

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO: 16-2021-AP-000004

DIVISION: AP-A

JACKSONVILLE SHERIFF'S OFFICE,
Petitioner,

v.

EVAN OTTE,
Respondent.

Petition for Writ of Certiorari from the decision of the Jacksonville Civil Service Board

June 13, 2024

PER CURIAM

The Jacksonville Sheriff's Office ("JSO") terminated Evan Otte for cause, effective immediately. Otte waived a hearing before a disciplinary hearing board, but filed a motion for back pay with the Jacksonville Civil Service Board. JSO objected, arguing that a terminated employee was not entitled to back pay. After a hearing, the Civil Service Board determined that Otte was entitled to back pay because his termination was the effective equivalent of an immediate suspension pending a hearing, and the first hearing he received was the one in front of the Board.

A decision of a local board or agency not subject to the Administrative Procedure Act is reviewable as a common-law petition for certiorari. Haines City Cmty. Dev. v. Heggs, 658 So. 2d

523, 530 (Fla. 1995) (citing De Groot v. Sheffield, 95 So. 2d 912 (Fla. 1957)). On certiorari review, this Court “is not entitled to reweigh the evidence or substitute its judgment for that of the agency.” Id. (citing Educ. Dev. Ctr., Inc. v. City of West Palm Beach Zoning Bd. of Appeals, 541 So. 2d 106, 108 (Fla. 1989)). Instead, this Court must apply the following three-part standard of review: (1) whether procedural due process is 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. Id. (citing City of Deerfield Beach v. Vaillant, 419 So. 2d 624, 625-26 (Fla. 1982)).

The only question before this Court is whether the Civil Service Board departed from the essential requirements of the law when it awarded back pay to Otte. A departure from the essential requirements of the law occurs when there is “a violation of a clearly established principle of law resulting in a miscarriage of justice.” Anchor Prop. and Casualty Ins. Co. v. Tesini, 319 So. 3d 129 (Fla. 3d DCA 2021) (quoting Lacaretta Rest. v. Zepeda, 115 So. 3d 1091, 1093 (Fla. 1st DCA 2013)). There is nothing clearly erroneous about the Board’s determination that Otte’s termination became effective after the hearing. Accordingly, JSO has failed to demonstrate reversible error and the Petition is **DENIED**.

COOPER, DEES, AND HEALEY, JJ., CONCUR.

Laura Boeckman, counsel for Petitioner

Tad Delegal, counsel for Respondent.

