

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

CASE NO: 16-2021-AP-10

DIVISION: AP-A

RACHEL TENSFELDT,
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

MARCH 30, 2022

PER CURIAM

Petitioner seeks certiorari review of the Department's decision to uphold the suspension of her 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).

On March 25, 2021, police stopped the Petitioner to check if she was ill, tired, or impaired after observing: (1) her vehicle's tires cross over the right solid white line onto the shoulder of the road for approximately 20 yards; and (2) her vehicle drifted back into the right lane of travel. Prior to the stop, witnesses had called police and raised concerns about the Petitioner being inebriated. Witnesses informed police that the Petitioner had trouble walking to her vehicle, had hit her head on the door frame of her vehicle several times, and had stopped at a green light and did not go until after it turned red.

The Petitioner's sole argument for relief is that the arresting officer had no basis for the stop that led to the DUI investigation. "[A] stop is permitted even without a traffic violation, so long as the stop is supported by a reasonable suspicion of impairment, unfitness, or vehicle defects." Hurd v. State, 958 So. 2d 600, 603-04 (Fla. 4th DCA 2007) (citations omitted). Based upon witness reports, as well as the officer's direct observations, the hearing officer did not depart from the essential requirements of the law by finding that police had reasonable suspicion to conduct an investigatory stop. See generally Lacaretta Restaurant v. Zapeda, 115 So. 3d 1091, 1093 (Fla. 1st DCA 2013) ("Departure from the essential requirements of law' is defined the same way across all uses of certiorari review: 'a violation of a clearly established principle of law resulting in a miscarriage of justice.'" (citation omitted)). Accordingly, the "Petition for Writ of Certiorari" is **DENIED**,

DEARING, SCHEMER, AND HEALEY, JJ., concur.

Alex King., counsel for Petitioner

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