

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

CASE NO: 16-2022-AP-7

DIVISION: AP-A

MICHAEL BLACKBURN,
Petitioner,

v.

DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES,
Respondent.

Petition for Writ of Certiorari from the decision of the State of Florida Department of Highway
Safety and Motor Vehicles

AUGUST 1, 2022

PER CURIAM.

Petitioner seeks certiorari review of the Department's decision to uphold the suspension of his driver's license. On certiorari review of an administrative action, this Court's standard of review is "limited to a determination of whether procedural due process was accorded, whether the essential requirements of the law had been observed, and whether the administrative order was supported by competent, substantial evidence." Dep't of Highway Safety and Motor Vehicles v. Luttrell, 983 So. 2d 1215, 1217 (Fla. 5th DCA 2008); see also Dep't of Highway Safety and Motor Vehicles v. Trimble, 821 So. 2d 1084, 1085 (Fla. 1st DCA 2002).

Petitioner refused to submit to a urine test after a DUI investigation. Petitioner does not challenge the validity of the investigation, but argues the suspension is invalid because he was not properly informed of the consequences he would face if he refused to consent to a urine test. Specifically, Petitioner argues he was not informed that he would be subject to an increased penalty for refusal if he had previously refused to submit to a test pursuant to section 327.35215, Florida Statutes.¹ Because Petitioner was warned of the consequences of his refusal—and in no way claims the omitted language affected his decision—the Department did not depart from the essential requirements of the law by upholding the suspension. See Dep’t of Highway Safety and Motor Vehicles v. Nader, 4 So. 3d 705, 709 (Fla. 2d DCA 2009). Accordingly, the Amended Petition is **DENIED** and the “Motion for Oral Argument” is **DENIED** as **MOOT**.

GUY, BEVERLY, and HEALEY, JJ., concur.

Susan Z. Cohen, Esq., counsel for Petitioner

Mark L. Mason, Esq., counsel for Respondent.

¹ Section 327.35215 details the penalties and procedures involving the refusal to consent to a test after being arrested for boating under the influence.