



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Appeals Division

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Appeal No. 73221854A

TLC v. Michael,B,Hubilla

May 8, 2026

Appeal Decision

The appeal of Respondent is **granted**.

Respondent appeals from a recommended decision by Judicial Hearing Officer (JHO) J. Harawitz, dated March 18, 2026, sustaining a charge of § 19-506(b)(1) of the Administrative Code of the City of New York (Code) for transporting a passenger picked up in New York City in a vehicle not licensed by Taxi and Limousine Commission (TLC), known as a straight plate vehicle. After a full review of the record, the Tribunal finds that the JHO's decision is not supported by the law and a preponderance of the evidence.

Summons	Law Charged	Hearing Decision	Appeal Decision	Penalty
73221854A	Code § 19-506(b)(1)	In Violation	Reversed – Dismissed	\$0

In the summons, the issuing officer (IO) affirmed observing on November 11, 2025, at 6:02 p.m. in front of 1535 Broadway, Manhattan, as follows:

Driver Operating Unlicensed Vehicle: conviction may result in suspension/revocation of NYS driver's license/vehicle registration. At above TPO [time and place of occurrence] I saw Michael,B,Hubilla NYS lic [number], operating vehicle black ford with CT plate # C385334. *Prior to stop*, I observed [driver] dropped off of [sic] three female passengers [in] front of 1535 Broadway ny ny. *upon stop* female passenger stated that the driver is a taxi and that she brought a package with where [sic] she pay \$160.00 daily and that the driver picked her up at LGA Airport and brought her to 1535 Broadway NY NY. According to TLC records, vehicle and driver are not duly licensed by TLC to operate for hire in new york city from point to point. Owner's vehicle was used for for-hire activity. [Emphasis added.]

At a telephone hearing, held on March 18, 2026, Petitioner rested on the IO's affirmed summons. Respondent appeared with his representative, who initially moved to dismiss for the IO's failure to allege facts in the summons amounting to reasonable suspicion to stop a straight plate vehicle. Respondent's representative asserted that seeing three people exit a vehicle in front of a hotel does not alone amount to reasonable suspicion. Petitioner offered no evidence to supplement the affirmed summons and did not request an adjournment to present the IO at a hearing. As to reasonable suspicion, Respondent testified the IO came to his driver side

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Date:

window and requested his driver's license at about the same time the IO's TLC partner officer approached the passengers, who were exiting the van. Respondent did not hear the conversation between the other officer and the passengers. As to the merits, Respondent asserted he was transporting friends of his pastor on their annual shopping trip and had rented a van to accommodate three passengers and their luggage and shopping. On the incident date, he had driven them from LaGuardia Airport to a hotel. Respondent received dinner and gifts from his passengers.

In the decision, the JHO found the IO had reasonable suspicion to stop Respondent as the JHO credited the IO's affirmed summons as "clear enough that the Officer indicated that he stopped the Respondent after the passengers exited the vehicle The Respondent testified that the passengers had exited his vehicle and that he observed an Officer speaking with them around the time they asked for his license." As to the merits, the JHO found Respondent in violation as she did not credit his testimony the passengers were friends and he did not charge them a fare. On appeal, Respondent again contends the IO did not have reasonable suspicion to justify the stop and that he transported friends without charging a fare.

On this record, the Tribunal reverses the JHO's decision and finds that Petitioner failed to satisfy its burden to establish the IO had reasonable suspicion to stop Respondent's straight plate vehicle. Code § 19-506(b)(1) prohibits any person from operating a vehicle not licensed by TLC to transport passengers for hire in New York City. To enforce the law against a straight plate vehicle operator by initiating an enforcement stop,¹ before the stop an IO must have reasonable suspicion -- observe objective indicia -- of illegal for hire activity. *See TLC v. Monday Adaze Osagie*, Appeal No. 71820520A (December 16, 2016), *citing TLC v. Rufus Famotibe*, Appeal No. 5154273 (January 2, 2009); *TLC v. Discount Car Serv.*, Appeal No. B01311 (November 19, 2008); *TLC v. Patrick Elias*, Appeal No. 716522 (February 18, 1994). An IO who observes only passengers dropped off does not establish reasonable suspicion. *See TLC v. Tovarick E. Bautista*, Appeal No. 5264229 (March 5, 2009) (no reasonable suspicion to stop a straight plate vehicle based on "lone" observation of passengers being discharged); *cf. TLC v. N.S. Reidwaysome*, Appeal No. 80069297A (July 18, 2018) (observation of drop off plus undisputed passenger statement -- both occurring prior to stop -- adequate to establish reasonable suspicion); *TLC v. Richard Thelot*, Appeal No. 72180714A (August 30, 2017) (same); *TLC v. Eustaquio C. Garcia*, Appeal No. 5404908 (April 26, 2013) (same).

A respondent who does not challenge reasonable suspicion at the hearing waives the issue. *See* 48 RCNY § 6-19(f)(2) (Tribunal will not consider evidence, including factual assertions, not

¹ *See TLC v. Tovarick E. Bautista*, Appeal No. 5264229 (March 5, 2009) (use of term "enforcement stop" to describe IO stopping respondent's vehicle to enforce Code § 19-506(b)(1)).

presented to JHO at hearing); *TLC v. Martine, Wilson*, Appeal No. 74870172 (March 17, 2023) (challenge to reasonable suspicion is waived if not raised at hearing); *Richard Thelot*, 72180714A (same). However, a respondent who raises the issue does not bear the burden of proof, and the analysis depends on the IO's observations, not on the respondent's observations. See 48 RCNY § 6-12(a). Here, Respondent challenged reasonable suspicion at the hearing and again on appeal.

Therefore, as Petitioner bears the burden of proof per 48 RCNY § 6-12(a), and here failed to offer supplemental evidence or request an adjournment to present the IO, the IO's affirmed statements in the summons were the only evidence available to establish reasonable suspicion. The IO affirmed in the summons that "prior to stop" he saw Respondent drop off three female passengers in front of an address and "upon stop" a female passenger said Respondent was a taxi who picked them up at LaGuardia Airport and charged a "package" fare. To the extent the IO's use of the word "stop" was ambiguous -- whether it meant an enforcement stop, a stop of the passengers, dropping off passengers, or something else -- the ambiguity must be resolved against Petitioner, who had the burden of proving reasonable suspicion once raised by Respondent. Cf. *TLC v. Yang Shuai*, Appeal No. 70421516A (June 5, 2018) (ambiguity was apparent on face of summons as to whether TLC officers based charge on their own call for transportation or their interview of passengers observed being picked up in unlicensed vehicle, as both facts were alleged in summons). The Tribunal finds that to the extent the IO used the word "stop" twice to mean an enforcement stop, what the passenger stated "upon stop" occurred after the IO stopped Respondent and may not be considered to support reasonable suspicion that justified stopping Respondent. See *TLC v. Gary G. Cliff*, Appeal No. 70932394A (July 29, 2019) (no reasonable suspicion where summons said "prior to stop" respondent picked up two females at different locations and "upon stop" passenger said she was being charged a fare); *TLC v. Tovarick E. Bautista*, 5264229 ("lone observation" of discharging passengers does not establish reasonable suspicion). The Tribunal notes the summons is silent as to when the IO appeared at Respondent's window or asked Respondent for his driver's license. Therefore, Petitioner did not establish reasonable suspicion by a preponderance of the evidence.

Accordingly, the Tribunal reverses the JHO's decision and dismisses the summons.

By: OATH Appeals Division