

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2011

DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,

Petitioner,

v.

Case No. 5D10-467

BRADFORD G. MEINKEN,

Respondent.

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Opinion filed February 4, 2011

Petition for Certiorari Review of Decision
from the Circuit Court for Orange County,
Acting in its Appellate Capacity.

Robin F. Lotane, General Counsel,
Michael J. Alderman, Acting General
Counsel, and Heather Rose Cramer,
Assistant General Counsel, Lake Worth,
for Petitioner.

Stuart I. Hyman, of Stuart I. Hyman, P.A.,
Orlando, for Respondent.

GRIFFIN, J.

The Department of Highway Safety & Motor Vehicles petitions for a writ of certiorari to review a decision of an appellate panel of the Ninth Judicial Circuit. The circuit court had issued its Order Granting Respondent, Bradford Meinken's, Petition for Writ of Certiorari, quashing the hearing officer's administrative decision upholding the suspension of his license for driving under the influence of alcohol. The panel held that Respondent had rebutted the presumption that the Intoxilyzer 8000 on which he

performed his breath test was properly approved for use in Florida. We grant the writ and quash the decision of the circuit court on the authority of *Dep't of Highway Safety and Motor Vehicles v. Berne*, 49 So. 3d 779 (Fla. 5th DCA 2010).

Petition for Writ of Certiorari GRANTED; and decision QUASHED.

MONACO, C.J., and SAWAYA, J., concur.