



STATE OF WASHINGTON  
DEPARTMENT OF LICENSING  
P. O. Box 9031, Olympia, WA 98507-9031

August 8, 2017

tls

URI.

SEATTLE WA 98118-1726

License #:

FINAL ORDER

The administrative hearing regarding the March 17, 2017 incident, has resulted in a favorable finding. The proposed suspension/revocation has been canceled.

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Hearings and Interviews  
Programs & Services Division

**STATE OF WASHINGTON  
DEPARTMENT OF LICENSING  
IMPLIED CONSENT HEARING – DRIVERS LICENSE - RCW 46.20.308**

URI )  
DL # )  
Petitioner )  
vs. )  
STATE OF WASHINGTON )  
DEPARTMENT OF LICENSING )  
Respondent )

FINAL ORDER -

**RESCINDING SUSPENSION /  
REVOCATION of DRIVERS  
LICENSE**

This administrative hearing was convened by telephone on June 9, 2017. The Department's Hearing Officer was James [redacted]. The Department was not represented. Mr. [redacted] appeared pro se and represented himself. Arresting agency & incident date: Seattle Police Department, March 17, 2017.

Five exhibits were admitted;

- # 1) DUI Arrest Report - 40 pages
- # 2) Declaration of Robi [redacted] – 2 pages
- # 3 & 4) police video – thumb drive formats
- # 5) still photos / video still captures – 5 pages

Mr. [redacted] testified. Robi [redacted] appeared as a witness on behalf of Mr. [redacted] and testified.

Legal issues raised

Whether Mr. [redacted] moved his vehicle safely off the roadway prior to being pursued by police.

Findings of Fact

On March 16, 2017, Mr. [redacted] parked his vehicle in a car repair facility parking area well off the street and went to a job location nearby. After work he went to a bar with co-workers and friends to have some drinks.

### Conclusions of Law

Whether a vehicle was "safely off the roadway" is a factual issue to be decided by the trier of fact. *Edmonds v. Ostby*, 48 Wn. App. 867, 870 (1987), *State v. Reid*, 98 Wn. App. 152 (1999), *City of Spokane v. Beck*, 130 Wn. App. 481, 487 (2005).<sup>1</sup> There are two largely objective factors I consider in deciding whether the defense applies under the circumstances; whether the movement off the roadway had been done safely, and, whether the vehicle was situated safely off the roadway. There are also other related circumstances I consider such as a driver's intentions, factors related to their control of the vehicle, and their condition or impairment.

The facts here weigh that Mr. \_\_\_\_\_ had moved his vehicle safely off the roadway well prior to law enforcement contacting him. His vehicle was also situated safely and well off the public roadway.

### Order

The Department's action to suspend or revoke Mr. \_\_\_\_\_ driver's license, permit, or privilege to drive in Washington State is RESCINDED.

Dated: June 26, 2017



James B. Dahlquist, Hearing Officer  
(WSBA 26658)

<sup>1</sup> Where circumstantial evidence permits the inference that a car was where it was and performing as it had been because of the defendant's choice, it follows that the defendant was in actual physical control, even when the vehicle is no longer operable or drivable. *State v. Smelter*, 36 Wn. App. 439, 444-445 (1984).