

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

CASE NO: 16-2022-AP-4

DIVISION: AP-A

JEROME ANDREW TAUDTE,  
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

OCTOBER 10, 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).

Petitioner has a Commercial Driver License (CDL). The Department suspended Petitioner's Florida license for one year following a second or subsequent violation of section 316.520(1), Florida Statutes. Petitioner challenges the suspension, arguing that he only has one adjudication because one of his prior infractions resulted in a withhold of adjudication.

States may not "defer imposition of judgment . . . for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record." 49 C.F.R. § 384.226. In compliance with this regulation, Florida does not allow holders of a (CDL) to participate in diversionary programs. § 318.14 (9)-(10), Fla. Stat. (2021).

Because he could not participate in a diversionary program, Petitioner's violation of section 316.520(1), Florida Statutes, constitutes a conviction under both federal and state law for holders of a CDL:

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

§ 383.5 C.F.R. (2021); see also Fla. R. Traf. Ct. 6.560; State v. Keirn, 1085, 1090 (Fla. 4th DCA 1998).

Accordingly, Petitioner's driving record shows that he has two convictions for failing to properly secure a load. Section 318.18(12), Florida Statutes, mandates that the Department suspend the driver license of any person who has committed this offense twice within five years.<sup>1</sup>

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<sup>1</sup> The full text of the statute reads:

The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

...

(12) Two hundred dollars for a violation of s. 316.520(1) or (2). If, at a hearing, the alleged offender is found to have committed this offense, the court shall impose a minimum civil penalty of \$200. For a second or subsequent adjudication within a period of 5 years, the department shall suspend the driver license of the person for not less than 1 year and not more than 2 years.

The Florida Uniform Traffic Control Law does not define the term "adjudication." The Administrative Procedure Act, 5 U.S.C. § 551(7) (2021), defines adjudication as the "agency process for the formulation of an order." Other jurisdictions have used a similar definition. See e.g., Shoreline Transp., Inc. v. Robert's Tours and Transp., Inc., 779 P.2d 868, 872 (Haw. 1989) ("[A]djudication is the process by which the agency applies either law or policy, or both, to the facts of a particular case."); Waslow v. Pa. Dept. of Educ., 984 A.2d 575, 581 (Pa. 2009) ("An administrative adjudication is defined . . . as any final order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made." (quoting 2 Pa.C.S. § 101)); York v. Athens College of Ministry, Inc., 821 S.E.2d 120, 123 (Ga. Ct. App. 2018) ("Also, adjudication is [generally] the decision making process for applying preexisting standards to individual circumstances." (alteration in original) (quoting State v. Intl. Keystone Knights of the Ku Klux Klan, 788 S.E.2d 455 (2016))); HTH Cos., Inc. v. Mo. Dep't. of Labor and Indus. Relations, 157 S.W.3d 224, 228 (Mo. Ct. App. 2004) ("In contrast to a rule, an adjudication is '[a]n agency decision which acts on a specific set of accrued facts and concludes only them.'" (alteration in original) (quoting Missourians for Separation of Church and State v. Robertson, 592 S.W.2d 825, 841 (Mo. App. 1979))); Trans Shuttle, Inc. v. Pub. Utils. Com'n of State, 89 P.3d 398, 408 (Colo. 2004) ("[A]n adjudication involves a determination of rights, duties, or obligations or identifiable parties by applying existing legal standards to facts developed at a hearing conducted for the purpose of resolving the particular interests in question." (quoting AviComm, Inc. v. Pub. Utils. Comm'n, 955 P.2d 1023, 1030 (Colo. 1998))). Our own supreme court has also relied on a similar definition. See Raymond James Fin. Servs., Inc. v. Phillips, 126 So. 3d 186, 191 (Fla. 2013) ("The term adjudicatory refers back to adjudication, which is defined as both '[t]he legal process of resolving a dispute,' as well as 'the process of judicially deciding a case.'" (quoting Black's Law Dictionary 47)).

Defining adjudication solely as a process would end in an absurd result, as the statute clearly does not contemplate suspending the license of a person who has twice been part of a process resulting in a decision. See Brown v. Nationscredit Fin. Servs. Corp., 32 So. 3d 661, 663 (Fla. 1st DCA 2010) ("[A] literal interpretation of the statutory language need not be given if doing so would lead to an unreasonable or absurd result." (citing Maddox v. State, 923 So. 2d 442, 446 (Fla. 2006))). Reading the two sentences of section (12) together, it is clear that the Legislature intended for the Department to suspend the driver license of a person who had committed the offense of improperly loading a vehicle twice within a five year period. This interpretation has been adopted by Florida's courts when reconciling other provisions of the traffic code. See State v. Keirm, 720 So. 2d 1085, 1090 (Fla. 4th DCA 1998).

Therefore, Petitioner has failed to demonstrate a departure from the essential requirements of the law, and the Petition is **DENIED**.

KALIL AND NORTON, JJ., concur.

BASS, Judge, dissenting.

I respectfully dissent. Section 318.18(12), Florida Statutes, requires a second or subsequent “adjudication.” The traffic court withheld adjudication. By the plain meaning of the language the traffic court used, Petitioner did not suffer the requisite second adjudication.

M. Scott Thomas, counsel for Petitioner

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