NOT FINAL UNTIL TIME EXPIRES FOR REHEARING AND, IF FILED, DETERMINED

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

DAVID EVAN PETERSON,
Petitioner,
vs.

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

UCN: 522019AP000074XXXXCI
REF NO.: 19-0074AP-88B

ORDER AND OPINION

Petitioner challenges a final order from the Department of Highway Safety and Motor Vehicles denying the reinstatement of his driving privilege. Upon review of the briefs, the record on appeal, and the applicable case law, this Court dispensed with oral argument pursuant to Florida Rule of Appellate Procedure 9.320. For the reasons set forth below, the Petition for Writ of Certiorari is denied.

Facts and Procedural History

In 2014, Petitioner's driving privilege was suspended for one year for refusing to submit to a breath test. In 2016, Petitioner completed a substance abuse course, but he did not complete the substance abuse treatment to which he was referred. Therefore, Respondent cancelled Petitioner's license. Approximately a year and a half later, Petitioner completed a driver improvement course. After Respondent did not reinstate the Petitioner's license based upon the completion of the driver improvement course, Petitioner requested an administrative show cause hearing. At the hearing, Petitioner argued that the completion of the driver improvement course mandated the reinstatement of Petitioner's driving privilege. However, the Hearing Officer

upheld the decision not to reinstate Petitioner's license. 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 he was denied due process and the "order and findings" departed from the essential requirements of law and is not supported by competent, substantial evidence. This Court has carefully considered all of those arguments, and we reject them without discussion. We write only to address the statutory interpretation issue.

Section 322.291(2), Florida Statutes, states in pertinent part that "any person" whose license is suspended for refusing to submit to a lawful breath, blood, or urine test

> shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course operating pursuant to s. 318.1451 or a substance abuse education course conducted by a DUI program licensed pursuant to s. 322.292, which shall include a psychosocial evaluation and treatment, if referred.

Petitioner asserts this language is unambiguous and clearly states that a person must present proof of enrollment in a department-approved advanced driver improvement course *or* a substance abuse education course. Petitioner maintains that because the plain language of the statute allows him to choose between a driver improvement course and a substance abuse course, he was free to go back and take the driver improvement course rather than completing the treatment he was referred to after the substance abuse course.

The polestar of statutory interpretation is legislative intent, which is to be determined by first looking at the actual language used in the statute. *Searcy, Denney, Scarola, Barnhart & Shipley v. State*, 209 So. 3d 1181, 1189 (Fla. 2017). If the statutory language is clear and unambiguous, a court may not resort to the rules of statutory construction and must give the statute its plain and obvious meaning. *Id.* The plain meaning does not control in interpreting statutes, however, when "this leads to an unreasonable result or a result clearly contrary to legislative intent." *Id.* (citations omitted).

Prior to 1999, the language of the statute (and other statutes involving drunk driving or reckless driving) only required a person to complete a driving improvement course or substance abuse education course. The Senate Staff Analysis and Economic Impact Statement of 1999 recommended requiring "a person convicted of reckless driving involving alcohol or drugs or convicted of DUI to be evaluated by a DUI program as to the need for substance abuse treatment. If treatment is recommended by the treatment provider and the person fails to report for or complete treatment, the department would be required to cancel the person's driving privilege." Central to this appeal, the Staff Analysis continued:

> Similarly, this conforming language would be added to s. 322.291, F.S., such that persons convicted of DUI or reckless driving, or persons who have had their drivers' licenses administratively suspended for driving with an unlawful blood alcohol level or for refusal to test for alcohol or drugs, would be required to present proof of enrollment in a substance abuse education course, as well as, participating in a psychosocial evaluation and treatment, if referred, before their driving privilege could be reinstated.

It is clear that the intention was that those who had their license suspended for refusal to test for alcohol or drugs would take the substance abuse course. "[A] literal interpretation of the language of a statute need not be given when to do so would lead to an unreasonable or ridiculous conclusion. . . . Such a departure from the letter of the statute, however, 'is sanctioned

by the courts only when there are cogent reasons for believing that the letter [of the law] does not accurately disclose the [legislative] intent.'" *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984) (citation omitted). Here, the Staff Analysis unmistakably indicates that the legislative intent was to require offenders such as Petitioner to take a substance abuse course and complete any recommended treatment prior to reinstatement of the driving privilege.

Conclusion

Based on the facts and analysis set forth above, 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, on this ____ day of _____, 2020.

Original Order entered on October 1, 2020, by Circuit Judges Pamela A.M. Campbell, Linda R. Allan, and Thomas M. Ramsberger.

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