

IN THE CIRCUIT COURT FOR THE  
NINTH JUDICIAL CIRCUIT, IN  
AND FOR ORANGE COUNTY,  
FLORIDA

CASE NO.: 2013-CA-11063-O  
Writ No.: 13-76

ZACHARY WYATT GAMBLE,

Petitioner,

v.

STATE OF FLORIDA, DEPARTMENT  
OF HIGHWAY SAFETY & MOTOR  
VEHICLES, BUREAU OF DRIVER  
IMPROVEMENT,

Respondent.

---

Petition for Writ of Certiorari  
from the Florida Department of  
Highway Safety and Motor Vehicles,  
Karsona Atkinson, Hearing Officer.

Matthews R. Bark, Esquire,  
for Petitioner.

Kimberly A. Gibbs, Assistant General Counsel,  
for Respondent.

BEFORE POWELL, G. ADAMS, MIHOK, J.J.

PER CURIAM.

**FINAL ORDER DENYING PETITION FOR WRIT OF CERTIORARI**

Petitioner Zachary Gamble seeks certiorari review of a hearing officer's final order sustaining the suspension of his driver's license after a formal hearing. This Court has jurisdiction pursuant to section 322.2615(13), Florida Statutes and Florida Rule of Appellate Procedure 9.030(c)(3).

Petitioner contends that the arresting officer's probable cause affidavit was not sufficient competent evidence to support the hearing officer's decision. He argues that the affidavit contained only conclusions without supporting facts, and that it did not establish that the officer was acting within his territorial jurisdiction when he arrested petitioner for DUI.

Petitioner's argument is not well taken. See the recent case of *Dep't of Highway Safety & Motor Vehicles v. Colling*, 5D13-3755, 2014 WL 2532406 (Fla. 5th DCA 2014). There, the court held that where an under-aged motorist is charged with DUI, an appellate court's review of a hearing officer's final order is confined to three and only three issues: age, control of a vehicle and alcohol level. The hearing officer is not authorized to determine whether the officer was acting within his territorial jurisdiction.

There was substantial competent evidence in the record – Petitioner's driver's license and the probable cause affidavit – to support the hearing officer's findings on each of the three necessary issues.

Accordingly, the Petition for Writ of Certiorari is **DENIED**.

**DONE AND ORDERED** in Chambers at Orlando, Orange County, Florida, this 26th day of June, 2014.

/S/ \_\_\_\_\_  
**ROM W. POWELL**  
**Presiding Circuit Judge**

G. ADAMS and MIHOK, J.J., concur.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished to:  
**Matthews R. Bark, Esq.**, 999 Douglas Avenue, Ste. 3317, Altamonte Springs, Florida 32714;  
**Kimberly A. Gibbs, Assistant General Counsel**, Department of Highway Safety and Motor  
Vehicles, P.O. Box 570066, Orlando, Florida 32857 on this 27<sup>th</sup> day of June, 2014.

/S/ \_\_\_\_\_  
Judicial Assistant