

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DEPARTMENT OF HIGHWAY SAFETY)
AND MOTOR VEHICLES,)
)
Appellant,)
)
v.)
)
BRADFORD HARRIS,)
)
Appellee.)
_____)

CASE NO. 2D01-1774

Opinion filed March 8, 2002.

Petition for Certiorari from the Circuit
Court for Hillsborough County; Robert H.
Bonanno, Judge.

Enoch J. Whitney, General Counsel,
Tallahassee, and Rhonda M. Diamond,
Assistant General Counsel, Miami, for
Appellant.

Eilam Isaak, Tampa, for Appellee.

PER CURIAM.

The Department of Highway Safety and Motor Vehicles (DHSMV) seeks certiorari review of a circuit court order granting certiorari and quashing an order of the DHSMV. The order of the DHSMV suspended Harris's driver's license based on his arrest for driving under the influence of alcohol. The circuit court quashed the order of the DHSMV because it concluded that the DHSMV failed to present substantial,

competent evidence that the breath test administered to Harris was performed in substantial compliance with the applicable administrative rules. In accordance with the nearly identical cases of Department of Highway Safety and Motor Vehicles v. Alliston, 27 Fla. L. Weekly D205 (Fla. 2d DCA Jan. 18, 2002) and Department of Highway Safety and Motor Vehicles v. Sexton, 27 Fla. L. Weekly D314 (Fla. 2d DCA Feb. 1, 2002), we conclude that the circuit court departed from the essential requirements of law because, as a matter of law, the breath test results were admissible in evidence before the administrative hearing officer and were presumptive proof of impairment.

Accordingly, we quash the order granting Harris's petition for certiorari and remand for proceedings consistent with this opinion.

FULMER, SALCINES, and SILBERMAN, JJ., Concur.