

81 A.D.3d 472
Supreme Court, Appellate Division,
First Department, New York.

In re Angel **BAUTISTA**, etc., Petitioner,
v.
The **CITY OF NEW YORK**, et al., Respondents.

Feb. 10, **2011**.

Synopsis

Background: Licensee commenced Article 78 proceeding challenging city taxi and limousine commission's revocation of his for-hire vehicle driver's license and imposition of fines. The Supreme Court, New York County, [Joan B. Lobis, J.](#), transferred proceeding.

Holding: The Supreme Court, Appellate Division, held that substantial evidence supported city taxi and limousine commission's revocation of for-hire vehicle driver's license.

Petition denied.

West Headnotes (1)

[1] **Automobiles**

Weight and Sufficiency of Evidence

Substantial evidence, namely passenger's testimony, supported city taxi and limousine commission's findings that licensee exposed himself to passenger and engaged in lewd behavior as he was driving, thus warranting revocation of his for-hire vehicle driver's license and imposition of fines.

[Cases that cite this headnote](#)

Attorneys and Law Firms

****902** [Gregory J. Gallo](#), Long Island City, for petitioner.

[Michael A. Cardozo](#), Corporation Counsel, New York ([Elizabeth I. Freedman](#) of counsel), for respondents.

[GONZALEZ, P.J., TOM, ANDRIAS, ACOSTA, ABDUS-SALAAM, JJ.](#)

Opinion

***473** Determination of respondent **New York City** Taxi and Limousine Commission, dated June 19, 2009, which revoked petitioner's for-hire vehicle driver's license and imposed fines totaling \$1,350 upon findings that petitioner engaged in sexually inappropriate conduct while operating a for-hire vehicle, unanimously confirmed, the petition denied, and the proceeding brought pursuant to CPLR Article 78 (transferred to this Court by order of Supreme Court, New York County [[Joan B. Lobis, J.](#)], entered February 4, 2010), dismissed, without costs.

Substantial evidence, namely the testimony of the complainant who was a passenger in petitioner's vehicle, supported the findings that petitioner exposed himself to the complainant and engaged in lewd behavior as he was driving and that these actions constituted violations of 35 RCNY 6-18(d)(2) and (I). There exists no basis to disturb the credibility determinations of the Hearing Officer (*see [Matter of Berenhaus v. Ward](#), 70 N.Y.2d 436, 443, 522 N.Y.S.2d 478, 517 N.E.2d 193 [1987]*). Petitioner's argument that revocation of his license was improper because both violations were predicated upon the same findings of fact is unavailing, as either violation, standing alone, warranted the penalty imposed.

Parallel Citations

81 A.D.3d 472, 915 N.Y.S.2d 902, 2011 N.Y. Slip Op. 00784