

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

PEICHEN FANG  
Petitioner,

CASE NO.: 23-CA-015595

v.

DIVISION: J

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

ORDER GRANTING SECOND AMENDED PETITION FOR WRIT OF CERTIORARI

THIS MATTER is before the Court on Petitioner Peichen Fang's Second Amended Petition for Writ of Certiorari filed May 3, 2024. Having reviewed the petition, appendix, response, and being otherwise fully informed, the court finds that because the hearing officer improperly based her decision on facts and evidence outside of the record, Petitioner's right to procedural due process was abridged, and the petition must be granted.

Petitioner stood accused of providing fraudulent documents to obtain a driver's license and his license was revoked as a result. At the formal hearing on August 28, 2023, the hearing officer read documents into the record regarding a driver's school where the school operator "would alter a Macy's or other department store's billing statements to reflect the individual's name . . . [he] would provide this fraudulent document to the individual who would present it from the DHS MD employees . . ." Appx. at 85. The hearing officer repeatedly asked Petitioner whether he had any evidence to show he had not submitted a fraudulent Macy's document. Petitioner repeatedly testified he did not recall a Macy's document, he had never had a Macy's account, and his driving instructor went with him to help him submit his documents to the DMV. In response, the hearing officer said:

Your driving instructor – he won't even be admitted into the – they won't even allow him to come into the driver's license office. It's only the actual driver that comes into the office to obtain a license. The driving instructor does not provide those documents to the driver's license examiner to obtain the driver's license . . . . They only speak to the driver themselves.


2d Amm'd. Appx. at 95. The hearing officer provided no documentation or support for this outburst. The only evidence available to Petitioner was his own testimony, and the hearing officer took it upon herself to advocate on behalf of the Department rather than act as a neutral decisionmaker.

"Although the hearing officer has the discretion to control the orderly process of the administrative hearing, when that discretion is abused and results in a denial of procedural due process, the circuit court may grant relief." *Dep't of Highway Safety & Motor Vehicles v. Pitts*, 815 So. 2d 738, 744 (Fla. 4th DCA 2002). "[F]or the hearing officer to consider the inspection reports on the department's behalf but deny petitioner the right meaningfully to cross-examine the individuals who prepared those reports . . . violates the basic principles of due process to which petitioner was entitled in this proceeding." *Lee v. Dep't of Highway Safety & Motor Vehicles*, 4 So. 3d 754, 757 (Fla. 1st DCA 2009).

Petitioner's license suspension expired on September 30, 2023, approximately one month after the formal hearing on August 28, 2023, and one day after the initial petition was filed with this court on September 29, 2023. Because the suspension expired after Petitioner filed the initial petition, the court may not remand the case to the Department. *Forth v. Dep't of Highway Safety & Motor Vehicles*, 148 So. 3d 781, 782 (Fla. 2d DCA 2014) (stating that where a license suspension expires while under review, the circuit court may not remand the moot issue to the tribunal below, but may quash the administrative order suspending the license).

Based on the foregoing, the Second Amended Petition for Writ of Certiorari is GRANTED. The suspension of Petitioner's license is QUASHED.

ORDERED on in chambers on April 3, 2025.

23-CA-015595 4/3/2025 10:56:54 AM  
  
23-CA-015595 4/3/2025 10:56:54 AM  
Judge Alissa Ellison

---

ALISSA M. ELLISON, Circuit Court Judge

Electronic copies provided through JAWS.