

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

RONNIE G. SCOTT,

Petitioner,

APPELLATE DIVISION (CIVIL): "AY"
CASE NO. 502011CA004711XXXXMB

v.

THE STATE OF FLORIDA
DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,

Respondent.

Opinion filed: DEC 21 2012

Petition for Writ of Certiorari from Department of Highway Safety & Motor Vehicles Bureau of Administrative Reviews, Hearing Officer Odileinis Gibson.

For Petitioner: Donna Levine, Esq.
324 Datura St. Ste. 145
West Palm Beach, FL 33401

For Respondent: Damaris Reynolds, Esq.
DHSMV-Legal Office
P.O. Box 540609
Lake Worth, FL 33454

PER CURIAM.

Petitioner seeks review of the order affirming the suspension of his driver's license and argues that the Hearing Officer erred by not considering the lawfulness of the stop or, alternatively, erred in finding that the stop was valid. Whether or not a breath test is incident to a lawful arrest is within the Hearing Officer's scope of review. *Dep't of Hwy. Safety & Motor Vehicles v. Hernandez*, 74 So. 3d 1070 (Fla. 2011); *Ferreir v. Dep't of Highway Safety & Motor Vehicles*, 91 So. 3d 920 (Fla. 2d DCA 2012).

Although the Hearing Officer did not make a legal ruling that the stop was lawful, the final order contains detailed factual findings regarding the stop. Officer Heisser "observed the

KELLEY, ROSENBERG, and MCCARTHY, JJ., concur.

DATE: () TIME: ()