

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

CASE NO.: 2022-CA-010876-O

JON CHRISTOPHER WOOD,
Petitioner,

v.

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

Respondent.

Petition for Writ of Certiorari
from the decision of the Department
of Highway Safety and Motor Vehicles
Lynne Ringers, Hearing Officer.

Warren W. Lindsey, Esquire, for Petitioner.

Linsey Sims-Bohnenstiehl, Esquire, for Respondent.

Before HIGBEE, KRAYNICK, and ASHTON, J.J.

Petitioner, Jon Christopher Wood (“Petitioner”), seeks review of the “Findings of Fact, Conclusions of Law and Decision” issued by a hearing officer of the Department of Highway Safety and Motor Vehicles (“DHSMV” or “Respondent”) affirming the suspension of Petitioner’s driving privilege for refusal to submit to a breath, blood, or urine test under section 322.2615, Florida Statutes (2022).

Factual Summary

On July 10, 2022, Petitioner was arrested for driving while under the influence (DUI) in violation of section 316.193, Florida Statutes. On October 25, 2022, Petitioner participated in a formal review hearing contesting the automatic suspension of his driving privilege for failure to

acquiesce to a lawful breath test on the basis that his initial stop by Winter Park Police Department (“WPPD”) was unlawful.

At the hearing, the hearing officer took into evidence thirteen exhibits, including, but not limited to: the arrest report, the arrest affidavit, an affidavit of refusal, and two witness statements. Counsel for Petitioner moved to invalidate the suspension on the basis that the record evidence contained no basis for reasonable suspicion for WPPD to conduct a traffic stop of Petitioner’s vehicle, a red Honda Pilot. Nonetheless, the hearing officer concluded based on the record evidence that WPPD Officer Campbell was responding to a dispatch call which identified a red Honda Pilot involved in a disturbance with threats to do harm and a crash at a local bar and denied that motion. The hearing officer subsequently affirmed the order of suspension of Petitioner’s driving privilege.

Standard of Review

“The duty of the circuit court on certiorari review of an administrative agency is limited to three components: whether procedural due process was followed; whether there was a departure from the essential requirements of the law; and whether the administrative findings and judgment were supported by competent substantial evidence.” *Dep’t of Highway Safety & Motor Vehicles v. Satter*, 643 So. 2d 692, 695 (Fla. 5th DCA 1994); *see also Education Development Center, Inc. v. City of West Palm Beach Zoning Bd. of Appeals*, 541 So. 2d 106, 108 (Fla. 1989); *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982).

Analysis

Petitioner’s sole argument is that the hearing officer departed from the essential requirements of law by concluding that the traffic stop initiated by WPPD Officer Campbell was lawful in the absence of competent, substantial evidence.

In reviewing whether findings are supported by competent, substantial evidence, “It involves a purely legal question: whether the record contains the necessary quantum of evidence. The circuit court is not permitted to go farther and reweigh that evidence (e.g., where there may be conflicts in the evidence), or to substitute its judgment about what should be done for that of the administrative agency.” *Lee County v. Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996, 1003 (Fla. 2d DCA 1993) (citing *Bell v. City of Sarasota*, 371 So. 2d 525 (Fla. 2d DCA 1979)). “Evidence contrary to the agency's decision is outside the scope of the inquiry at this point, for the reviewing court above all cannot reweigh the ‘pros and cons’ of conflicting evidence . . . As long as the record contains competent substantial evidence to support the agency's decision, the decision is presumed lawful and the court's job is ended.” *Fla. Dep’t of Highway Safety & Motor Vehicles v. Baird*, 175 So. 3d 363, 366 (Fla. 3d DCA 2015) (quoting *Dusseau v. Metro. Dade County Bd. of County Commissioners*, 794 So. 2d 1270, 1276 (Fla. 2001)).

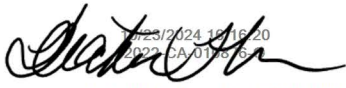
In this case, the hearing officer determined and made a factual finding that WPPD Officer Campbell pulled over Petitioner’s red Honda Pilot leaving the scene in response to call from dispatch that a red Honda Pilot was involved in a crash and threats of violence at a local bar. This decision was based on the evidence and exhibits taken into the record at the time of the hearing. The arrest report narrative references WPPD Officer Campbell responding to a dispatch call “in reference to a disturbance (threats of violence) and a red Honda Pilot vehicle leaving the crash scene after damage was committed on the property.” Further, two witness statements are in the record which reference Petitioner as the driver of a red Honda Civic which “backed into a support beam.”

Petitioner argues that the arrest report’s reference to a traffic crash investigation which was not included in the record, as well as the lack of specific wording that the red Honda Pilot “was involved” in the reference to the dispatch call in the arrest report undermines the hearing officer’s

conclusion that the initial stop of Petitioner's vehicle was lawful. Petitioner further cites to numerous distinguishable cases involving situations where law enforcement engaged in unlawful stops based on reports which did not include any indication of criminal activity and/or involved failures by law enforcement to corroborate specific details of the call. *See Freeman v. State, 21 Fla. L. Weekly Supp. 680a (Volusia Cty. Ct. 2014), Hall v. State, 366 So.2d 865 (Fla 4th DCA 1979)*. However, in the instant case, the dispatch call in question did reference specific criminal activity (threats of violence and a potential hit and run) and specifically identified the make, model, and color of Petitioner's vehicle which was subsequently observed leaving the scene by WPPD Officer Campbell. Accordingly, the record contained competent, substantial evidence in support of the hearing officer's conclusion that the initial stop was lawful.

Accordingly, the Court **DENIES** Petitioner's Petition for Writ of Certiorari.

DONE AND ORDERED in Orange County, FL on the date shown on the electronic signature.


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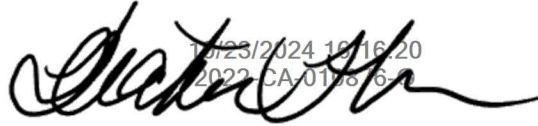
HEATHER L HIGBEE
Circuit Judge

If there are parties not receiving service through the Florida Courts' e-filing portal, counsel must serve a copy of this Order via U.S. Mail to the non e-filing parties and file a certificate of service in the court file no later than 3 days from the date of this Order. (Failure to comply may impact the finality of this Order as those who do not receive the order.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court on the date indicated by the electronic signature by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.

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