

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT FOR  
HILLSBOROUGH COUNTY, FLORIDA

CHANDLER ALEXANDER,  
Petitioner,

CASE NO.: 22-CA-10285

vs.

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

DIVISION: J

Respondent.

HILLSBOROUGH COUNTY CCC  
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ORDER DENYING PETITION FOR WRIT OF CERTIORARI

This case is before the court on Chandler Alexander's Amended Petition for Writ of Certiorari filed January 9, 2023. The petition is timely, and this court has jurisdiction. Rule 9.100(c)(2), Fla. R. App. P.; Rule 9.030(c)(3), Fla. R. App. P.; §322.31, Fla. Stat. Petitioner seeks review of a November 22, 2022, final order upholding the suspension of his driving privilege for obtaining a driver license by fraud. Petitioner advances four arguments in support of the petition: (1) the Department departed from the essential requirements of law by failing to yield to the statute of limitations; (2) the Department did not have competent, substantial evidence to determine he committed fraud because he did not have two driver's licenses at the time of the investigation; (3) the Department violated his right to due process by refusing to return his driver's license after he obtained a court ordered name change; and (4) the Department failed to comply with § 322.251, Fla. Stat., by not cancelling his license when he requested the Department to do so in 2016 and 2019. Having reviewed the petition, response, reply, appendices, and relevant case law, the Court finds that there is no statute of limitations applicable to the underlying administrative proceeding. Moreover, substantial competent evidence contradicts Petitioner's claim that he cancelled his license following his name change and that facts warranted its cancellation such that the Department was required to do so. Finally, the record reflects that Petitioner received notice and an opportunity to be heard, such that his due process rights were not violated.

**FACTS**

On January 6, 2022, a suspected fraud was communicated to the Department by Senior United States Probation Officer Jessica Spohn ("Officer Spohn"). Officer Spohn stated in an email that she was presently supervising Kellis Dion Jackson on a term of parole in the Middle District of Florida, and that she wanted to report to the Department that Petitioner had two driver licenses, in two different names, with two different dates of birth and two different social

security numbers. One license was under the name Kellis Dion Jackson, while the other was under the name Chandler Dante Alexander. Upon receiving this information, the Department opened an administrative investigation on the Petitioner. The investigation included searches of a biometric facial analysis system on images contained in the Department's driver license records of Chandler Alexander and Kellis Jackson, which returned images that matched. After confirming that Kellis Jackson and Chandler Alexander were the same person, the Department contacted Petitioner. Petitioner responded with a "Certificate of Name Change" dated April 23, 2019, as proof that he had legally changed his name to Chandler Alexander. The Department also contacted the social security division, which found that Kellis Jackson had not legally changed his name with the social security administration nor obtained a new social security number.

On March 15, 2022, the Department sent Petitioner a "Notice of Order of Suspension and Final Order" informing him that his driving privileges would be suspended for one year, beginning on April 13, 2022, for obtaining a driver license by fraud pursuant to §§ 322.12, and 322.27, Fla. Stat. Upon receiving notice of the suspension of his license, Petitioner contacted the Department's Fraud Department and spoke with Regulatory Specialist Linda Jana. Petitioner explained that he had undergone a common law name change and was issued a new social security number. Jana informed Petitioner that he would have to obtain a court ordered name change. Petitioner subsequently filed and received a Final Judgment of Change of Name on September 23, 2022, changing Petitioner's name from Kellis Dion Jackson to Chandlar [sic] Dante' Alexander.

On November 2, 2022, a formal review hearing was held at Petitioner's request. Prior to the hearing, Petitioner was provided with a "Fraud Packet" that outlined the complaint by Probation Officer Spohn, as well as the findings of the Department's investigation. Following the hearing, Department Hearing Office James Garbett issued a final order affirming the suspension of Petitioner's driver license for fraud.

#### STANDARD OF REVIEW

This court reviews the administrative decision upholding the suspension to determine whether petitioner received due process, whether competent, substantial evidence supports the decision, and whether the decision departs from the essential requirements of law. *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982). The circuit court in this process performs a "review" to address those issues, however, it does not sit as a trial court to consider new evidence or to make additional findings. *See Mellon v Cannon*, 482 So. 2d 604, 607 (Fla. 5th DCA 1986) (Coward, J. dissenting).

#### DISCUSSION

Petitioner first contends that the Department departed from the essential requirements of law by failing to yield to the statute of limitations, which places a four-year limitation on “[a] legal or equitable action founded on fraud.” § 95.11(3)(j), Fla. Stat. Petitioner’s driver’s license with the name Chandler Alexander was issued on November 16, 2016, nearly six years prior to the notice of suspension. However, there is no prescribed time limitation or period in which the Department must take action to suspend or revoke an individual’s driving privileges. *Department of Highway Safety and Motor Vehicles v. Hagar*, 581 So. 2d 214, 217 (Fla. 5<sup>th</sup> DCA 1991). In *Landes v. Department of Professional Regulation*, 441, So. 2d 686 (Fla. 2d DCA 1983), the court stated that “in the absence of specific legislative authority, civil or criminal statutes of limitations are inapplicable to administrative license revocation proceedings. (quoting *Donaldson v. Department of Health & Rehabilitative Services*, 425 So. 2d 145, 147 (Fla. 1<sup>st</sup> DCA 1983).

Petitioner cites to *Mari Beth Fury v. State Department of Highway Safety and Motor Vehicles*, 25 Fla. L. Weekly Supp. 421 (Fla. 13th Cir. Ct. June 14, 2017), in which the circuit court found that § 95.11, Fla. Stat., applied to the suspension of a driver license by fraud. However, in *Fernando Hincaple Escobar v. Department of Highway Safety and Motor Vehicles*, 26 Fla. L. Weekly Supp. 346a (Fla. 13th Cir. Ct., June 15, 2018), the circuit court declined to apply the *Fury* decision. The court in *Escobar* noted that neither *Sarasota County v. National City Bank of Cleveland, Ohio*, 902 So. 2d 233, 234 (Fla. 2d DCA 2005) nor *Landes*, which caution against equating an administrative proceeding with a civil action, were presented to the *Fury* Court. This Court is mindful of the *Fury* decision and declines to apply it to the present case. Thus, the Department complied with the essential requirements of law by not applying the statute of limitations.

Petitioner further argues that the hearing officer lacked competent, substantial evidence to support the decision affirming the suspension of his license. Petitioner asserts that, at the time of the fraud investigation, he did not have two valid licenses as he had voluntarily surrendered his license with the name Kellis Dion Jackson twice: once in 2016 and again in 2019. The Petition’s appendix contains a scanned document titled “REQUEST FOR CANCELLATION OR SURRENDER OF A DRIVER LICENSE OR IDENTIFICATION CARD,” dated November 12, 2019, as well as what appears to be a letter from the Department, dated November 14, 2019, acknowledging receipt of Petitioner’s license and stating that his license had been cancelled. However, when the Department conducted its administrative investigation, its records showed that the license with the name Kellis Dion Jackson had not been cancelled, and that Petitioner had two licenses, in two different names, with two different dates of birth, and two different social security numbers. Additionally, the record shows that, even though Petitioner did not legally change his name from Kellis Dion Jackson to Chandlar [sic] Dante Alexander until September 23, 2022, he had a social

security card with the name Chandler Dante Alexander dated October 24, 2016. The Department contacted the social security division, who verified that at the time of the investigation, Petitioner had not legally changed his name nor obtained a new social security number.

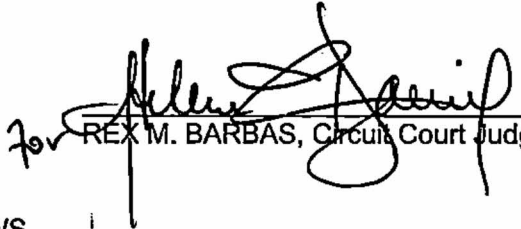
“It is the role of the fact finder to resolve conflicts in evidence and to weigh the credibility of witnesses.” *Porzio v. Porzio*, 760 Fla. 2d 1075 fn 1 (Fla. 5<sup>th</sup> DCA 2000). When the certiorari jurisdiction of the circuit court is invoked to review a quasi-judicial decision of an administrative agency, the “court functions as an appellate court and . . . is not entitled to reweigh the evidence or substitute its judgment for that of the agency.” *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995). This is because the hearing officer, as the trier of fact, is in the best position to evaluate the evidence and make a determination about Petitioner’s license suspension. *Dep’t. of Highway Safety and Motor Vehicles v. Satter*, 643 So. 2d 692, 695 (Fla. 5<sup>th</sup> DCA 1994), *rev. denied*, 651 So. 2d 1195 (Fla. 1995). Here, the record contains evidence that establishes a substantial basis of fact from which the hearing officer could reasonably infer that Petitioner provided the Department with information that was not true and correct when applying for a license. *See De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957). Therefore, the decision is supported by competent, substantial evidence.

Petitioner’s third argument is that the Department violated his due process rights by failing to return his driver’s license once he obtained a court ordered name change. Petitioner argues that Linda Jana, a Regulatory Specialist with the Department, created a protected liberty interest when she informed him that he would need to get a court ordered name change to get his license back. Petitioner maintains that “once a State actor creates a predicate upon which an action and/or thing will be provided, that action and/or thing cannot be taken without due process of law.” This argument is beyond the scope of certiorari review. The Court’s review is limited to whether Petitioner was afforded procedural due process by the Department in making the decision to uphold the license suspension. Here, the Department was not required to hold a hearing before suspending Petitioner’s license. *Dep’t of Highway Safety and Motor Vehicles v. Davis*, 775 So. 2d 989, 990 (Fla. 1<sup>st</sup> DCA 2001). And after receiving notice of the suspension, Petitioner requested and received a hearing where he was able to present evidence to argue against the suspension. Thus, Petitioner was afforded due process.

Petitioner’s final argument is that the Department failed to comply with § 322.251, Fla. Stat., because the Department did not cancel the Kellis Jackson license after he voluntarily surrendered it in 2016 and 2019. The Petitioner maintains that the Department had and has a legal duty to cancel the license, and requests that this Court enter an order directing the Department to comply with § 322.251, Fla. Stat. The Department asserts that this argument should be denied because the cancellation of the Kellis Jackson license would not have

granted Petitioner the liberty to establish a new name, date of birth, and social security number. The Court agrees. Even if Petitioner's Kellis Jackson license had been cancelled when he submitted his requests to the Department, the record still contains ample evidence that Petitioner provided the Department with false information when applying for his Chandler Alexander license. Additionally, an order directing the Department to comply with § 322.251, Fla. Stat. would be beyond the scope of this Court's certiorari review. *City of Deerfield Beach v. Vaillant*, 419 so. 2d 624, 626 (Fla. 1982).

It is therefore ORDERED that the petition is DENIED in Tampa, Hillsborough County, Florida, on the date imprinted with the Judge's signature.

  
for REX M. BARBAS, Circuit Court Judge

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