

June 6, 2017

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

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**REPORT AND DECISION**

SUBJECT: King County For-Hire Licensing file no. **17367**

**GETAHUN YIMAM**  
For-Hire Driver Enforcement Appeal

License no.: 17367

Appellant: **Getahun Yimam**  
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King County: King County For-Hire Licensing  
*represented by* **Eddie Cantu**  
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**SUMMARY OF RECOMMENDATIONS/DECISION:**

Department's Preliminary Recommendation:

Deny appeal

Department's Final Recommendation:

Deny appeal

Examiner's Decision:

Deny appeal

**EXAMINER PROCEEDINGS:**

Hearing Opened:

May 12, 2017

Hearing Record Closed:

May 30, 2017

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.

#### FINDINGS AND CONCLUSIONS:

1. In September 2015, according to the police report, Getahun Yimam’s neighbor was at home sleeping, when Mr. Yimam knocked on her door. After stating that he had been locked out of his house, he stepped inside her apartment and forced himself upon her, assaulting her in the process. Ex. 4 at 004–05. In April 2016, Mr. Yimam pled guilty to fourth degree assault for intentionally assaulting another person; the court deferred the sentence for 24 months. Exs. 6–8.
2. In January 2017, Mr. Yimam submitted to King County Record and Licensing (RALS) an application to renew his dual Seattle/County for-hire driver’s license. Ex. 2. In March 2017, RALS denied both the City and the County portion of his license. Ex. 9.
3. Seattle has a different process for appealing the portion of RALS’s denial letter that relates to the City for-hire license. Mr. Yimam exercised this option. The hearing officer who works for RALS’s counterpart within Seattle’s executive branch heard and denied Mr. Yimam’s appeal in May 2017. Ex. 11. Seattle’s pertinent legal standard tracks the County’s, and in past cases we have accorded some weight to Seattle’s decision, given the often near-identical codes and facts involved.<sup>1</sup>
4. However, those past Seattle decisions provided thorough reasoning for how that office reached its ultimate decision. Conversely, the decision in Mr. Yimam’s matter thoroughly summarized the exhibits, testimony, and argument, but then ended with only two conclusory sentences. Our Court warns that:

The process used by the decisionmaker should be revealed by findings of fact and conclusions of law. Statements of the positions of the parties, and a summary of the evidence presented, with findings which consist of general conclusions drawn from an indefinite, uncertain, undeterminative narration of general conditions and events, are not adequate.

*Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 35-36, 873 P.2d 498, 503 (1994) (internal marks and citations omitted). We thus admit Seattle’s decisions into our record, but only to provide context and a thorough administrative record; we do not accord it any weight. We will not further discuss the Seattle side of the license denial.

5. As to the County portion of the denial, Mr. Yimam timely appealed. Ex. 10. We went to hearing last week. For those matters or issues raised in an appeal statement, RALS 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.

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<sup>1</sup> Compare KCC.6.64.600.B.1 with SMC 6.310.430.B.1. For an example of a case where we accorded the Seattle hearing officer some influence, see [http://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/7520-1\\_Bannecker.ashx?la=en](http://kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/7520-1_Bannecker.ashx?la=en).

6. RALS’s basis for denial is KCC 6.64.600.B.1., which allows RALS’s director to deny a for-hire license where the applicant has “had, within five years of the date of application, a criminal conviction...involving a crime pertaining to...physical violence.” Unless directed to by law, 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 the director.
7. While Mr. Yimam’s criminal conviction qualifies as a crime pertaining to physical violence, and the conviction (April 18, 2016) was within five years of his application (January 27, 2017), that is only the first step in our analysis, because license denial here is discretionary (“may deny”), not mandatory (“shall deny”).<sup>2</sup> RALS’s case is relatively straightforward, asserting that, based on his crime, Mr. Yimam poses a serious risk to the traveling public, particularly passengers. Mr. Yimam raises two main groups of counter argument.
8. First, Mr. Yimam asserts that his criminal sentence was deferred for 24 months (from April 2016), and thus any license denial could only extend until April 2018. That conflates the criminal sentence the judge decided with the licensing issue we must decide. The licensing issue is whether the pertinent criminal *conviction* occurred within five years of his date of application (*i.e.*, later than January 27, 2012). The *sentence* the court ordered is somewhat apples to oranges. To illustrate with a hypothetical, suppose that Mr. Yimam’s conviction was January 26, 2012, but the court had sentenced him to something (deferral, probation, etc.) that was still active at the time he applied for a license on January 27, 2017. The *sentence* continuing to run would not change the fact that—in our hypothetical—more than five years would have elapsed since the *conviction*; in our hypothetical, KCC 6.64.600.B.1. would not be a legitimate basis for license denial. In reality, Mr. Yimam’s conviction was well within the five-year window; the deferral of his criminal sentence does not resolve whether license denial is appropriate here.
9. Second and more broadly, Mr. Yimam stated that he had been a nursing assistant for eight years and driving with Eastside for Hire for four years, all without any complaints from staff or clients, or any tickets. The September 2015 incident was a “mistake” that occurred one time, when he knocked at someone’s house mistakenly while he was intoxicated. The victim has since come to his house. The September 2015 event is just not his nature. His behavior could be verified by his community, workplace, or church.<sup>3</sup> He has responsibility for five family members, and he has no other means to support them.
10. We view a “mistake” as something like a failure to start the meter on a for-hire ride. His violent assault of his neighbor was much more than a “mistake,” and Mr. Yimam did himself no favors at hearing by seemingly minimizing what the victim went through. Moreover, in deciding when an applicant who has perpetrated (non-driving) violence presents a risk of harming customers or the public, we consider not only the gravity of the incident but also the context.

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<sup>2</sup> By way of contrast, KCC 6.64.600.A.3. sets out certain convictions, such as DUI, for which denial is mandatory.

<sup>3</sup> We noted at hearing that the quasi-judicial, an examiner does not undertake such investigations outside the record. Our factual record is that presented by the parties at hearing.

11. So, for example, in *Ridley—18989*, the applicant, also with an otherwise clean record, caused bodily harm to his wife, harm accompanied by substantial pain lasting long enough to cause her considerable suffering; he plead guilty to assault in the third degree—domestic violence, with the aggravating factor that the domestic violence occurred within sight or sound of the couple’s minor child.<sup>4</sup> We denied Mr. Ridley’s appeal.
12. And yet, despite the more violent nature of Mr. Ridley’s crime, his was a closer case than Mr. Yimam’s. It took a certain level of inference, a certain additional logical step, to conclude that Mr. Ridley’s behavior against his spouse in the context of a long-running, emotionally volatile marriage, could translate into interactions with customers. We have no such heartburn here. Mr. Yimam forcing himself upon a neighbor is more translatable to the for-hire driving context. If our only option, for example, for getting an inebriated female acquaintance home was to put her in Mr. Ridley’s vehicle or in Mr. Yimam’s vehicle, we would easily conclude that Mr. Ridley posed the lesser risk to her. And again, we denied Mr. Ridley’s appeal.
13. That is not to discount the impact to Mr. Yimam’s family from the consequences of his actions. We balance the potential harm to the public from allowing an applicant to continue driving with the potential harm to the applicant (and the applicant’s family) from denying a license.<sup>5</sup> While there is little in the record about Mr. Yimam’s employability, we make an inference in his favor that with his limited English (the hearing required an Amharic interpreter), his alternative employment options are not particularly attractive. Yet in the end, and borrowing from our language in *Ridley*, we agree that the County should not be putting someone who had “so recently exhibited behavior that lacking in sound judgment and self-control behind the wheel ferrying passengers (especially vulnerable passengers) around.”

DECISION:

1. Mr. Yimam’s appeal is DENIED.

ORDERED June 6, 2017.



David Spohr  
Hearing Examiner

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<sup>4</sup> See [http://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/18989\\_Ridley\\_Report.ashx?la=en](http://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/for-hire%20enforcement/2016/18989_Ridley_Report.ashx?la=en).

<sup>5</sup> Certain convictions should result in mandatory denial (“shall deny”). KCC 6.64.600.A.3. There is no “balancing” to undertake for such convictions. But convictions for crimes pertaining to physical violence are in the category of discretionary denials (“may deny”), necessitating some sort of multifactor analysis. KCC 6.64.600.B.1.

## 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 *July 6, 2017*. 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 MAY 30, 2017, HEARING ON THE APPEAL OF GETAHUN YIMAM, KING COUNTY FOR-HIRE LICENSING FILE NO. 17367

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Eddie Cantu, Getahun Yimam, and Mergia Yadessa Sonessa (interpreter).

The following exhibits were offered and entered into the record:

- |                |   |
|----------------|---|
| Exhibit no. 1  | Records and Licensing Services staff report for file no. 17367 to the Hearing Examiner, received May 1, 2017                                |
| Exhibit no. 2  | Taxi and for-hire license application, dated January 27, 2017   |
| Exhibit no. 3  | Licensing letter to Appellant of possible revocation of for-hire driver’s license no. 17367, dated May 9, 2016                              |
| Exhibit no. 4  | Non-traffic ticket no. 67838 of September 18, 2015 violation; Tukwila Police Department incident report form on September 18, 2015 incident |
| Exhibit no. 5  | Municipal Court of City of Tukwila case no. cr67838 complaint, dated November 2015  |
| Exhibit no. 6  | Municipal Court of City of Tukwila no. CR0076838 statement of defendant on plea of guilty, dated April 18, 2016                             |
| Exhibit no. 7  | Municipal Court of City of Tukwila no. CR67838 order of judgement, sentence, and probation, dated April 18, 2016                            |
| Exhibit no. 8  | Municipal Court of City of Tukwila no. CR0067838 TKP CN docket of November 254, 2015 ticket   |
| Exhibit no. 9  | Notice and order of denial of for-hire driver’s license no. 17367, issued March 27, 2017  |
| Exhibit no. 10 | Statement of appeal, received March 31, 2017  |
| Exhibit no. 11 | City of Seattle Finance and Administrative Services for-hire license no. 17367 appeal decision, dated May 8, 2017                           |

DS/ed

June 6, 2017

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**CERTIFICATE OF SERVICE**

SUBJECT: King County For-Hire Licensing file no. **17367**

**GETAHUN YIMAM**  
For-Hire Driver Enforcement Appeal

I, Elizabeth Dop, 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.
- caused to be 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 June 6, 2017.



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Elizabeth Dop  
Legislative Secretary

*All Parties of Record*

**Cantu, Eddie**

King County For-Hire Licensing

**Cockbain, Sean**

King County For-Hire Licensing

**Leisy, Craig**

Finance and Admin Svcs, Consumer Protection Div

**Litzau, Ronda**

King County For-Hire Licensing

**McClain, Dwayne**

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

**Sonessa, Mergia Yadessa Mr.**

**Thomas, Marcia**

King County For-Hire Licensing

**Yimam, Getahun**

mailed paper copy