

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR THE STATE OF FLORIDA
GENERAL CIVIL DIVISION

SETH MICHAEL BELL,
Petitioner,

v.

CASE NO.: 25-CA-000193

DIVISION: J

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

ORDER DENYING PETITION FOR WRIT OF CERTIORARI

THIS MATTER is before the court on Petitioner Seth Michael Bell's Petition for Writ of Certiorari filed January 10, 2025. The petition is timely, and this court has jurisdiction. §322.31, Fla. Stat. Petitioner contends that the Department violated Petitioner's right to due process and departed from the essential requirements of the law when it upheld the suspension of Petitioner's driver license despite the fact that the hearing was not held within 30 days of Petitioner's request for hearing. Petitioner also contends that law enforcement lacked both the requisite reasonable suspicion to detail Petitioner and initiate a DUI investigation and probable cause to effectuate arrest. After reviewing the petition, response, reply, appendix, relevant statutes, and case law, the court finds as follows:

On July 4, 2024, Petitioner was arrested for DUI. On July 12, 2024, Petitioner requested a formal administrative review hearing to challenge the lawfulness of his driver license suspension. On August 6, 2024, the Department emailed Petitioner's attorney and unilaterally rescheduled the hearing for October 10, 2024 due to hearing officer unavailability. The hearing was rescheduled again for December 4, 2024, due to issues related to Hurricane Milton. Petitioner was provided with a temporary driving permit for the period between July 12 and December 4, 2024.¹ On December 4, 2024 the Department held a hearing to review the suspension. The evidence presented at the hearing showed that Deputy Garner of the Hillsborough County Sheriff's Office (HSCO) conducted a traffic stop after observing Petitioner driving at the speed of 71 miles per hour in a 50 miles per hour speed zone. Based on video evidence and testimony presented at the

¹ Petitioner's permit was suspended from September 16th to 19th for unrelated traffic fines.

hearing, the hearing officer found that Deputy Garner also observed Petitioner's vehicle drifting within the lane. During the traffic stop, Deputy Garner observed that Petitioner's breath had a "very strong" odor of alcohol and that Petitioner's eyes were red and watery. Deputy Garner asked Petitioner to perform field sobriety exercises and Petitioner refused, after being informed that refusal to perform the exercises could be used as evidence against him. Petitioner was arrested for DUI and refused to submit to a breath alcohol test. Petitioner was charged with DUI and his driving privileges were suspended. On December 13, 2024, the hearing officer issued a final order, affirming the suspension.

The Court's scope of review in this case is limited to "whether procedural due process is accorded, whether the essential requirements of the law have been observed, and whether the administrative findings and judgment are supported by competent substantial evidence." *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982). When considering whether the hearing officer relied on competent, substantial evidence, this Court must ensure that it does not improperly reweigh the evidence in the record. *Dep't of Highway Safety & Motor Vehicles v. Rose*, 105 So. 3d 22, 24 (Fla. 2d DCA 2012). "Competent, substantial evidence must be reasonable and logical." *Wiggins v. Fla. Dep't of Highway Safety & Motor Vehicles*, 209 So. 3d 1165, 1173, 1175 (Fla. 2017) (stating that "the use of and request for real-time video of government-citizen confrontational events have moved consideration beyond governmental words purporting to describe events into a broad, more accurate, fair consideration of the actual events as captured on video"). With regard to due process, "[e]very case involving a license suspension contains a Fourth Amendment analysis of whether there was reasonable suspicion to stop the vehicle or probable cause to believe that the driver was in physical control of the vehicle while under the influence of alcohol." *Id.* At 1172.

Petitioner argues that the hearing officer in this case lacked competent, substantial evidence to find that Deputy Garner had the requisite reasonable suspicion to initiate a DUI investigation. In this case, Deputy Garner measured Petitioner driving at a speed of 71 miles per hour in a zone limited to 50 miles per hour. It is undisputed that a law enforcement officer may lawfully stop a vehicle based on an objective observation that the vehicle is traveling 21 miles per hour above the speed limit. However, in order to detain a driver for the purpose of initiating or furthering a DUI investigation, law enforcement "must have reasonable suspicion that the individual is driving under the influence." *State v. Ameqrane*, 39 So. 3d 339, 341 (Fla. 2d DCA 2010). There is no single factor that establishes a reasonable suspicion that a driver is under the influence of alcohol. "While the odor of alcohol on a driver's breath is considered a critical factor, other components central to developing probable cause may include the defendant's reckless or dangerous operation of a vehicle, slurred speech, lack of balance or dexterity, flushed face, bloodshot eyes, admissions, and poor performance on field sobriety exercises."

Dep't of Highway Safety & Motor Vehicles v. Rose, 105 So. 3d 22, 24 (Fla. 2d DCA 2012) (citing *State v. Kliphouse*, 771 So. 2d 16, 23 (Fla. 4th DCA 2000)).

In *State v. Ameqrane*, 39 So. 3d 339 (Fla. 2d DCA 2010), the court outlines the requirements for reasonable suspicion, probable cause, and specific factors used in DUI cases relevant in the present case:

The purpose of a DUI investigation is to either confirm or deny whether there is probable cause for a DUI arrest. See *id.* at 703; *State, Dep't of Highway Safety & Motor Vehicles v. Haskins*, 752 So. 2d 625, 627 (Fla. 2d DCA 1999); *Origi v. State*, 912 So. 2d 69, 71 (Fla. 4th DCA 2005). In *Origi*, as in this case, a state trooper observed the defendant speeding. 912 So. 2d at 70. The trooper stopped the defendant and noticed that he smelled of alcohol and had bloodshot eyes. *Id.* The Fourth District concluded that these “circumstances gave rise to a reasonable suspicion sufficient to justify detaining [the defendant] for a DUI investigation.” *Id.* at 72. While other facts were recited in the *Origi* opinion—staggering, swaying, and slurred speech—those facts were not relied upon by the district court as the basis for finding reasonable suspicion for the DUI investigation; the district court specifically relied on the defendant’s speeding, odor of alcohol, and his bloodshot eyes.

State v. Ameqrane, 39 So. 3d at 341. The Second District Court of Appeal has found that the factors of speeding, the odor of alcohol, and the driver’s eyes being bloodshot and watery, combine to form “sufficient reasonable suspicion to ask [a driver] to submit to further field sobriety tests to either confirm or deny whether there was probable cause for a DUI arrest.” *Id.* at 342.

The facts of the present case differ slightly from those described in *Ameqrane*, however, when analyzing probable cause. In *Ameqrane*, the driver displayed additional signs of impairment while completing the field sobriety exercises (FSEs), leading the arresting officer to develop sufficient probable cause to make an arrest. *Id.* at 341. In this case, Petitioner refused to perform FSEs, and while Petitioner argues that nothing about his behavior or appearance indicated impairment after the FSEs were requested, as noted by the Department, law enforcement officers are not required to eliminate every other explanation for a driver’s behavior or appearance before initiating a DUI investigation or effecting an arrest. See *State v. Teamer*, 151 So. 3d 421 (Fla. 2014).

The sole additional factor is “that [Petitioner] was drifting around in his lane a little bit (driving pattern corroborated by [the] hearing officer via review of the front dash cam

video)." App'x at 124. Because the dash cam footage was not submitted to this court for review, the objective video evidence exception established in *Wiggins* does not apply here and the court must accept the hearing officer's factual determination. See *Wiggins v. Dep't of Safety & Motor Vehicles*, 209 So. 3d 1165, 1173 (Fla. 2017).

Unlike a criminal conviction, which requires the state to establish guilt beyond a reasonable doubt, a civil license revocation only requires a preponderance of the evidence. Taken together, the factors of speeding, odor of alcohol, and bloodshot eyes can form the basis for a reasonable suspicion to initiate a DUI investigation. Including the factors of drifting within the lane and refusal to perform FSEs, the Department can establish that Deputy Garner had probable cause to effect an arrest for DUI based on a preponderance of the evidence. See *State v. Ameqrane*, 39 So. 3d at 341; *Dep't of Highway Safety & Motor Vehicles v. Rose*, 105 So. 3d at 24.

Finally, § 322.2615(6)(a), Florida Statutes, provides "[i]f the person whose license is suspended requests a formal review, the department must schedule a hearing to be held within 30 days after the request is received by the department." The plain language of the statute requires that the hearing be scheduled within 30 days, not that the hearing must be conducted within 30 days. In this case, the hearing was scheduled within 30 days and was subsequently extended. The court finds that Petitioner's right to procedural due process was not abridged by this extension.

ORDERED in Tampa, Hillsborough County, Florida, on October 3rd, 2025.

25-CA-000193 10/3/2025 8:47:28 AM
Alissa M. Ellison

25-CA-000193 10/3/2025 8:47:28 AM
ALISSA M. ELLISON, Circuit Court Judge

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