

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

APPELLATE DIVISION (CRIMINAL): AC  
CASE NO: 502013AP900008XXXXMB  
L.T. NO: 502012CT028299XXXXNB

MICHAEL D. O'BRIEN,  
Appellant,

v.

STATE OF FLORIDA,  
Appellee.

Appeal from County Court in and for Palm Beach  
County, Florida;  
Judge Frank Castor

Opinion filed: **JUN 18 2014**

Appeal from the County Court in and for Palm Beach County,  
Judge Frank Castor.

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PER CURIAM.

The Court affirms the decision of the trial court but writes briefly to explain why this appeal, and others based on the same argument, cannot succeed. Appellant argued section 322.03, Florida Statutes, driving without a valid license, should be read to include a mens rea of "knowingly," like section 322.34, driving while license suspended. The Court holds the outcome of this case is controlled by the Fourth District Court of Appeal decision in *Hagood v. State*, 824

So. 2d 252 (Fla. 4th DCA 2002). In *Hagood*, the court applied the reasoning of *Roedel v. State*, 773 So. 2d 1280 (Fla. 5th DCA 2000) which held that “anyone who violates section 322.34(2) necessarily violates section 322.03(1) because he or she is driving *without a valid driver’s license*. In other words, section 322.03(1) is necessarily a lesser included offense of section 322.34(2).” *Id.* at 253 (quoting *Roedel*, 773 So. 2d at 1282) (emphasis in original)). Therefore, since driving without a valid license is necessarily a lesser included offense of driving with a suspended license, the State is not required to prove knowledge as an element of section 322.03(1).

ROSENBERG, KROLL, and McSORLEY JJ., concur.