

Taxi & Limousine Comm'n v. Zheng

OATH Index No. 646/26 (Nov. 18, 2025), *adopted*, Comm'r Dec. (Nov. 20, 2025), **appended**

Petitioner suspended respondent's TLC license based on his arrest for an off-duty incident. At a post-suspension hearing, petitioner failed to establish that respondent's continued licensure pending the outcome of the criminal charges poses a direct and substantial threat to public health or safety. ALJ recommends lifting the suspension of respondent's license.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
TAXI AND LIMOUSINE COMMISSION
Petitioner
- against -
NUOMING ZHENG
Respondent

REPORT AND RECOMMENDATION

ASTRID B. GLOADE, *Administrative Law Judge*

Petitioner, the Taxi and Limousine Commission ("TLC"), commenced this summary suspension proceeding against respondent, Nuoming Zheng, holder of a TLC driver license, pursuant to the Commission's rules, title 35 of the Rules of the City of New York ("RCNY"), and the New York City Administrative Code. 35 RCNY § 68-15(d) (Lexis 2025); Admin. Code § 19-512.1 (Lexis 2025).

Petitioner suspended respondent's TLC driver license on September 18, 2025, after it received notice that he had been arrested on September 13, 2025, and charged with strangulation in the second degree, assault in the third degree, and acting in a manner injurious to a child less than 17 years old (Pet. Ex. 3). *See* Penal Law §§ 121.12, 120.00(1), 260.10(1) (Lexis 2025). Respondent was arraigned and is currently charged with assault in the third degree, criminal obstruction of breathing or blood circulation, endangering the welfare of a child, attempted assault

in the third degree, menacing in the third degree, and harassment in the second degree. *See* Penal Law §§ 120.00(1), 121.11(A), 260.10(1), 110/120.00(1), 120.15, 240.26(1) (Pet. Exs. 1, 4).¹

Petitioner seeks to continue its suspension of respondent's license while the criminal charges are pending on the ground that his continued licensure poses a direct and substantial threat to public health or safety (Pet. Exs. 1, 3). Respondent opposes the continued suspension of his license and contends that his continued licensure would not pose a direct and substantial threat to the public.

At a post-suspension hearing held via videoconference on November 5, 2025, petitioner relied solely on documentary evidence. Respondent, who participated in the trial with the assistance of a Cantonese interpreter, relied on documentary evidence and the testimony of a character witness. For the reasons below, I find that petitioner failed to establish that respondent's continued licensure during the pendency of the criminal charges poses a direct and substantial threat to public health or safety. Accordingly, I recommend that petitioner lift its suspension of respondent's license.

ANALYSIS

The New York City Administrative Code authorizes petitioner to suspend a TLC driver's license before a hearing "for good cause shown relating to a direct and substantial threat to the public health or safety." Admin. Code § 19-512.1(a). If a license is suspended based solely on an arrest, the licensee may challenge the suspension at a post-suspension hearing, where the issue is whether "the charges pending against the Respondent, if true, demonstrate that the continuation of the Respondent's License during the pendency of criminal charges would pose a direct and substantial threat to public health or safety." 35 RCNY § 68-15(d)(5). Relevant to this inquiry are the facts and circumstances underlying the charges, including any nexus between the licensee's duties and the alleged offense; the licensee's driving record; the licensee's previous criminal record "or lack thereof;" and the driver's "character and standing in the community." 35 RCNY § 68-15(d)(5)(a)-(d).

The United States Court of Appeals for the Second Circuit has held that due process requires that the licensee receive "an opportunity to show that his or her particular licensure does

¹ TLC's rules provide for summary suspension of a TLC license for certain criminal charges, including assault in the third degree, criminal obstruction of breathing, and endangering the welfare of a child. See 35 RCNY § 68-15(d)(1)(ii).

not cause a threat to public safety.” *Nnebe v. Daus*, 931 F.3d 66, 83 (2d Cir. 2019). To justify continued suspension, petitioner must establish that the licensee poses a continuing threat to the public that is both “direct” and “substantial.” *Id.* at 82. Factors in this inquiry include the conduct underlying the arrest and the licensee’s overall record and character. *Id.* at 82, 88 (“[S]ome level of conduct-specific findings based upon the facts underlying the complaint and the driver’s history and characteristics . . . would be sufficient.”). Considerations include whether the charged crime is the “sole infraction in an otherwise spotless record” and whether the underlying conduct, even if it satisfies the elements of a crime, “was technical or mitigated, such that continuation of the driver’s license did not pose the kind of threat conjured by the general nature of the crime charged.” *Id.* at 82. The court noted that “in the majority of cases, the further removed the crime is from the driver’s job, the less ‘direct’ the threat may be if he or she remains licensed.” *Id.*

Here, petitioner relied on documents that include a criminal court complaint and a New York State Unified Court System WebCrims printout (Pet. Exs. 4, 5). According to hearsay statements in the criminal court complaint, signed by Police Officer Justin Wong, the incident giving rise to the arrest occurred on September 12, 2025, at approximately 9:25 p.m. in Brooklyn, New York (Pet. Ex. 4). The complaint states that an informant (the “complainant”),² who was 13 years old, informed Officer Wong that respondent struck the complainant in the face with an open palm (*Id.*). It further states that respondent placed his arm around the complainant’s neck and applied pressure, so that the complainant could not breathe (*Id.*). The complainant is noted to have suffered substantial facial pain, bruising around the neck, and to have feared further physical injury (*Id.*). According to the complaint, an eight year old child witnessed the incident (*Id.*). Notices from the Brooklyn District Attorney’s Office pursuant to CPLR sections 10.10(8-a) and 3370.15 indicate that respondent is the victim’s father (*Id.*). Temporary orders of protection were issued that require respondent to stay away, presumably from the complainant and witness (*Id.*).³ Respondent was arraigned on September 14, 2025, and released on his own recognizance (Pet. Ex. 5). The criminal case was referred to a problem solving/alternative court program (*Id.*). Petitioner did not provide a police report or additional information about the incident or injury to the complainant.

² The complainant’s name and that of the witness are redacted from the criminal court complaint (Pet. Ex. 4).

³ Two redacted orders of protection were submitted into evidence. The identities of the persons from whom respondent was ordered to stay away are redacted, and petitioner offered no evidence to explain to whom the orders applied (Pet. Ex. 4).

Petitioner also submitted respondent's New York State Department of Motor Vehicle ("DMV") abstract, which shows that respondent was convicted of red light violations on April 3, 2023, and October 24, 2025 (Pet. Ex. 6). In addition, the abstract shows that respondent completed an accident prevention course on October 13, 2023 (*Id.*).

As is his constitutional right, respondent chose not to testify. He offered his "rap sheet" into evidence, which shows the subject arrest as his first (Resp. Ex. A). Respondent also submitted printouts showing his Uber and Lyft driver ratings (Resp. Exs. B, C). His Uber profile shows that respondent has been an Uber driver for nearly seven years and has provided over 3,000 rides as an Uber driver (Resp. Ex. B). Respondent has a 4.93 star rating, a 99 percent acceptance rating, and a zero percent cancellation rate (*Id.*). The Lyft profile shows that respondent has provided over 1,100 rides as a driver in the past four years and has a five-star rating (Resp. Ex. C).

Zhuo Bin Wu has known respondent since 2017 and they work for the same car service company. He described respondent as "a very kind person, very gentle" who is helpful to others, including other drivers. He has not known respondent to be violent and has never seen him have a conflict with coworkers or clients (Tr. 19-20).

The issue to be determined is whether petitioner established that respondent's continued licensure while the criminal charges are pending would pose a direct and substantial threat to public health or safety. In evaluating whether a driver's suspension should be continued, the analysis must focus "not on the threat posed by the charges, but rather on the threat posed to the public by the driver's licensure." *See Nnebe*, 931 F.3d at 82.

Respondent is charged with having assaulted his child and obstructed the child's breathing and two counts of endangering the welfare of a child (Pet. Ex. 4). These charges must be taken as true. *See Nnebe*, 931 F.3d at 90 (finding "no constitutional infirmity in a process that allows for context-specific findings but does not open the question of a driver's factual guilt of the criminal charges"); 35 RCNY § 68-15(d)(5). However, even though the charges are serious, considering the relevant factors, petitioner has failed to establish that respondent's continued licensure poses a direct and substantial threat to public health or safety.

The documentary evidence shows the incident giving rise to the charges involved respondent's child, and there is no contention that respondent was on-duty when it occurred. Nevertheless, this tribunal has recognized a nexus between domestic violence and the duties of a TLC licensee "given the need for drivers to maintain self-control when disputes arise in their

interactions with passengers and other drivers.” *Taxi & Limousine Comm’n v. Hamizane*, OATH Index No. 663/21 at 10 (Dec. 11, 2020), *adopted*, Comm’r Dec. (Dec. 30, 2020); *see also Taxi & Limousine Comm’n v. Karamoko*, OATH Index No. 1033/24 at 5 (Oct. 26, 2023), *adopted*, Comm’r Dec., (Oct. 27, 2023); *Taxi & Limousine Comm’n v. Ramirez*, OATH Index No. 167/22 at 6 (Aug. 11, 2021), *adopted*, Comm’r Dec. (Aug. 17, 2021). Even with this nexus, however, an individualized assessment of the circumstances of each case must be undertaken, including evidence in mitigation relating to the incident leading to the arrest and the driver’s overall record and character. *Taxi & Limousine Comm’n v. Rowe*, OATH Index No. 2446/24 at 4 (Mar. 18, 2024), *adopted*, Comm’r Dec. (Mar. 21, 2024).

Here, there is little evidence of the circumstances of the incident leading to respondent’s arrest. Although the record shows that respondent’s child sustained injuries in the altercation, there is no evidence that medical attention was required. The criminal court complaint, taken with notices from the District Attorney’s Office, indicate that respondent struck his 13 year old child in the face with his palm and placed his arm around his child’s neck and applied pressure so that the child could not breathe. Although the complaint states that the respondent’s child reported suffering “substantial” facial pain and bruising around the neck, there is no evidence that medical care was required. The lack of evidence that the complainant’s injuries required medical care is consistent with a finding that petitioner did not establish that respondent’s continued licensure would pose a direct and substantial threat to public health or safety. *See Taxi & Limousine Comm’n v. Diallo*, OATH Index No. 375/26 at 8 (Sept. 16, 2025), *adopted*, Comm’r Dec. (Sept. 17, 2025) (“Where there is no evidence of serious injury, as here, suspensions have been lifted.”); *Taxi & Limousine Comm’n v. Rafulowitz*, OATH Index No. 340/24 at 5-6 (Aug. 28, 2023), *adopted*, Comm’r Dec. (Aug. 29, 2023); (“The minor nature of any injury is consistent with a finding that respondent’s continued licensure does not pose a direct and substantial threat to public safety”); *Taxi & Limousine Comm’n v. Bhuyan*, OATH Index No. 969/22 at 6 (Dec. 22, 2021), *adopted*, Comm’r Dec. (Dec. 29, 2021) (lifting suspension based in part on “relatively minor” injury to complainant).

Although the record is devoid of evidence as to the circumstances that precipitated respondent’s arrest, taking the charges as true, the evidence demonstrates that the incident leading to respondent’s arrest was an isolated occurrence in an otherwise law-abiding life. The undisputed evidence establishes that respondent, who is 47 years old, has no prior arrests or criminal

convictions on his record (Pet. Ex. 2; Resp. Ex. A). Further, he has been a TLC licensee for over seven years, and petitioner produced no evidence that respondent has ever violated TLC’s rules or incurred infractions as a licensee (Pet. Ex. 2). He has provided over 4,000 rides as a licensee, receiving excellent passenger ratings (Resp. Exs. B, C). Respondent also presented persuasive evidence of his good character as another car service driver who has known respondent for eight years credibly described him as kind, helpful to other drivers, and nonviolent in his interactions while at work (Tr. 19-21).

Petitioner contends that two convictions on respondent’s DMV abstract for passing a red light “would tend to cancel out” his favorable passenger ratings and lack of prior criminal record (Tr. 24). However, respondent’s DMV record is insufficient, standing alone, to establish that he poses a direct and substantial threat to public health or safety. *See Taxi & Limousine Comm’n v. Jalil*, OATH Index No. 2300/21 at 4 (Aug. 9, 2021), *adopted*, Comm’r Dec. (Aug. 11, 2021) (“[W]hile a driver’s record may be a contributing factor towards determining whether the driver poses a direct and substantial threat to the public health and safety, it may not be the sole factor.”); *Taxi & Limousine Comm’n v. Balbuena*, OATH Index No. 1975/20 at 4 (May 15, 2020), *adopted*, Comm’r Dec. (May 29, 2020) (respondent’s driving record, which included multiple traffic violations, did not establish that he was a direct and substantial threat to the public).

Similarly, although there are temporary orders of protection issued against respondent, this alone is not a sufficient basis for continuing the suspension of respondent’s license, when considered with other factors. *See Taxi & Limousine Comm’n v. Fazal*, OATH Index No. 431/26 at 8-9 (Oct. 15, 2025), *adopted*, Comm’r Dec. (Oct. 20, 2025) (“despite the full order of protection for the complainant, this evidence alone does not support continuing the suspension”); *see also Taxi & Limousine Comm’n v. Ahmad*, OATH Index No. 932/25 at 7 (Nov. 21, 2024), *adopted*, Comm’r Dec. (Nov. 26, 2024) (rejecting that a full order of protection on behalf of respondent’s wife is a “critical factor to support continuing the suspension”).

In sum, petitioner failed to establish that respondent’s continued licensure would pose a direct and substantial threat to public health or safety. There is no evidence that respondent has ever received a passenger complaint, violated petitioner’s rules, or engaged in any improper conduct toward a passenger. Moreover, this is respondent’s first arrest. On this record, petitioner has failed to demonstrate that respondent’s arrest is anything other than an isolated incident in an otherwise law-abiding life. *See Taxi & Limousine Comm’n v. Diallo*, OATH Index No. 375/26 at

9 (Sept. 16, 2025), *adopted*, Comm'r Dec. (Sept. 17, 2025) (suspension lifted where driver admitted that he slapped his son several times because the record showed that "this is an isolated incident in an otherwise law-abiding life that does not reflect a lack of self-control or bear upon respondent's ability to act professionally with passengers in his taxicab and with the general public"); *Taxi & Limousine Comm'n v. Kashem*, OATH Index No. 1297/21 at 9-10 (Feb. 10, 2021), *adopted*, Comm'r Dec. (Feb. 17, 2021) (suspension lifted where licensee with good driving record was arrested for acting in a manner injurious to a child, menacing, and harassment, where evidence showed that it was a brief, isolated family dispute without serious injuries).

Accordingly, the suspension of respondent's license should be lifted.

FINDINGS AND CONCLUSIONS

1. Respondent was arrested and is currently charged with assault in the third degree, criminal obstruction of breathing or blood circulation, two counts of endangering the welfare of a child, and other related charges.
2. Petitioner failed to establish that respondent's continued licensure during the pendency of his criminal case would pose a direct and substantial threat to public health or safety.

RECOMMENDATION

I recommend that the suspension of respondent's TLC driver's license be lifted.

Astrid B. Gloade
Administrative Law Judge

November 18, 2025

SUBMITTED TO:

DAVID DO
Commissioner/Chair

APPEARANCES:

DANIEL WILLIAMSON, ESQ.
Attorney for Petitioner

BROOKLYN DEFENDER SERVICES
Attorney for Respondent
BY: AMANDA BRANSFORD, ESQ.

November 20, 2025

Nuoming Zheng

[REDACTED]

Re: TLC License No. 5832276

Licensee Zheng:

Pursuant to TLC Rule 68-15, a summary suspension hearing was concluded on November 5, 2025, as a result of your September 18, 2025 arrest for strangulation in the second degree, assault in the third degree, and acting in a manner injurious to a child less than 17 years old.

After hearing the evidence presented, the presiding Administrative Law Judge (“ALJ”), Astrid Gloade, found that your suspension should be lifted.

I accept the ALJ’s Recommendation and lift the suspension of your TLC license.

Sincerely,

/s/ Sherryl A. Eluto

Sherryl A. Eluto
General Counsel

cc: Astrid Gloade, *Administrative Law Judge*
Daniel Williamson, *Supervising Attorney, OATH Trials (TLC)*
Amanda Bransford, *Attorney for Respondent*