

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

CASE NO: 16-2020-AP-34  
DIVISION: AP-A

FREDERICK EASA GHANNAM, III,  
Petitioner,

v.

DEPARTMENT OF HIGHWAY  
SAFETY AND MOTOR VEHICLES,  
Respondent.

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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 decision to uphold the suspension of his driver's license. On certiorari review of an administrative action, this 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 June 11, 2020, at approximately 11:35 p.m., Trooper J. Farley of the Florida Highway Patrol was on patrol on westbound Beach Boulevard when he observed a vehicle traveling in the same direction which he visually estimated to be travelling at 60 miles per hour (mph) in the posted 45-mph zone. Trooper Farley activated his radar and verified the vehicle's speed at 62 mph. Trooper Farley also observed the vehicle drifting within its lane. Trooper Farley subsequently observed that the vehicle's tag had a validation sticker which indicated an expiration date of March 2020. Trooper Farley ran the tag through FCIC/NCIC, which indicated that the vehicle registration expired on March 28, 2020. Trooper Farley conducted a traffic stop on the vehicle. The vehicle entered into a turn lane, where it stopped. Trooper Farley advised the driver to run into the next available parking lot. The driver complied and pulled into a gas station parking lot.

Trooper Farley made contact with the driver, who handed over his driver's license identifying him as Frederick Ghannam III (hereafter referred to as the Petitioner). Trooper Farley advised the Petitioner that his vehicle registration was expired but requested that he provide the most current documentation he had. As the Petitioner sorted through his papers from the glove compartment, Trooper Farley observed that the Petitioner appeared to lack fine motor skills as he fumbled with the documents. While speaking with the Petitioner, Trooper Farley also observed that the Petitioner's eyes were bloodshot and watery; his face was flushed; his speech was slurred at times; and Trooper Farley detected the odor of an alcoholic beverage emitting from the vehicle.

Trooper Farley asked the Petitioner to exit the vehicle, and the Petitioner complied. Once the Petitioner was outside his vehicle, Trooper Farley detected the odor of an alcoholic beverage emitting from the Petitioner's breath. The Petitioner advised Trooper Farley that he was coming from Lemon Bar and was on his way to one of his passenger's homes. The Petitioner stated that he consumed one glass of wine a few hours earlier. Trooper Farley advised the Petitioner that he was beginning a driving under the influence (DUI) investigation. Trooper Farley read the Petitioner his Miranda warnings, and the Petitioner acknowledged his understanding of his rights. The Petitioner advised Trooper Farley that he has Attention Deficit Disorder (ADD) but stated that he does not suffer from any other medical, physical, or mental conditions or impairments. The Petitioner advised Trooper Farley that he was in good physical condition and did not take any medications.

Trooper Farley asked the Petitioner to participate in field sobriety exercises, and the Petitioner agreed to do so. During the eye exercises, Trooper Farley, a Drug Recognition Expert (DRE), observed a lack of smooth pursuit in both of the

Petitioner's eyes; distinct and sustained nystagmus at maximum derivation in both eyes; and the onset of nystagmus prior to 45 degrees in both eyes. Trooper Farley also observed that the Petitioner swayed throughout the exercise and moved his head to follow the stimulus. During the walk-and-turn instructional phase, the Petitioner did not maintain the instructional position, and he attempted to start the exercise prior to being instructed to do so. During the exercise, the Petitioner stopped walking; missed touching heel-to-toe on multiple steps; used his arms for balance; took an incorrect number of steps; and performed the turn improperly. The Petitioner also did not look at his feet as instructed to do. During the one-leg stand, the Petitioner swayed and raised his arms more than six inches. The Petitioner also had to be reminded to look at his foot and count out loud; and he did not count in the manner in which he was instructed.

During the finger-to-nose exercise, the Petitioner swayed; brought his head forward to his finger; missed touching the tip of his nose with the tip of his finger and forgot to remove his finger from his nose and return it to his side. During the modified rhomberg balance exercise, the Petitioner swayed and estimated the passage of 48 seconds for 30 seconds. Based on the totality of his observations of the Petitioner, Trooper Farley arrested the Petitioner for DUI. Trooper Farley then asked the Petitioner to submit to a breath test. The Petitioner began arguing about the arrest decision and stated that he was not under the influence of alcohol. Trooper Farley then read the Petitioner the Implied Consent Warning. The Petitioner continued to try to further discuss the arrest decision and began yelling for his passengers to call his lawyer. The passengers from the Petitioner's vehicle began to exit, at which time Trooper Farley gave them commands to return to the vehicle. Trooper Farley escorted the Petitioner to the rear of his patrol vehicle and placed the Petitioner inside. The Petitioner began yelling at Trooper Farley about being taken to jail. Trooper Farley again asked the Petitioner if he was going to submit to the breath test. The Petitioner continued to argue about being taken to jail.

The passengers from the Petitioner's vehicle subsequently left. Once the passengers were gone, Trooper Farley again asked the Petitioner if he would submit to the breath test. The Petitioner continued to argue about the arrest decision. Trooper Farley advised the Petitioner that if at any time he wanted to provide a breath sample, Trooper Farley would allow him to do so. The Petitioner stated, "I'll just fight this in court." Trooper Farley advised the Petitioner that he was construing the Petitioner's response as a refusal unless the Petitioner were to subsequently recant. Based on the foregoing, I find the Petitioner was lawfully arrested for the offense of DUI.

## I

In his first ground for relief, Petitioner argues that the hearing officer departed from the essential requirements of the law by administering an oath over the telephone. Petitioner has failed to demonstrate a departure from the essential requirements of the law because Rule 15A-6013 only requires that oral evidence be taken under oath.

## II

In his second ground for relief, Petitioner argues that the hearing officer departed from the essential requirements of the law and failed to afford him due process by finding that Petitioner was lawfully arrested. His claim is refuted by the record. Accordingly, the “Petition for Writ of Certiorari” is **DENIED**, and the “Motion for Oral Argument” is **DENIED** as **MOOT**.

CHARBULA AND SALVADOR, JJ., concur.

David M. Robbins., counsel for Petitioner

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