

April 5, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

SUMMARY ORDER

SUBJECT: King County For-Hire Licensing file no. **IRISH-2019**

ROBERT IRISH

For-Hire Driver Enforcement Appeal

Permit no.: n/a

Appellant: Robert Wayne Irish
represented by **Scott Leist**
PO Box 1856
Issaquah, WA 98027
Telephone: (206) 219-5557
Email: scott@washingtontrafficdefense.com

King County: King County For-Hire Licensing
represented by **Tyson Taylor**
500 Fourth Avenue Room 403
Seattle, WA 98104
Telephone: (206) 263-1373
Email: ttaylor@kingcounty.gov

(Before beginning, we note that while standards for reviewing County for-hire license applications in many respects overlap with the standards for reviewing Seattle for-hire license applications, there are substantive differences. What we write today covers only for-hire licenses to pick up passengers in the County, not for-hire licenses to pick up passengers within Seattle city limits.)

Denials of licenses to pick up passengers in King County under KCC 6.64.600.B are *discretionary*, with a legal standard of “may deny.” When such denials are appealed to us, we are anything but a rubber stamp. We provide an appellant with a full opportunity to present a case at a live

hearing. We listen to all the testimony, read all the documents, and undertake a thorough balancing of all the factors. We accord the County no deference. Exam. R. XV.F.3. Not infrequently, we overturn the County portion of the denial, even sometimes where Seattle has previously affirmed denial of the Seattle portion of a dual license.¹

However, denials under KCC 6.64.600.A are *mandatory*, with a legal standard of “shall deny.” The pertinent subsection today is A.3, which requires denial where the applicant has “had, within five years of the date of application, a criminal conviction...for a crime pertaining to...reckless driving.” For a triggering conviction, there is no balancing. We have no discretion to consider mitigating factors or to do anything other than deny the appeal. As we recognized in our most recent decision involving an A.3 conviction, the appellant:

discharged the obligations stemming from his conviction. In fact, he paid his court fines the very day he pled guilty. [The County] did not report any other tickets or infractions. [Appellant] drove provisionally for Lyft for two months without incident or complaint, and received good reviews. He has learned how to conduct himself. And he works hard to shoulder the load of supporting his family, including two infirmed parents.

[Appellant] struck us as a responsible, hard-working young man unlikely to repeat his past mistake. That would be relevant if we were considering [an] appeal under one of the discretionary denial bases (“may deny”). In such scenarios, we balance various facts before arriving at a decision. However, our code...is clear that for certain convictions denial is mandatory (“shall deny”) for a set number of years.

After explaining why denial was mandatory, we observed:

That is harsh, and it is unfortunate that [Appellant’s] one bad decision has such painful consequences for him and his family. It is also the law. We have no discretion to consider mitigating factors or to do anything other than deny his appeal.²

Here, Mr. Irish does not dispute that he was convicted of reckless driving on December 22, 2016. Per County law, he may not re-apply for a County for-hire driver’s license until December 23, 2021. (Seattle law has a different standard.)

One benefit of the hearing examiner process is giving appellants their “day in court,” an opportunity to tell their stories and be heard and understood. But after having to affirm a denial on yet another A.3. conviction, we have been troubled more about the downside. By scheduling the hearing, we may be providing false hope that we might reach a different result. Such appellants have to take off work, fight downtown Seattle traffic, pay for parking, and go through

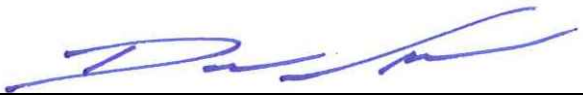
¹ See, e.g., https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2018/65547_Ahmed.ashx?la=en.

² https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2019/KHAIRZADA-2018_Khairzada.ashx?la=en.

the emotional turmoil of reliving a life-upending experience, when at the end of the proceeding our only option in the face of a qualifying conviction is to sustain the denial.

We are sending a copy of this order to the counsel Mr. Irish listed in his appeal statement; Mr. Irish should consider discussing it with his counsel. If for some reason we have misunderstood the situation, by **May 6, 2019**, Mr. Irish or his counsel may file a motion for reconsideration explaining why we should not be dismissing this appeal. Filing a timely motion for reconsideration postpones the deadline (described below the signature line) for lodging an appeal.

DATED April 5, 2019.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless appealed to superior court by *May 6, 2019*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

DS/ld

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CERTIFICATE OF SERVICE

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ROBERT IRISH
For-Hire Driver Enforcement Appeal

I, Liz Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **SUMMARY ORDER** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED April 5, 2019.



Liz Dop
Legislative Secretary

Cantu, Eddie

King County For-Hire Licensing

Irish, Robert Wayne

Hardcopy

Kham, Joanna

Finance and Admin Svcs, Consumer Protection Div

Leist, Scott

Washington Traffic Defense

Hardcopy

MacLeod, Cherie

Finance and Admin Svcs, Consumer Protection Div

Megow, John

Finance and Admin Svcs, Consumer Protection Div

Shapiro, Ken

Finance and Admin Svcs, Consumer Protection Div