

**NOT FINAL UNTIL TIME EXPIRES FOR REHEARING AND, IF FILED, DETERMINED  
IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

WILLIAM JOSEPH HAUGHEY,  
Petitioner,  
v.

Ref. No.: 17-000020-AP-88B  
UCN: 522017AP000020XXXXCI

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

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**ORDER AND OPINION**

Petitioner challenges a final order of the Department of Highway Safety and Motor Vehicles (“DHSMV”) permanently revoking his driver’s license under section 322.28(2)(d), Florida Statutes. For the reasons set forth below, the Petition for Writ of Certiorari is denied.

**Facts and Procedural History**

Petitioner was convicted of a New York Driving While Ability Impaired (“DWAI”) offense in 1992, two New York Driving While Intoxicated offenses in 1999 and 2003, and a Florida Driving Under the Influence (“DUI”) offense on March 31, 2017. On April 18, 2017, the DHSMV was notified of Petitioner’s 2017 DUI conviction and issued an Order of Revocation permanently revoking Petitioner’s driver’s license based on Petitioner having four DUI convictions. Petitioner then filed the instant Petition for Writ of Certiorari.

**Standard of Review**

“[U]pon first-tier certiorari review of an administrative decision, the circuit court is limited to determining (1) whether due process was accorded, (2) whether the essential requirements of the law were observed, and (3) whether the administrative findings and

judgment were supported by competent, substantial evidence.” *Wiggins v. Dep’t of Highway Safety & Motor Vehicles*, 209 So. 3d 1165, 1174 (Fla. 2017).

### Discussion

Petitioner contends that the DHSMV departed from the essential requirements of law by ordering a permanent revocation because a New York DWAI conviction is not similar enough to a Florida DUI conviction so as to qualify for the penalties under section 322.28(2)(d), Florida Statutes. Specifically, Petitioner maintains that a DWAI is not similar to a DUI because a DWAI is a traffic infraction punishable by a fine whereas a DUI is a criminal offense.

In Florida, a person can be convicted of a DUI “if the person is driving or in actual physical control of a vehicle within this state and . . . [t]he person is under the influence of alcoholic beverages . . . , when affected to the extent that the person's normal faculties are impaired.” § 316.193(1)(a), Fla. Stat. Correspondingly, the New York DWAI statute provides that “[n]o person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.” § 1192(1), N.Y. Veh. & Traf. Law. Section 322.28(2)(d), Florida Statutes, provides that the “driving privilege of a person who has been convicted four times for violation of section 316.193” shall be permanently revoked. In addition, “a conviction of driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or **any other similar alcohol-related or drug-related traffic offense outside this state** is considered a conviction for the purposes of this paragraph.” § 322.28(2)(d), Fla. Stat. (emphasis added).

After review of the applicable case law, the Court finds that the DHSMV did not depart from the essential requirements of law in determining that the New York DWAI is an alcohol-related traffic offense similar to a Florida DUI. *See Dawson v. Dep’t of Highway Safety & Motor*

*Vehicles*, 19 So. 3d 1001, 1003 (Fla. 4th DCA 2009) (declaring that all of the statutory elements of the New York DWAI statute are included in Florida's DUI statute); *Di Pietro v. State*, 992 So. 2d 880, 881-82 (Fla. 4th DCA 2008) (holding that a New York DWAI qualifies as "any other alcohol-related traffic offense" for the purpose of enhanced sentencing); *see also McAdam v. State*, 648 So. 2d 1244, 1245 (Fla. 2d DCA 1995) (holding that a Colorado DWAI was "sufficiently similar" to a Florida DUI to allow its use as a prior conviction).

### **Conclusion**

Because the DHSMV's Order of Revocation complied with the essential requirements of law, it is

**ORDERED AND ADJUDGED** that the Petition for Writ of Certiorari is **DENIED**.

**DONE AND ORDERED** in Chambers at St. Petersburg, Pinellas County, Florida, this

6<sup>TH</sup> day of November, 2017.

Original Order entered on November 6, 2017, by Circuit Judges Amy M. Williams, Pamela A.M. Campbell, and Thomas M. Ramsberger.

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