

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

JEREMY HONIS,
Petitioner,

CASE NO.: 2008-CA-17544
WRIT NO.: 08-47

vs.

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

_____/

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

William R. Ponall, Esquire,
for Petitioner.

Jason Helfant, Assistant General Counsel,
for Respondent.

Before POWELL, SHEA, THORPE, J.J.

PER CURIAM.

FINAL ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioner Jeremy Honis timely filed this petition seeking certiorari review of the Florida Department of Highway Safety and Motor Vehicles' (Department) Final Order of License Suspension, sustaining the revocation of his driver's license for a period of ten years pursuant to sections 322.24 and 322.28, Florida Statutes. This Court has jurisdiction pursuant to section 322.31, Florida Statutes, and Florida Rule of Appellate Procedure 9.030(c)(1)(C). We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320.

On April 8, 2008, Petitioner was convicted for the offense of driving under the influence on January 18, 2008, and the county court suspended Petitioner's license for a period of five years. On April 25, 2008, the Department issued an order of license revocation revoking Petitioner's license for a period of ten years explaining that the conviction for the offense committed on January 18, 2008, was Petitioner's third conviction for driving under the influence. Pursuant to section 322.271(1)(a), Florida Statutes, Petitioner requested and was granted a formal review hearing. On June 4, 2008, the hearing officer held a formal review hearing at which Petitioner was represented by counsel. At the hearing, Petitioner asserted that the Department did not have authority to impose a revocation period after the county court had done so. He also asserted that the offense of driving while ability impaired in New York was not the equivalent of driving under the influence in Florida; therefore, it could not support a revocation for ten years. On June 16, 2008, the hearing officer entered an order denying Petitioner's motions and sustaining the revocation of his driver's license for a period of ten years finding that no evidence was provided to prove that Petitioner was not charged with the offense that caused the suspension. Petitioner timely seeks certiorari review by this Court.

Petitioner asserts that pursuant to section 322.28, Florida Statutes, the Department was bound by the county court's determination of the shorter revocation period. We disagree. *See Dep't of Highway Safety & Motor Vehicles v. Vogt*, 489 So. 2d 1168 (Fla. 2d DCA 1986)(county court has no authority to make a determination, binding upon the Department, as to the number of a defendant's prior convictions counted by the Department for the purpose of determining the length of his administrative driver's license revocation).

We also reject Petitioner's other argument, which is that the New York conviction for "driving while ability impaired" could not be counted as his third similar alcohol-related offense

