

# ***Taxi & Limousine Comm’n v. Skulsky***

OATH Index No. 749/26 (Nov. 14, 2025), *adopted*, Comm’r Dec. (Nov. 17, 2025), **appended**

Petitioner suspended respondent’s TLC Driver License based on his arrest for criminal mischief. At a post-suspension hearing, evidence failed to prove that respondent’s continued licensure poses a direct and substantial threat to public health or safety. Lifting of suspension recommended.

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## **NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**

*In the Matter of*  
**TAXI AND LIMOUSINE COMMISSION**  
*Petitioner*  
*- against -*  
**BORIS SKULSKY**  
*Respondent*

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### **REPORT AND RECOMMENDATION**

**KEVIN CASEY**, *Administrative Law Judge*

Petitioner, the Taxi and Limousine Commission (“TLC”), brought a summary suspension proceeding against respondent, Boris Skulsky, holder of a TLC Driver License. Admin. Code §§ 19-505(1), 19-512.1 (Lexis 2025); 35 RCNY § 68-15(a)(1), (d) (Lexis 2025). On October 22, 2025, petitioner suspended respondent’s TLC Driver License after receiving notice that he had been arrested for criminal mischief in the third degree (Pet. Exs. 1, 3). Petitioner contends that the suspension of respondent’s TLC Driver License should continue pending the resolution of the criminal case because respondent poses “a direct and substantial threat to the health or safety of the public” (Pet. Ex. 1). Respondent opposes continued suspension and asserts that he does not pose a direct and substantial threat to the public.

At a post-suspension hearing on November 3, 2025, held via videoconference, the parties presented documentary evidence and respondent testified. For the reasons below, I find that petitioner did not prove that respondent poses a continuing direct and substantial threat to public health or safety. I recommend lifting respondent’s suspension.

### **ANALYSIS**

Petitioner may suspend a TLC Driver 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); *see* Admin. Code § 19-505(l). If the suspension is based solely on an arrest, the licensee may challenge the suspension at a post-suspension hearing where the “Commission must prove by a preponderance of the evidence that 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 factors include the circumstances underlying the criminal charge(s); the nexus between the alleged offense and the duties of a licensee; the respondent’s driving record; the respondent’s criminal record, if any; and the respondent’s character and standing in the community. 35 RCNY § 68-15(d)(5)(a)-(e); *see Nnebe v. Daus*, 931 F.3d 66, 88 (2d Cir. 2019) (requiring, in a summary suspension hearing, “some level of conduct-specific findings based upon the facts underlying the complaint and the driver’s history and characteristics”).

To prevail, petitioner must prove that the driver poses a continuing threat to the public that is both “direct” and “substantial.” *Nnebe*, 931 F.3d at 82. In determining whether the threat is direct and substantial, it is relevant to consider whether the charged crime is the “sole infraction in an otherwise spotless record” and whether the underlying conduct, even if it establishes 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.* The analysis must address “whether the conduct underlying the arrest and the overall record and character of the driver confirms or disproves the arrest’s relation to public health or safety.” *Id.*

The police arrested respondent on October 21, 2025, for criminal mischief in the third and fourth degrees, and issued him a desk appearance ticket (Pet. Ex. 4 at 3, Pet. Ex. 5 at 1, Pet. Ex. 6 at 2). *See* Penal Law §§ 145.05(2), 145.00(1) (Lexis 2025). Respondent was arraigned on November 10, 2025, and he is scheduled to return to Criminal Court on January 6, 2026 (Pet. Ex. 6 at 3). *See* [https://iapps.courts.state.ny.us/webcrim\\_attorney/Login](https://iapps.courts.state.ny.us/webcrim_attorney/Login).

Respondent’s arrest stems from an incident that occurred on Staten Island on the morning of August 20, 2025 (Pet. Ex. 4 at 1; Pet. Ex. 5 at 1, 4). Petitioner’s records show that respondent drove a TLC-licensed vehicle on Staten Island on that date, and that he dropped off a passenger at 5:37 a.m. and picked up another passenger at 6:03 a.m. (Pet. Exs. 2, 7).

According to police reports, a witness claimed that, at 5:50 a.m. that day, respondent became irate when a gas station air pump would not accept his credit card and he intentionally damaged the pump by tying part of the pump to his vehicle and driving away (Pet. Ex. 5 at 4). The criminal complaint asserts that respondent damaged the pump by forcibly removing a pipe attached to the pump, fastening the pump's hose to his vehicle, and driving the vehicle with the pump's hose attached (Pet. Ex. 4 at 3). Those actions allegedly removed the air pump from the ground, made the pump and its electrical wiring inoperable, and resulted in more than \$250 of repair costs (*Id.*).

Respondent testified that he has been a TLC licensee for more than 15 years (Tr. 14). Years ago, he received a summons, which he promptly paid. Respondent has never received points on his license or had any prior incidents as a licensee (*Id.*). Petitioner offered no evidence that respondent had ever been in an accident, committed a moving violation, or received a passenger complaint.

Despite the pending criminal charges, respondent testified about the events leading to his arrest. He recalled driving a TLC-licensed vehicle and going to a gas station to inflate one of his tires (Tr. 14-15, 21). After putting six or eight quarters into the air pump, he noticed that the air flow was very low (Tr. 15, 18-19). He went inside the gas station and asked the attendant whether the air pump was working, and the attendant assured him that it was working properly (Tr. 15, 18). Respondent returned to his vehicle, tried to inflate the tire some more, and drove back to his base where he could fully inflate the tire with a free air pump (Tr. 15-16, 19).

Respondent did not know whether he had disconnected the air pump hose from his vehicle before driving away from the gas station (Tr. 15). He was unaware of causing any damage to the pump and did not see or hear anything out of the ordinary (Tr. 15-16, 21). Respondent maintained that he did not intentionally cause any damage or believe that the hose became entangled with the vehicle's wheel (Tr. 15-16).

Two months later, the police knocked on respondent's door and spoke to him about the incident (Tr. 16-17). Respondent was "dumbfounded" and had no idea what they were talking about (*Id.*). He hired a lawyer and voluntarily surrendered to the police the next day (Tr. 16). Although respondent did not believe that he had damaged the pump, he was willing to pay for any damages that he may have caused (Tr. 15, 17, 20).

Respondent presented three letters attesting to his good character. A rabbi, who has known respondent for years, described respondent as “a kind, respectful, and dependable person who contributes positively to the community” (Resp. Ex. A). Respondent helped safely transport children and “always demonstrated great care and responsibility in doing so” and he is “a person of good moral character and someone who is safe and trustworthy in every sense” (*Id.*).

Similarly, a neighbor who has known respondent for years wrote that respondent “is a kind, dependable, and community-minded individual who consistently goes out of his way to help others,” especially the elderly (Resp. Ex. B). The neighbor noted respondent’s “willingness to go above and beyond for others truly speaks to his integrity, generosity, and strong sense of community” (*Id.*). A friend wrote that respondent helped her and her family with transportation and “is always on time, respectful, and very responsible” (Resp. Ex. C). She concluded, “We feel comfortable trusting him with our children when we need help. He is someone we rely on and feel safe with” (*Id.*).

At issue is whether, assuming that the pending criminal charges are true, respondent’s continued licensure poses a direct and substantial threat to public health or safety. *See Nnebe*, 931 F.3d at 82. Because respondent’s arrest involved a TLC-licensed vehicle, there is a nexus between the pending criminal charges and his duties as a licensee. *See Taxi & Limousine Comm’n v. Basar*, OATH Index No. 874/12 at 7 (Jan. 20, 2012), *adopted*, Comm’r Dec. (Feb. 8, 2012). Despite that nexus, there must be an individualized assessment of respondent’s “overall record and character.” *Nnebe*, 931 F.3d at 82; *see, e.g., Taxi & Limousine Comm’n v. Miah*, OATH Index No. 1520/25 at 5, 7 (Mar. 5, 2025), *adopted*, Comm’r Dec. (Mar. 6, 2025) (lifting suspension, despite pending charge of leaving the scene of an on-duty accident, where driver held a TLC Driver License for 14 years, presented character witnesses, and offered mitigating evidence to show that it may not have been apparent to him that an accident occurred); *Taxi & Limousine Comm’n v. Roach*, OATH Index No. 1864/23 at 9-10 (Feb. 3, 2023), *adopted*, Comm’r Dec. (Feb. 8, 2023) (lifting suspension, despite pending charges that included robbery in the second degree and leaving the scene of an on-duty incident, where driver presented significant evidence of mitigation and compelling evidence of safe driving record and good character); *Taxi & Limousine Comm’n v. Neupane*, OATH Index No. 478/21 at 3, 5-6 (Oct. 21, 2020), *adopted*, Comm’r Dec. (Oct. 26, 2020) (lifting of suspension recommended, despite charge of leaving the scene of an on-duty accident involving personal injury, where complainant allegedly sustained a minor bruise and

driver, who had been a TLC licensee for three years, presented mitigating evidence regarding the incident, and proof of his good character).

The facts underlying respondent's arrest do not show that his continued licensure poses a direct and substantial danger to the public. Despite the severity of the pending criminal charges, there was no evidence of any threats or injury to any person. *See Taxi & Limousine Comm'n v. Moses*, OATH Index No. 659/25 at 4-7 (Oct. 22, 2024), *adopted*, Comm'r Dec. (Oct. 29, 2024) (suspension lifted for licensee charged with criminal mischief in the third degree, based on allegations that he punctured two tires of a car belonging to his ex-wife's boyfriend, where licensee had been a TLC driver for nine years, received favorable ratings from passengers, and there was no evidence of prior arrests, passenger complaints, TLC rule violations, or accidents); *Taxi & Limousine Comm'n v. Anthony*, OATH Index No. 715/22 at 3-6 (Nov. 22, 2021), *adopted*, Comm'r Dec. (Nov. 29, 2021) (lifting suspension, despite pending criminal charges of criminal mischief in the third degree, weapon possession, harassment, and menacing, based on allegations that licensee kicked down a door, causing \$3,000 in damage, and threatened to hit complainant with a rock, where evidence showed that licensee held a TLC Driver License for three years, received excellent passenger ratings, expressed regret for his conduct, and presented a character letter from a member of his church attesting to his good character and positive contributions to his church and community); *Taxi & Limousine Comm'n v. Richards*, OATH Index No. 256/22 at 5, 16-17 (Sept. 2, 2021), *adopted*, Comm'r Dec. (Sept. 7, 2021) (lifting suspension, despite pending charge of criminal mischief in the third degree, where complaint alleged that, following a verbal dispute, licensee slashed four tires of a vehicle with TLC license plates, and licensee presented mitigating evidence regarding the incident, which appeared to be "an isolated incident in a long, law-abiding life" (quoting *Taxi & Limousine Comm'n v. Cherubin*, OATH Index No. 2345/21 at 4-5 (July 19, 2021), *adopted*, Comm'r Dec. (July 23, 2021)))).

Here, as in *Moses*, *Anthony*, and *Richards*, the licensee's arrest is the "sole infraction in an otherwise spotless record." *Nnebe*, 931 F.3d at 82. Respondent is a long-term licensee, with an excellent TLC and DMV driving history. There is no evidence of prior suspensions, accidents, or complaints from passengers or the public. Consistent with that exceptional driving record, respondent presented un rebutted character evidence to show that he is a mature person who conducts himself professionally and shows proper regard for the safety of passengers and the public. Even assuming, as petitioner's rules require, that the pending criminal charges are true,

the evidence does not support continued suspension of respondent's license. Based on this record, respondent does not pose a continuing direct and substantial threat to public health or safety.

### **FINDINGS AND CONCLUSIONS**

1. Respondent is charged with criminal mischief in the third and fourth degrees.
2. The evidence did not establish that respondent's continuing licensure during the pendency of his criminal case poses a direct and substantial threat to public safety.

### **RECOMMENDATION**

I recommend that the suspension of respondent's TLC Driver License be lifted.

Kevin Casey  
Administrative Law Judge

November 14, 2025

SUBMITTED TO:

**DAVID DO**  
*Commissioner*

APPEARANCES:

**DANIEL WILLIAMSON, ESQ.**  
*Attorney for Petitioner*

**MARC E. WEINREICH, ESQ.**  
*Attorney for Respondent*

November 17, 2025

Boris Skulsky  
[REDACTED]  
[REDACTED]

**Re: TLC License No. 5649240**

Licensee Skulsky:

Pursuant to TLC Rule 68-15, a summary suspension hearing was concluded on November 3, 2025, as a result of your October 21, 2025 arrest for criminal mischief in the third degree.

After hearing the evidence presented, the presiding Administrative Law Judge (“ALJ”), Kevin Casey, 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: Kevin Casey, *Administrative Law Judge*  
Daniel Williamson, *Supervising Attorney, OATH Trials (TLC)*  
Marc E. Weinreich, *Attorney for Respondent*