

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA.**

SUSAN A. DE JONG,

**APPELLATE DIVISION (CIVIL)
Case No.: 502009CA006551XXXXMB**

Petitioner,

DIVISION 'AY'

v.

**DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,**

Respondent.

Opinion filed: *November 19, 2009*

Petition for Writ of Certiorari from the County Court in and for Palm Beach County,

For Petitioner: Donna P. Levine, Esq., 324 Datura Street, Suite 145, West Palm Beach 33401

For Respondent: Heather Rose Cramer, Assistant General Counsel, DHSMV Legal Office, PO Box 540609, Lake Worth, Florida 33454

PETITION GRANTED.

Susan A. De Jong petitioned this Court for a writ of certiorari seeking review of the final order entered by the Department of Highway Safety and Motor Vehicles ("Department") affirming the suspension of his driver's license.

Ms. De Jong was placed under arrest for driving under the influence of alcohol and agreed to submit to a breath-alcohol test. Ms. De Jong's driving privilege was suspended based on these results. Ms. De Jong requested a formal administrative review of the suspension. During that review, the hearing officer failed to issue subpoenas to the agency inspector and the department inspector.

In accordance with our opinion in *Johnson v. Department of Highway Safety and Motor Vehicles*, 16 Fla. L. Weekly Supp. 400a (March 19, 2009), as well as *Yankey v. Department of Highway Safety and Motor Vehicles*, 6 So. 3d 633 (Fla. 2d DCA 2009) and *Lee v. Department of Highway Safety and Motor Vehicles*, 4 So. 3d 754 (Fla. 1st DCA 2009), we grant the Petition for Writ of Certiorari. "When a law enforcement officer administratively suspends a driver's license and submits breath test results pursuant to section 322.2615(2), Fla. Stat., that include an agency inspection report, and the agency inspection report identifies a person, the hearing officer is authorized to issue a subpoena to any person 'identified' therein." *See Johnson*, 16 Fla. L. Weekly Supp. 400a (March 19, 2009).

Based upon the foregoing, it is hereby ORDERED AND ADJUDGED that the Petition for Writ of Certiorari is GRANTED, the hearing officer's final order is QUASHED and the case is REMANDED for further proceedings consistent with this opinion.

HAFELE, FINE, COX, JJ., concur.