearing officer in this case through the record documents, including a description of circumstances that would reasonably place the petitioner on notice of the law enforcement officer's authority to make the arrest as well as the reason for his arrest.

In this case, there is no specific statement from the arresting law enforcement officer in the record documents that he identified himself to Reese as a Seminole County Sheriff's Department deputy. However, documents admitted to the record for the hearing officer state that the deputy was on routine patrol when he observed Reese's vehicle. There is no indication that he was out of uniform or in an unmarked vehicle when stopping Reese. Reese apparently complied with the deputy's request to stop his vehicle without incident.

Further, there is no statement from the deputy in the record documents that he specifically told Reese that he was under arrest for DUI. However, as far as circumstances indicating the reason for the arrest, the documents indicate that Reese was driving when stopped by the deputy, was asked whether he had been drinking that evening, was asked to submit to field sobriety tests and refused the tests, was told that the deputy's investigation would have to be based solely on his observations at that point if Reese didn't do the tests, was asked again to submit to the tests and again refused the tests, was placed under arrest and handcuffed, was

placed into the deputy's patrol car, was taken to a jail facility, was asked to take a breath test and refused, was read implied consent, was again asked to take a breath test and again refused, and was issued a DUI citation and a citation for refusal to take the breath test. The implied consent affidavit in the record explicitly states, "You have been taken into custody for the offense of DUI." The deputy's arrest and offense reports indicate that the implied consent was read to Reese, albeit by the breath operator technician.

Accordingly, we determine that 1) due process was accorded to the petitioner; 2) the essential requirements of law were followed by the hearing officer; and (3) the decision by the hearing officer was supported by substantial competent evidence.

Therefore, it is hereby ORDERED and ADJUDGED that Robert Reese's Petition for Writ of Certiorari is DENIED.

DONE and ORDERED in Chambers, at Orlando, Orange County, Florida, on this 17th day of May, 2023.



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VINCENT CHIU /17/2023  
Presiding Circuit Judge

WOOTEN and CALDERON, JJ., concur.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing Opinion was furnished on this 17 day of May, 2023, via the Florida Courts e-filing Portal to the following: Matthew Leibert, Esq., 5782A S. Semoran Blvd., Orlando, Florida 32822 at leibert@urbanthier.com; and Elana J. Jones, Esq., Assistant General Counsel, Department of Highway Safety & Motor Vehicles, 2900 Apalachee Parkway, A-432, Tallahassee, Florida 32399 at elanajones@flhsmv.gov.



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Judicial Assistant