

March 22, 2019

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

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**REPORT AND DECISION**

SUBJECT: King County For-Hire Licensing file no. **KHAIRZADA-2018**

**ABDUL KHAIRZADA**

For-Hire Driver Enforcement Appeal

Appellant: **Abdul Wares Khairzada**  
14390 NE 14th Street  
Bellevue, WA 98007  
Telephone: (206) 949-9695  
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King County: King County For-Hire Licensing  
*represented by* **Tyson Taylor**  
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Overview

1. This is a sad case. Not long after arriving in this country, Abdul Khairzada was charged with driving under the influence. He pled guilty to first-degree negligent driving. King County For-Hire Licensing (Licensing) later denied his for-hire driver's license. Because Mr. Khairzada's conviction was for crime in the category where license denial is mandatory, we must **DENY** his appeal.

Background

2. Abdul Khairzada worked with U.S. representatives in Afghanistan for seven years, before coming here on a special immigration visa in 2017. Not very familiar with our laws or alcohol, in August 2017 he had some beer and got behind the wheel. He was pulled over by the police and arrested.

3. In February 2018, he was charged with driving while under the influence, a felony. In July 2018, he pled guilty to a reduced charge of first-degree negligent driving, a misdemeanor. According to his written plea statement, he “operated a motor vehicle in a negligent manner, likely to endanger property while exhibiting the effects of consuming alcohol, to wit failing to maintain my lane of travel.” Ex. 2 at 019.
4. In December 2018, Lyft applied for a dual, Seattle/County for-hire license on Mr. Khairzada’s behalf. Licensing reviewed his record and denied his dual application later that month. Ex. 4. Although Licensing issued a single denial order, because of the way the current codes are written, Mr. Khairzada had to (and did) separately appeal different portions of that order. Seattle heard the Seattle portion of his appeal in January 2019 and denied his appeal in February 2019. Ex. 8.
5. We heard the County portion of the appeal on March 8. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

### Analysis

6. For those matters or issues raised in an appeal statement, Licensing bears “the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.” KCC 20.22.080.G; .210. Unless directed to by law—and no special directive applies here—the examiner does not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. Ours is a *de novo* hearing, so we sit in the same position as Licensing.
7. Mr. Khairzada successfully completed Alcohol Drug Information School and otherwise discharged the obligations stemming from his conviction. Ex. 6 & 7. In fact, he paid his court fines the very day he pled guilty. Ex. 2 at 019; Ex. 7. Licensing did not report any other tickets or infractions. Mr. Khairzada 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.
8. Mr. Khairzada struck us as a responsible, hard-working young man unlikely to repeat his past mistake. That would be relevant if we were considering a Licensing 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 (along with Seattle’s) is clear that for certain convictions denial is *mandatory* (“shall deny”) for a set number of years.
9. KCC 6.64.600.A.3 requires that the Licensing director—or the examiner, standing in the director’s place—must deny a for-hire driver license application if the applicant has “had, within five years of the date of application, a criminal conviction...for a crime pertaining to...driving under the influence of alcohol.” Unfortunately, for Mr. Khairzada, first-degree negligent driving is a crime pertaining to driving under the influence of alcohol.<sup>1</sup>

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<sup>1</sup> There are not many crimes on that list. The only other two we are aware of are Driving under the Influence, RCW 46.61.502, and Physical Control of Vehicle under the Influence, RCW 46.61.504. We do not necessarily even add Driver

“A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and *exhibits the effects of having consumed liquor...*” RCW 46.61.5249(1)(a) (emphasis added). Mr. Khairzada agreed he drove in a negligent manner, while exhibiting the effects of consuming alcohol. Ex. 2 at 019. As we have ruled in every first-degree negligent driving case to reach us, denial is mandatory.<sup>2</sup>

10. That is harsh, and it is unfortunate that Mr. Khairzada’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.

### The Future

11. We offer two forward-looking thoughts.
12. First, Mr. Khairzada is remorseful, not wanting to be considered a criminal, especially in the eyes of his friends and family. We observed that a misdemeanor is certainly a crime, but it is in the most minor crime category, behind Class A felonies, Class B felonies, Class C felonies, and gross misdemeanors. RCW 9A.20.010. Any conviction related to driving carries special weight in the for-hire driving context, but outside the driving arena, a nonviolent misdemeanor is the least severe crime.
13. If he keeps his record clean, Mr. Khairzada would appear to be eligible to have his conviction removed three years after his criminal case closed.<sup>3</sup> The Office of Public Defense has begun a pilot project, in conjunction with the King County Prosecuting Attorney’s office, to provide assistance to people eligible to have their (non-violent) conviction removed.<sup>4</sup> So Mr. Khairzada “should not be forced to carry that mark forever.”<sup>5</sup>
14. The second point relates to how long, post-conviction, Mr. Khairzada is prevented from re-applying for a for-hire license driver’s. The below discussion would be relevant even if he is not able to get his 2018 conviction removed from his record.
15. In Seattle, denial is *mandatory* for three years (i.e. until July 31, 2021). SMC 6.310.430.A.3. In years four and five (i.e. between July 31, 2021, and July 30, 2023), Seattle denial is

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under Twenty-one Consuming Alcohol or Marijuana, RCW 46.61.503; although that requires proof of driving after consuming alcohol, it does not seem to require proof that the alcohol actually influenced the driver.

<sup>2</sup> See [https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2018/17500\\_Kumar.ashx?la=en](https://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2018/17500_Kumar.ashx?la=en); [https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2017/19788\\_67108\\_Gurmu.ashx?la=en](https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2017/19788_67108_Gurmu.ashx?la=en); [https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2017/18179\\_Lemeta\\_Report.ashx?la=en](https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2017/18179_Lemeta_Report.ashx?la=en); and [https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/63920\\_Mutlu\\_Report.ashx?la=en](https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/63920_Mutlu_Report.ashx?la=en).

<sup>3</sup> A case is considered “closed” when the person completes all the terms of the sentence, including all financial obligations, such as court fines. Mr. Khairzada completed his require driving course in March 2018 and paid his court costs on July 30, 2018, meaning July 31, 2021, would open the eligibility window.

<sup>4</sup> Mike Carter, Unit Opens to Help King County Felons Vacate Their Old Convictions, Seattle Times, Mar. 12, 2019, at B.2.

<sup>5</sup> *Id.*

*discretionary*, SMC 6.310.430.B.1, meaning that his conviction would still be relevant to the review of a for-hire license application, but the review would balance a variety of factors, especially his overall driving record. Barring some new violation, after July 31, 2021, there would be no outright prohibition on him reapplying for a for-hire driver's license to pick up passengers in Seattle.

16. As County law stands now, denial is mandatory for five years, meaning he could not reapply for a for-hire driver's license to pick up passengers in the rest of the County until July 31, 2023. However, as we understand it, the County code is in the process of being revamped. The County's law might be amended to conform to Seattle's. If so, a dual for-hire driver's license might be a possibility after July 31, 2021.

### Decision

17. We DENY Mr. Khairzada's appeal.

ORDERED March 22, 2019.




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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 *April 22, 2019*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

### **MINUTES OF THE MARCH 8, 2019, HEARING IN THE APPEAL OF ABDUL KHAIRZADA, KING COUNTY FOR-HIRE LICENSING FILE NO. KHAIRZADA-2018**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Tyson Taylor, Abdul Khairzada, and Susan Malakooti.

The following exhibits were offered and entered into the record:

- |               |   |
|---------------|---|
| Exhibit no. 1 | King County For-Hire Licensing staff report to the Hearing Examiner           |
| Exhibit no. 2 | King County District Court case no. 7Z1007551 records                         |
| Exhibit no. 3 | RCW 46.61.5249  |
| Exhibit no. 4 | Notice and order of for-hire driver's permit denial, issued December 28, 2018 |
| Exhibit no. 5 | Appeal, received January 7, 2019  |

- Exhibit no. 6           Alcohol Drug Information School Certificate of Completion, dated March 24, 2018
- Exhibit no. 7           Receipt for \$1,000.50 payment to Seattle District Court, dated July 30, 2018
- Exhibit no. 8           Seattle Decision on Appeal, dated February 5, 2000 19<sup>th</sup>

DS/vsm

March 22, 2019

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**CERTIFICATE OF SERVICE**

SUBJECT: King County For-Hire Licensing file no. **KHAIRZADA-2018**

**ABDUL KHAIRZADA**  
For-Hire Driver Enforcement Appeal

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** 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 March 22, 2019.

*Vonetta Mangaoang*

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Vonetta Mangaoang  
Senior Administrator

**Cantu, Eddie**

King County For-Hire Licensing

**Clegern, Charles**

Hardcopy

**Khairzada, Abdul Wares Mr.**

Hardcopy

**Kham, Joanna**

Finance and Admin Svcs, Consumer Protection Div

**Lundin, Diana**

Lundin Law PLLC

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

**Taylor, Tyson**

King County For-Hire Licensing