

Petition for Writ of Certiorari to Review Quasi-Judicial Action, Department of Highway Safety and Motor Vehicles: DRIVER’S LICENSES – Suspension—Section 322.2615 (2), Fla. Stat. (2013). Probable cause affidavit was properly completed when both the arresting and attesting officer signed the affidavit. Because law enforcement officers are authorized to administer oaths when engaged in the performance of official duties, the signature of a notary was not necessary. Petition denied. *Swindle v. Dept. of Highway Safety and Motor Vehicles*, No. 14-000015AP-88B (Fla. 6th Cir. App. Ct. July 25, 2014).

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
APPELLATE DIVISION**

THOMAS EUGENE SWINDLE JR.,
Petitioner,

vs.

**Ref. No.: 14-000015AP-88B
UCN: 522014AP000015XXXXCI**

**STATE OF FLORIDA, DEPARTMENT OF
HIGHWAY SAFETY AND MOTOR VEHICLES,**
Respondent.

ORDER AND OPINION

Petitioner challenges a final order of the Department of Highway Safety and Motor Vehicles (“Department”) suspending his license under § 322.2615(1)(a), Fla. Stat., alleging that the probable cause affidavit (“PCA”) was not properly completed because the attestation was inadequate. In reviewing the Department’s Order, this Court must determine (1) whether procedural due process has been accorded, (2) whether the essential requirements of law have been observed, and (3) whether the administrative findings and judgment are supported by competent substantial evidence. *See Vichich v. Department of Highway Safety and Motor Vehicles*, 799 So.2d 1069, 1073 (Fla. 2d DCA 2001). In the instant Petition, Petitioner only challenges the third prong, whether the administrative findings and judgments are supported by competent and substantial evidence.

The PCA was signed by Officer Ambriati and attested by Officer Bogart. At his license suspension hearing, Petitioner objected to the PCA on the ground that Bogart, the attesting officer, was not properly identified on it, because his signature was not legible, his name not

printed, his police identification number not given and, further, because he was not a notary. The Hearing Officer denied this objection and admitted the PCA.

Petitioner argues that the PCA was not properly sworn, and that, therefore, the Hearing Officer's reliance upon it departed from the essential requirements of the law. Petitioner's argument is meritless. The PCA was properly completed and attested. Both the arresting officer and the attesting officer signed the form. The absence of Bogart's printed name and ID number is not significant. As to the attestation itself, "law enforcement officers . . . are authorized to administer oaths when engaged in the performance of official duties" making the signature of a notary unnecessary. Fla. Stat. Ann. § 117.10 (West 2014). Bogart was acting in his official capacity as a law enforcement officer when he signed the PCA; therefore, the signature of a notary is unnecessary. Because the PCA was properly executed, it was proper for the Hearing Officer to admit the DUI Offense Report and suspend the Petitioner's driver's license.

Accordingly, it is

ORDERED AND ADJUDGED that Petitioner's Petition for Writ of Certiorari is DENIED.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, on this _____ day of _____ 2014.

Original order entered on July 25, 2014, by Circuit Judges Pamela A.M. Campbell, Amy M. Williams, and Jack Day.

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