

**IN THE CIRCUIT/COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL APPEALS DIVISION**

SPIROS CONSTANTINOS PAIZES
Appellant

APPEAL NO: 23-CA-12145
DIV. K

VS

STATE OF FLORIDA
Appellee

COUNTY NO: 23-TR-5347
DIV.

MANDATE

THIS CAUSE having been brought to the circuit court by appeal, and after due consideration, the court having entered its Order and Opinion, which was filed on November 20, 2024.

The Judgment of the County Court Civil Division is hereby **Reversed and Remanded**.

Pursuant to Florida Rules of Appellate Procedure 9.340, the Clerk hereby issues this **MANDATE** and furnishes copies to all parties.

Witness my hand and the seal of this Court at Hillsborough County, Florida, dated on this the 6th day of December, 2024.

Cindy Stuart
Clerk of Circuit Court

23-CA-012145, 12/6/2024 1:28 PM

Kathleen Dixon

Deputy Clerk

23-CA-012145, 12/6/2024 1:28 PM



**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR THE STATE OF FLORIDA
CIVIL APPEAL**

SPIROS CONSTANTINOS PAIZES,

Appellant,

vs.

Case No.: 23-CA-12145
Division K
Traf. Ct. Case No.: 23-TR-5347
Citation No. AGD50KE

STATE OF FLORIDA,

Appellee.

On review of a decision of the Traffic Court
for Hillsborough County, Florida.
Traffic Court Hearing Officer Joseph Frank.

OPINION AND ORDER

This matter is before the Court on appeal from an order concerning a traffic citation for failure to yield to a public transit vehicle in violation of Florida Statute Section 316.0815(1). Following an evidentiary hearing on March 28, 2023, the defendant, Spiro Constantinos Paizes, proceeding *pro se*, was found to have committed the infraction beyond a reasonable doubt. On appeal, Appellant principally contends that the evidence was insufficient to support a finding of guilt; that the stop violated his constitutional rights; and that the proceedings before the traffic hearing officer fell below due process standards.

This Court has appellate jurisdiction. *See* Art. V., § 5(b), Fla. Const.; § 318.33, Fla. Stat. (2023). Because the proof adduced at the evidentiary hearing did not support the finding that Appellant committed the traffic infraction with which he was cited, the decision of the hearing officer is reversed.

I. Factual Background.¹

On January 21, 2023, Spiro Constantinos Paizes (“Paizes” or “Appellant”) was driving in downtown Tampa on his way to visit the Florida Aquarium. He was accompanied by his wife, his disabled mother-in-law, and a friend who had turned 70 years old that day. The visit to the Aquarium was part of the birthday celebration. (P103-P105.)²

The Florida Aquarium is located off Channelside Drive, adjacent to Port Terminal 2 in downtown Tampa. On the morning of Paizes’s visit, the entry to the Aquarium’s driveway was temporarily closed while a cruise ship was in the process of disembarking. During that time, the public could not gain access to the Aquarium’s driveway unless and until a police officer directing traffic nearby would grant such access. (P19, P66-P68.)

As Paizes approached the entrance to the Aquarium that morning, he encountered a uniformed police officer directing traffic in the road, positioned at the left-turn median where Paizes was waiting to turn. Paizes asked the officer through his driver’s side window where he could go to drop off his disabled mother-in-law closer to the Aquarium before parking the car. (P66.) The officer, later identified as Deputy Ortiz, advised Paizes to turn left into the driveway, which would allow Paizes to pull up directly in front of the Aquarium. The officer’s directions would require Paizes to cross a lane of traffic, and also the tracks on which the Hillsborough Streetcar (hereinafter, “streetcar” or “trolley”) runs in a loop throughout downtown Tampa.

¹ The facts are drawn from testimony and evidence submitted at the hearing, including video footage of the scene, also admitted into evidence.

² Unless otherwise indicated, references are to the paginated numbers contained in the original record on appeal.

As Paizes proceeded in the direction in which Deputy Ortiz motioned, another officer standing on the driveway side of the tracks moved forward, put her hands up, and signaled for Paizes to stop. Paizes complied with the officer's command and stopped in the road some distance from the tracks. (P55, P117.) Following this, the streetcar passed between Paizes's car and where the officer was standing on the other side of the tracks. Once the streetcar passed, Paizes proceeded into the parking lot as directed by Deputy Ortiz.³

According to the record and testimony, a heated exchange between Paizes and the officer followed. Paizes admonished the officer—identified as Corporal Desirae Krouse—for being “rude.” Paizes and his passengers testified that this prompted Corporal Krouse to angrily yell something along the lines of “that’s it, you’re done,” which was followed by a demand for Paizes’s license. Both Paizes’s mother-in-law and his friend testified that Corporal Krouse’s behavior, including considerable “screaming” and “yelling,” left them upset and fearful. (P103-P105.)

Following the exchange, Corporal Krouse cited Paizes for failure to yield under Florida Statute Section 316.0815(1), a noncriminal traffic infraction. That statutory provision provides:

316.0815. Duty to yield to public transit vehicles

(1) The driver of a vehicle shall yield the right-of-way to a publicly owned transit bus traveling in the same direction which has signaled and is reentering the traffic flow from a specifically designated pullout bay.

³ Deputy Ortiz did not testify at the hearing. The account of the exchange between Paizes and Deputy Ortiz is drawn from Paizes’s testimony, and the affidavits submitted by Margaret O’Neill and Dolores Konior, two passengers in the car. Such affidavits are admissible under applicable rules of procedure governing traffic infraction hearings. *See* Fla. R. Traf. Ct. 6.150(b) (allowing a defendant in a civil infraction case to offer evidence of other witnesses through use of one or more affidavits).

(2) This section does not relieve the driver of a public transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

§ 316.0815, Fla. Stat. In the comments section of the citation, Corporal Krouse added:

FAILURE TO YIELD TO PUBLIC TRANSIT VEHICLES.
FAILED TO YIELD TO TROLLEY DESPITE MULTIPLE LAW
ENFORCEMENT OFFICERS DIRECTING HIM TO STOP,
NEARLY CAUSING A COLLISION W/PASS IN VEH.

(P98.)

Paizes requested a hearing before a hearing official pursuant to Florida Statute Section 318.14. In addition, at some point after receiving the citation, but before the hearing, Paizes filed a complaint with the Hillsborough County Sheriff's Office concerning the incident. According to the record, an internal affairs investigation was opened prior to the traffic infraction hearing.

II. Trial Court Proceedings.⁴

The hearing took place on March 28, 2023 before Traffic Court Hearing Officer Joseph Frank. Three law enforcement witnesses testified on behalf of the State, including Corporal Krouse, Deputy Natalie Niemann ("Deputy Neimann"), and Deputy Demetrios Antoniadis ("Deputy Antoniadis"). Paizes appeared *pro se* and presented both testimonial and documentary evidence.

⁴ Appellants are responsible for producing the record of the hearing beyond that which normally results from the civil traffic infraction hearing process. *See* § 318.33, Fla. Stat. (2023). Paizes made an audio recording of the hearing and had it transcribed by a certified court reporter. (P78.) The 75-page hearing transcript—which has been made part of the appellate record—includes the reporter's notation that the sound quality was "poor at times." (P16). Further, there are several places in the transcript where words are missing as "inaudible." Those portions of the transcript do not affect the analysis herein.

At the hearing, Corporal Krouse testified that Paizes failed to yield to the streetcar. Specifically, Corporal Krouse testified that Paizes’s vehicle “continued to move until the trolley had come to a stop violating its right-of-way.” (P19-P20.) In response to this testimony, Paizes presented a video, obtained through a public records request,⁵ that showed the views from the streetcar’s forward-facing and rear-facing dashcams. (P99-P101.) As discussed further below, the video contradicted Corporal Krouse’s testimony.

In addition, during the hearing, each of the three testifying law enforcement officers refused to answer a number of questions posed by Paizes, citing the then-active internal affairs investigation being conducted by the Hillsborough County Sheriff’s Office. (P59-60.) Each objection Paizes raised in this regard was overruled by the Hearing Officer. Further, in the course of their testimony, the officers were essentially permitted to pick and choose which of Paizes’s questions they would answer, and which they would not.

Paizes argued other constitutionally-based points of law at the hearing. First, he argued that the traffic stop was unlawful as retaliatory because it violated his First Amendment rights under the federal and Florida Constitutions. In this regard, Paizes claimed that the only reason Corporal Krouse pulled him over and cited him was because Paizes exercised his First Amendment right to tell Corporal Krouse that “there [was] no need to be rude.” Paizes further argued that Corporal Krouse lacked probable cause to stop him in the first instance because he did not, in fact, fail to yield to the trolley.

At the conclusion of the hearing, the Hearing Officer found that the citation was proven beyond a reasonable doubt. (P76.) Following the pronouncement of the decision, Paizes moved for a withholding of adjudication, which the Hearing

⁵ The video shows Hillsborough Streetcar Number 430, which was traveling south at the traffic circle at 9:12 a.m., driven by motorman Ralph Rosado. (P117.)

Officer granted. The court ordered Paizes to pay the amount of the citation. (P76-P77.) Paizes timely appealed.

III. Standard of Review.

Florida Statute Section 318.33 provides that appeals of traffic infractions “shall be based upon the record of the hearing before the hearing officer and shall not be hearings de novo.” *See* § 318.33, Fla. Stat. While a noncriminal traffic infraction is civil in nature; *see State v. Islam*, 352 So. 3d 956, 959 (Fla. 2d DCA 2022) (Atkinson, J., dissenting), some concepts from the criminal law realm surround the adjudication of noncriminal traffic infractions. For example, traffic hearing officers are “empowered to accept pleas from and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction and shall be empowered to adjudicate or withhold adjudication of guilt” § 318.32(1), Fla. Stat. Further, the commission of a charged infraction at a hearing under Chapter 318 must be proved “beyond a reasonable doubt.” § 318.14(6).

Stated generally, a sufficiency of the evidence standard of review is employed in the criminal context. *See, e.g., Melton v. State*, 317 So. 3d 292, 297 (Fla. 2d DCA 2021). Under this standard, the court looks to whether the State presented competent, substantial evidence to support the judgment. *Id.* Likewise, in the civil context, the reviewing court must determine whether the findings and judgment are supported by competent, substantial evidence. *See, e.g., Wiggins v. Fla. Dep't of Highway Safety & Motor Vehicles*, 209 So. 3d 1165, 1170 (Fla. 2017).

Relevant here, where video evidence is in the record, the reviewing court is in the same position to review it as the hearing officer. *See O.W. v. State*, 357 So. 3d 283, 284 (Fla. 2d DCA 2023) (citing *State v. Monroe*, 280 So. 3d 499, 503 (Fla. 2d DCA 2019)). Evidence that is contradicted and negated by video evidence of

record cannot be considered competent or substantial. *See Wiggins*, 209 So. 3d at 1166.

IV. Analysis.

Florida Statute Section 316.0815(1)—the statute Paizes was cited for violating—provides, in pertinent part, that “[t]he driver of a vehicle shall yield the right-of-way to a publicly owned transit bus traveling in the same direction which has signaled and is reentering the traffic flow from a specifically designated pullout bay.” § 316.0815(1), Fla. Stat. (2023).⁶ Upon review of the testimony and evidence presented, the Court finds that no competent, substantial evidence supports the Hearing Officer’s finding of guilt with respect to the infraction cited.

First, the plain language of the statute⁷ pertains to transit buses attempting to reenter traffic from a pullout bay. This case neither involved a public transit bus, nor any other type of vehicle “attempting to reenter traffic from a pullout bay.” Rather, the vehicle to which Paizes was cited for failing to yield was a streetcar, or trolley, that moves on a continuous track. As depicted in the video, the trolley was neither emerging from a pullout bay nor attempting to “reenter” the traffic flow.

Second, the statute contemplates a situation in which the driver of the vehicle is traveling in the same direction as the public transit bus and fails to yield. Here, even if the streetcar could fall within the definition of a “publicly owned transit bus” under the statute,⁸ Paizes was not traveling in the same direction as the

⁶ No reported case decisions involve this statutory provision.

⁷ “Courts must afford statutory language ‘its plain and ordinary meaning, giving due regard to the context within which it is used.’” *Mesen v. State*, 271 So. 3d 164, 167 (Fla. 2d DCA 2019) (quoting *Hampton v. State*, 103 So. 3d 98, 110 (Fla. 2012)).

⁸ The statute’s title, “[d]uty to yield to public transit vehicles,” does not specify which type of public “transit vehicle” falls within the statute’s reach. In this

streetcar; rather, his car was traveling in a perpendicular direction with respect to the streetcar. (See P21-22, Dep. Antoniadis: “Traffic at that location runs east and west and [Paizes’s] vehicle was facing north and south, facing southbound.”)⁹

Finally, it is plain from the video that Paizes did, in fact, yield to the streetcar. In this regard, the video contradicts the testimony of Corporal Krouse. (See P19, P38, P45, P55-P57.) Most significant, the video shows that Paizes both obeyed Corporal Krause’s command and yielded to the streetcar. Both Deputy Neimann and Deputy Antoniadis testified in accordance with what the video depicted; that is, they both confirmed that Paizes did not fail to yield. (P55, P64.)

regard, the Court notes the general maxim that it is the language of the provision, as opposed to the title, that must be examined and construed. *See, e.g.*, Art. 10, § 12(h), Fla. Const. (“Titles and subtitles shall not be used in construction.”) In this case, the text of the statute uses the term “transit bus” and the context suggests that such term would not encompass the trolley at issue here.

⁹ Under the supremacy-of-text principle employed herein, the words of the statute are paramount in relation to the statute’s legislative intent. However, in this regard, it bears noting that the relevant legislative history surrounding Section 316.0815 supports the conclusion, as it contemplates a specific scenario concerning buses operating in the general traffic flow:

Section 9. Public Transit Buses/Right-of-Way: A number of transit systems are trying to use “pull-out bays,” which are passenger loading areas along the sides of roadways, to get publicly owned transit buses out of the traffic flow when stopping to load passengers. Under current traffic laws, a bus that has pulled into a pull-out bay must wait for all vehicles to pass before returning to the traffic flow. This makes it difficult for the bus to reenter traffic and continue on its route. This bill creates s. 318.0815, F.S., to provide that the driver of another vehicle must yield the right of way to a publicly owned bus that has signaled and is reentering the traffic flow from a designated bus pull-out bay. A violation of this section would be a noncriminal traffic infraction classified as a moving violation

Fla. Staff Analysis, H.B. 591, 7/16/1999.

In this regard, the testifying law enforcement officers placed considerable emphasis on Paizes's motivation for yielding. Specifically, the law enforcement officers offered their opinions that Paizes stopped only because Corporal Krouse raised her hands and signaled for him to do so. In response, Paizes argued that his motivation for yielding was irrelevant; that is, so long as he did yield, he cannot be found guilty of the infraction regardless of the reason that he stopped and yielded to the trolley. The Court agrees with Paizes. To conclude otherwise would lead to an absurd result.

In sum, with respect to the statute's plain language, no competent substantial evidence was presented to support a finding that Paizes committed the infraction with which he was charged. Because there is no evidence in the record to support the hearing officer's adjudication of guilt, reversal is required.

V. Conclusion.

Based on the foregoing, no competent, substantial evidence supports the Hearing Officer's finding of guilt with respect to the infraction charged. The judgment of guilt is therefore **REVERSED** and the case is remanded for entry of judgment consistent with this opinion.

DONE and ORDERED in Tampa, Hillsborough County, Florida, on this day of November, 2024.

23-CA-012145 11/20/2024 2:27:03 PM
Lindsay Alvarez
23-CA-012145 11/20/2024 2:27:03 PM

**HONORABLE LINDSAY M. ALVAREZ
CIRCUIT JUDGE**

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