

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

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY, FLORIDA
APPELLATE DIVISION

SCOTT RHODES,
Appellant,

v.

CASE NUMBER: 2020-CA-002639

CITY OF NEW PORT RICHEY,
Appellee.

On appeal from Final Administrative Order, Local Hearing Officer

Scott Rhodes, Appellant, *pro se*

Timothy Driscoll, Attorney for Appellee, City of New Port Richey

ORDER AND OPINION

THIS MATTER came before the Court on the Initial Brief,¹ filed by the Appellant on August 6, 2021, and the Answer Brief, filed by the Appellee on January 27, 2022.² The Appellant essentially argues that the Final Administrative Order upholding the red light camera violation is not supported by competent substantial evidence. The Court finds that, despite three notices directing the Appellant to the Florida Rules of Appellate Procedure, he failed to present a complete and adequate record on appeal, to include a transcript of the hearing, to review this issue.

The Final Administrative Order comes to this Court with a presumption of correctness and it is the Appellant's duty to provide the Court with a record on appeal to support its contention of reversible error. *See Applegate v. Barnett Bank of Tallahassee*, 377 So.2d 1150, 1152 (Fla. 1979)(explaining the decision of the trial court has the presumption of correctness and the burden is on appellant to demonstrate reversible error); *Kass Shuler, P.A. v. Barchard*, 120 So.3d 165, 168 (Fla. 2d DCA 2013)(holding that Circuit Court, sitting in its appellate capacity,

¹ Initial Brief is being used loosely here as it does not meet the requirements under the Florida Rules of Appellate Procedure, Rule 9.210.

² The Answer Brief was timely filed pursuant to the Order for Appellee, City of New Port Richey, to File an Answer Brief, entered January 10, 2022.

Filed For Record
Pasco County, Florida
2022 FEB 28 PM 4:19
Mikki Alvarez-Sowles
Clerk & Comptroller
Pasco County, Florida

was obligated to affirm order awarding attorney fees where appellant failed to provide transcripts of the hearings or approved statement of the evidence). The Court finds that the Appellant is unable to demonstrate reversible error.

Assuming, *arguendo*, that the Appellant did provide a complete and adequate record and the Final Administrative Order was quashed, the Court would have no authority to direct the Clerk of Court to refund the Petitioner his filing fee, or to direct the City of New Port Richey to reimburse the Appellant for the red light fine, as requested by the Appellant. *See Broward County v. G.B.V. International, LTD*, 787 So.2d 838, 844 (Fla. 2001)(finding that when an order is quashed it leaves the controversy pending as if no order had been entered and the parties stand upon the pleadings and proof as it existed when the order was entered).

Therefore, it is hereby

ORDERED AND ADJUDGED that the Final Administrative Order, rendered November 10, 2020, is hereby **AFFIRMED**.

DONE AND ORDERED in Chambers at New Port Richey, Pasco County, Florida this ____ day of _____, 2022.

Original Order entered on February 28, 2022, but Circuit Judges Susan Barthle, Daniel Diskey, and Lauralee Westine.

Copies furnished to:

Scott Rhodes

9202 Binnacle Drive, Apt 2321
Port Richey, FL 34668

Timothy P. Driscoll, Esq.

Driscoll Law Firm, P.A.
146 – 2nd Street North, Suite 310
Saint Petersburg, FL 33701-3361

Staff Attorney