

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

BRADFORD HAMILTON PACE,

Petitioner,

APPELLATE DIVISION (CIVIL): "AY"
Case No.: 502010CA022624XXXXMB

v.

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES, BUREAU OF
ADMINISTRATIVE REVIEWS

Respondent.

Opinion filed: MAY 09 2012

**Appeal from State of Florida Department of Highway Safety and Motor Vehicles,
Hearing Officer Linda Bell.**

✓ For Petitioner: Brian Gabriel, Esq., 4601 Military Trail, Ste. #206, Jupiter, FL
33458

✓ For Respondent: Heather Rose Cramer, Esq., P.O. Box 540609, Lake Worth, FL
33454.

PER CURIAM.

Petitioner, Bradford Hamilton Pace, seeks review of the Hearing Officer's order sustaining the suspension of his license. We find that, because the Hearing Officer failed to make an express finding as to whether Pace's refusal to submit to a breath test was incident to a lawful arrest as required by the Florida Supreme Court's recent decision in *Dep't Highway Safety and Motor Vehicles v. Hernandez*, 74 So. 3d 1070 (Fla. 2011), the matter must be remanded to the Hearing Officer for a determination of whether the refusal to submit to a breath test was incident to a lawful arrest.

Accordingly, the Petition for Writ of Certiorari is **GRANTED**. The order of suspension is **QUASHED** and the matter is **REMANDED** to the Hearing Officer to make an express finding of whether the refusal to submit to a breath test was incident to a lawful arrest.

Rosenberg, Brunson, Kelley, JJ., concur.