

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

CASE NO.: 16-2020-AP-7

DIVISION: AP-A

RHONDA WIND,
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

JANUARY 15, 2021

PER CURIAM

This cause is before this Court on Petitioner, Rhonda Wind's "Petition for Writ of Certiorari," filed on January 21, 2020. The Petition raises one argument for review: Whether or not the Department departed from the essential requirements of the law when the hearing officer denied Petitioner's motion to invalidate the administrative suspension based on an unlawful traffic stop.

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).

Petitioner argues the Department departed from the essential requirements of the law when the hearing officer denied Petitioner's motion to invalidate the administrative suspension based on an unlawful traffic stop. Although Officer Carter cited Petitioner for Careless Driving, Petitioner claims competent, substantial evidence does not support the citation. The record does not demonstrate Petitioner's driving pattern endangered another person's life, limb, or property. Petitioner further argues that Officer Carter could not have based his traffic stop on the presumably anonymous complainant's tip about Petitioner's erratic driving pattern because Officer Carter did not independently corroborate the tip.

Under the community caretaking doctrine, "a legitimate concern for the safety of the motoring public can warrant a brief investigatory stop . . . in situations less suspicious than that required for other types of criminal behavior." Dep't of Highway Safety and Motor Vehicles v. DeShong, 603 So. 2d 1349, 1352 (Fla. 2d DCA 1992). The purpose of such a stop, or welfare check, is to determine whether the driver needs assistance due to illness, fatigue, or impairment. Id. A welfare check "must be based on specific articulable facts showing that the stop was necessary for the protection of the public." Majors v. State, 70 So. 3d 655, 661 (Fla. 1st DCA 2011).

To determine whether third-party information provides the requisite reasonable suspicion for a temporary detention, courts will consider the reliability of the informant and the reliability of the proffered information. Berry v. State, 86 So. 3d 595, 598 (Fla. 1st DCA 2012). A tip with a relatively low degree of reliability, such as from an anonymous or unknown tipster, requires independent corroboration in order to establish the requisite quantum of suspicion needed. Id.

Here, the hearing officer did not depart from the essential requirements of the law by finding Officer Carter lawfully stopped Petitioner. Officer Carter possessed the requisite reasonable suspicion to perform a stop based on concern for Petitioner and the public's safety, as well as on the tip about Petitioner's driving. Officer Carter was dispatched to the intersection of Rampart Road and Collins Road in reference to a driver who ran a red light and was driving on the sidewalk. The tip, which resulted in the dispatch, included the license plate number and description of the vehicle, a silver Lexus SUV.

When Officer Carter arrived at the intersection of Rampart Road and Collins Road, he observed the Petitioner's vehicle stopped next to a sidewalk. A group of people stood around the vehicle. Petitioner was driving a silver Lexus SUV. The license plate number of her vehicle matched the license plate number provided by dispatch. Officer Carter followed Petitioner as she pulled away from the sidewalk and drove with flashing hazard lights at a slow rate of speed. Such evidence provided a basis for stopping Petitioner to ensure her vehicle did not have any mechanical problems that placed her, the motoring public, or pedestrians in danger.

Nevertheless, Petitioner argues Officer Carter unlawfully stopped Petitioner because competent, substantial evidence did not support his citation of Petitioner for Careless Driving. The constitutional validity of a traffic stop depends on an objective test, which “asks only whether any probable cause for the stop existed,” making the subjective knowledge, motivation, or intention of the individual officer involved wholly irrelevant.” Hurd v. State, 958 So. 2d 600, 602 (Fla. 4th DCA 2007) (quoting Holland v. State, 696 So. 2d 757, 759 (Fla. 1997)). Here, regardless of whether Officer Carter claims he stopped Petitioner for Careless Driving, his observations provide a basis for stopping Petitioner to conduct a welfare check. Accordingly, Petitioner's claim is denied.

On February 19, 2020, Petitioner filed a “Motion for Oral Argument,” requesting oral argument on the instant Petition. Since this Court finds Petitioner is not entitled to certiorari relief, Petitioner’s request for oral argument is moot.

Based on the foregoing, the “Petition for Writ of Certiorari” is **DENIED**, and the “Motion for Oral Argument” is **DENIED** as **MOOT**.

SALVADOR, CHARBULA, AND ROBERSON, JJ., concur.

L. Lee Lockett, Esq., counsel for Petitioner

Mark L. Mason, Esq., counsel for Respondent