

Third District Court of Appeal

State of Florida

Opinion filed March 30, 2016.
Not final until disposition of timely filed motion for rehearing.

No. 3D15-2858
Lower Tribunal No. 15-252

**The State of Florida, Department of
Highway Safety and Motor Vehicles,**
Petitioner,

vs.

Juan Jose Lopez,
Respondent.

A Case of Original Jurisdiction -- Prohibition.

Stephen D. Hurm, General Counsel, and Natalia Costea, Assistant General Counsel, for petitioner.

Gallardo Law Offices, P.A., and Jesus Novo, for respondent.

Before WELLS, FERNANDEZ and SCALES, JJ.

PER CURIAM.

Petitioner Florida Department of Highway Safety and Motor Vehicles (“DMV”) issued a final order on June 30, 2015, that suspended the driving privileges of Respondent Juan Jose Lopez. Pursuant to section 322.31 of the Florida Statutes, Lopez had thirty days to challenge this final order by filing a petition for writ of certiorari with the circuit court. Thirty-six days later, on August 5, 2015, Lopez filed his petition in Miami-Dade Circuit Court.

DMV filed a motion to dismiss Lopez’s petition, asserting that the circuit court was without jurisdiction to consider Lopez’s petition. In its unelaborated order, entered on November 25, 2015, the circuit court denied DMV’s motion to dismiss. On December 15, 2015, DMV filed a petition for writ of prohibition with this Court, to prevent the circuit court from exercising jurisdiction to review Lopez’s petition.

We grant DMV’s petition for writ of prohibition. State of Fla., Dep’t of Highway Safety & Motor Vehicles v. Melendez, 132 So. 3d 1237 (Fla. 3d DCA 2014) (Mem) (holding that the thirty-day filing deadline is jurisdictional in nature).

Petition granted. We withhold issuance of the writ upon the understanding that the circuit court appellate division will dismiss Lopez’s petition for writ of certiorari.