

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

JEREMY A. FASEL,

Petitioner,

APPELLATE DIVISION (CIVIL) 'AY'
CASE NO.: 502012CA018527XXXXMB

v.

DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,

Respondent.

Opinion filed: **AUG - 1 2013**

Petition for Writ of Certiorari from the Department of Highway Safety and Motor Vehicles.

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PER CURIAM.

Jeremy A. Fasel ("Petitioner") seeks review of a decision by Hearing Officer Bruce Cartwright ("Hearing Officer Cartwright") sustaining the suspension of his driver's license. Petitioner raises several arguments on appeal: (1) the Affidavit of Refusal to Submit to Breath, Urine or Blood Test ("Affidavit of Refusal") was defective, (2) the Hearing Officer's final order stated the incorrect date of the traffic stop, (3) there was no probable cause for the arrest, and (4) the suspension was not incident to a lawful arrest.

We find that the Petitioner waived any argument related to the alleged deficiency of the Affidavit of Refusal since he failed to raise it before Hearing Officer Cartwright. *See Lane v.*

Dep't of Highway Safety & Motor Vehicles, 20 Fla. L. Weekly Supp. 334a (Fla. 15th Cir. Ct. 2012). Further, even if no waiver occurred, we find that the affidavit was not deficient, and regardless, Hearing Officer Cartwright's finding that Petitioner refused to submit to a breath test was supported by other competent, substantial evidence in the record. We also find that there was competent, substantial evidence in the record to support Hearing Officer Cartwright's findings that the arresting officer had probable cause for the Driving Under the Influence ("DUI") arrest and that the arrest was lawful.

We grant the petition, however, for the limited purpose of remanding the case to the Hearing Officer to correct a scrivener's error in the final order. The final order affirming the suspension of the Petitioner's license mistakenly stated the date of the traffic stop was May 15, 2012, rather than July 22, 2012. This Court has previously granted a similar petition for the limited purpose of remanding the case to the hearing officer to correct a scrivener's error and to enter an amended order. *Deluca v. Dep't of Highway Safety & Motor Vehicles*, 19 Fla. L. Weekly Supp. 1000a (Fla. 15th Cir. Ct. 2012).

Accordingly, the Petition for Writ of Certiorari is **GRANTED** and the order of suspension is **QUASHED** for the limited purpose of remanding this case to Hearing Officer to enter an amended order correcting the scrivener's error. In all other respects, the Petitioner's arguments are without merit.

COX, MARX, and SASSER, JJ., concur.