

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

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

Petitioner,

v.

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D05-750

CAROLYN BRASS,

Respondent.

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Opinion filed July 21, 2005.

Petition for Writ of Certiorari - Original Jurisdiction

Enoch J. Whitney, General Counsel, and Judson M. Chapman, Assistant General Counsel, Department of Highway Safety and Motor Vehicles, Tallahassee, for Petitioner.

Mitchell A. Stone of Stone, Taylor & Associates, P.A., Jacksonville, for Respondent.

PER CURIAM.

Petitioner seeks certiorari review of a circuit court order which overturned the hearing officer's order sustaining the administrative suspension of respondent's driver's license. Based upon the clear case law, we grant the petition and quash the order entered by the circuit judge. The circuit judge should have, but did not, limit her

inquiry to whether “there was competent, substantial evidence to support the hearing officer’s findings.” Dep’t of Highway Safety & Motor Vehicles v. Silva, 806 So. 2d 551, 553 (Fla. 2d DCA 2002). Instead of focusing solely upon the admissibility of certain statements made by respondent to the investigating officer, the circuit court, under the relevant law, should have focused upon all the factors and circumstances known to the investigative officer in making a probable cause determination as to whether respondent was the driver of the vehicle in question. See Dep’t of Highway Safety & Motor Vehicles v. Friend, 837 So. 2d 1071 (Fla. 1<sup>st</sup> DCA 2003); Dep’t of Highway Safety & Motor Vehicles v. Currier, 824 So. 2d 966 (Fla. 1<sup>st</sup> DCA 2002); Dep’t of Highway Safety & Motor Vehicles v. Haskins, 752 So. 2d 625 (Fla. 2d DCA 1999); Dep’t of Highway Safety & Motor Vehicles v. Smith, 687 So. 2d 30 (Fla. 1<sup>st</sup> DCA 1997); Dep’t of Highway Safety & Motor Vehicles v. Favino, 667 So. 2d 305 (Fla. 1<sup>st</sup> DCA 1995). Unlike the situation in Nelson v. Department of Highway Safety & Motor Vehicles, 757 So. 2d 1264 (Fla. 3d DCA 2000), the present record contains ample evidence that, when viewed in its totality, supported the officer’s probable cause determination.

We GRANT the Petition for Writ of Certiorari and QUASH the order of the circuit court, with directions to reinstate the administrative suspension.

KAHN, C.J., BROWNING and LEWIS, JJ., CONCUR.