

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO: 16-2019-AP-69

DIVISION: AP-A

HEATHER AUSTIN NOLAN-WILLIAMS,
Petitioner,

v.

DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,
Respondent.

Petition for Writ of Certiorari from the decision of the State of Florida Department of Highway
Safety and Motor Vehicles

April 28, 2022

PER CURIAM

Petitioner seeks certiorari review of the Department's ruling and raises two arguments for review: (1) The Department failed to provide competent, substantial evidence of a twenty-minute observation prior to the breath test; and (2) The Department failed to afford Petitioner her due process right to a hearing with the appearance of impartiality. The Court rejects Petitioner's second argument based upon the reasoning of Meadows v. Department of Highway Safety & Motor Vehicles, 2017-AP-000116 (Fla. 4th Cir. Ct., Sept 26, 2018).

On certiorari review of an administrative action, the Court's standard of review is "limited to a determination of whether procedural due process was accorded, whether the essential

requirements of the law had been observed, and whether the administrative order was supported by competent, substantial evidence.” Dep’t of Highway Safety and Motor Vehicles v. Luttrell, 983 So. 2d 1215, 1217 (Fla. 5th DCA 2008); see also Dep’t of Highway Safety and Motor Vehicles v. Trimble, 821 So. 2d 1084, 1085 (Fla. 1st DCA 2002).

The hearing officer found as follows:

On May 24, 2019, at approximately 12:22 a.m. Trooper J. Morgan of the Florida Highway Patrol observed a vehicle enter Interstate 95, which was closed to traffic due to a forest fire, and travel northbound in the southbound lanes. Trooper Morgan attempted to attract the driver’s attention using a flashlight and yelling at the driver. The driver did not respond to Trooper Morgan’s attempts or the marked patrol vehicles which had their emergency lights activated. Sergeant L. Yuknavage of the Florida Highway Patrol followed the vehicle onto the Interstate to attempt to stop the vehicle, and Trooper Morgan contacted Dispatch to apprise other law enforcement of the situation. Trooper J. Farley of the Florida Highway Patrol overheard the dispatch and attempted to intercept the vehicle. Before he could intercept the vehicle, Sergeant Yuknavage was able to stop the vehicle. Trooper Morgan stopped to assist with the traffic stop.

When Trooper Farley arrived at the scene, Trooper Morgan was speaking with the driver, identified as Heather Austin Nolan-Williams (hereafter referred to as the Petitioner). Trooper Farley noted that the Petitioner displayed issues with her balance and coordination. She appeared unsteady, and she used the vehicle for support. When Trooper Morgan engaged the Petitioner in conversation, he noted that she had watery eyes, a flushed face, and an odor of an alcoholic beverage emitting from her breath when she spoke.

Trooper Farley informed the Petitioner that he was initiating a criminal investigation for the offense of driving under the influence (DUI). The Petitioner was informed of her Miranda Rights, and she acknowledged that she understood those rights. The Petitioner was asked to perform field sobriety exercises, and she complied with the request.

Upon completion of the exercises, The Petitioner was placed under arrest for the offense of DUI. After ascertaining that the Petitioner was not having any type of medical emergency, the Petitioner was asked to submit to a breath test. After a 20-minute observation period was concluded, the Petitioner was asked to provide the required breath samples. The two breath samples provided by the Petitioner yielded results of 0.275g/210L and 0.279g/210L.

Having reviewed the record, the Court finds that the hearing officer's findings were supported by competent, substantial evidence. Accordingly, the Petition is **DENIED**, and the "Motion for Oral Argument" is **DENIED** as **MOOT**.

SALVADOR AND CHARBULA, JJ., concur.

Susan Z. Cohen., counsel for Petitioner

Mark L. Mason, Esq., counsel for Respondent.