

Agenda Item: 7

Consideration of Hearing Officer's Recommendations in Taxi Commission v. Eric Brill: [ACTION]

- Consideration of Hearing Officer's decision regarding continuation of summary suspension of P-44 Permit # 63024.

CITY AND COUNTY OF  
SAN FRANCISCO



TAXI COMMISSION  
MAYOR GAVIN C. NEWSOM

JORDANNA THIGPEN  
*Acting Executive Director*

April 22, 2008

**NOTICE OF DECISION**

**SUBJECT:** Suspension of Public Passenger Vehicle Permit

**PERMIT HOLDER:** Mr. Eric Brill, Public Passenger Vehicle Permit # 63024, engaged in the business of Desoto Cab Company, 555 Selby Street, San Francisco, CA 94124.

Pursuant to the recommendation of the Taxi Commission's Hearing Officer, the following recommendation is submitted to the Commission:

**RECOMMENDATION:**

The hearing officer recommends that the summary suspension remain in effect. Prior to or at the disposition of the criminal charges, the Commission may reconsider whether to lift the suspension, more for revocation of Mr. Brill's permit or take other disciplinary action it deems appropriate.

1 TAXI COMMISSION

2 CITY AND COUNTY OF SAN FRANCISCO

3 ADMINISTRATIVE HEARING DECISION

4 Hearing Officer: Julie Rosenberg, Esq.

5 Hearing Date: March 7, 2008

6 #1 Dr. Carlton B. Goodlett Place, SF, CA 94121, Room 408

7 Case: Eric Brill

Type of Permit: Public Passenger Vehicle Permit #710222 (A-Card #63024)

8 I. Facts

9 On February 7, 2008, Eric Brill made an illegal turn in front  
10 of a police car while on duty driving a taxicab. The SFPD  
11 stopped Mr. Brill and discovered, after running his driver's  
12 license, that he had two outstanding warrants: one was for  
13 possession of drug paraphernalia in Orange County and the  
14 other from the CHP (apparently for a traffic violation).  
15 During the arrest, the officers found, in plain view, two  
16 cigarette boxes on the floorboard in front of the driver's  
17 seat. These boxes contained four bindles of methamphetamine  
18 and one bindle of cocaine. The SFPD Crime lab tested the  
19 substances and determined that there were 2.13 grams of  
20 methamphetamine and .42 grams of cocaine salt. Mr. Brill has  
21 been charged with possession of a controlled substance (Health  
22 and Safety Code 11377) and possession of narcotics (Health and  
23 Safety Code section 11350). At Mr. Brill's preliminary  
24 hearing, he was held to answer to the criminal charges and  
25 will be scheduled for a jury trial.

26 II. Summary Suspension of Mr. Brill's Permit

27 Pursuant to Municipal Police Code section 1090(c), the San  
28 Francisco Police Taxi Detail summarily suspended Permit #71022

1 on February 14, 2008. Section 1090(c) states in part: "The Chief  
2 of Police may suspend summarily any permit issued under this  
3 Article pending a disciplinary hearing before the Police  
4 Commission when in the opinion of said Chief of Police the  
5 public health or safety requires such summary suspension."

6 Mr. Brill appealed this suspension by letter dated February  
7 27, 2008. On March 3, 2008, the Taxi Commission("the  
8 Commission")filed a complaint (hereinafter "The  
9 Complaint")against Mr. Brill wherein the Commission stated that  
10 it did not believe Mr. Brill was a danger to the public and was  
11 willing to lift the summary suspension, however it suggested  
12 that the Hearing Officer consider probation and/or a drug  
13 diversion program.

### 14 **III. Mr. Brill's Testimony**

15 At the hearing, Mr. Brill stated that the drugs in his  
16 taxicab did not belong to him and that he did not know how they  
17 got there. He acknowledged that he checked his car at the start  
18 of the shift.

19 With respect to the warrant from Orange County, Mr. Brill  
20 stated that he was arrested in Orange County for having a glass  
21 pipe in his vehicle. He began a drug diversion program in Orange  
22 County which was completed in San Francisco. According to Mr.  
23 Brill, the Orange County Court never received confirmation that  
24 the program was completed, and therefore a warrant was issued  
25 for his arrest. Mr. Brill stated that the glass pipe found in  
26 his car did not belong to him, and he did not know how it got  
27 there.

1 Mr. Brill further stated that he does not take drugs and  
2 that he had no other arrests or convictions for drug-related  
3 matters.

4 Mr. Brill submitted into evidence: (1) A San Mateo Superior  
5 Court order, dated 9/25/07, which sets aside a 12/19/06  
6 conviction for a violation of Health and Safety Code Section  
7 11364. The reason for setting aside the conviction was  
8 successful completion of a treatment program, (2) a letter,  
9 dated 9/5/07 from the Mission Council on Alcohol Abuse which  
10 indicates that Mr. Brill completed the Prop. 36 Intensive  
11 Outpatient Treatment Program started on 4/20/07, (3) a Prop 36  
12 Report Card from Mr. Brill's probation officer and, (4) a letter  
13 to Mr. Brill, dated 10/30/07 which indicates early termination  
14 of probation. All documents submitted by Mr. Brill relate to  
15 case number NM362900A.

16  
17 The hearing officer kept the summary suspension in effect  
18 pending further investigation of Mr. Brill's criminal history.

19 **IV. Mr. Brill's Criminal Record**

20 Further investigation establishes that Mr. Brill has two  
21 separate arrests for possession of drug paraphernalia (Health  
22 and Safety Code section 11364(a)): one in Orange County on  
23 4/15/06 and another in South San Francisco on 11/18/06.

24 Orange County

25 The Placentia Police Department observed Mr. Brill  
26 driving without a seatbelt so he was pulled over. The officer  
27 discovered that Mr. Brill was driving on a suspended license  
28 and that the car had drug paraphernalia. More specifically,  
there were four glass "smoking" pipes with a white residue.

1 Other items recovered included a plastic straw, baggy and box  
2 with "residue", hot plates, scales and items used to "cut."  
3 The SF Taxi Detail has not yet provided evidence of a  
4 conviction following this arrest.

5 South San Francisco

6 The SFPD observed Mr. Brill's vehicle parked at the  
7 Travelodge in South San Francisco. According the police  
8 report, the Travelodge at this location is known as an area  
9 for criminal activity. A records check showed that Mr. Brill  
10 was on San Mateo County Court probation and subject to search  
11 and seizure. There was also a \$5,500 warrant from Orange  
12 County. Police searched Mr. Brill's room and found a "glass  
13 methamphetamine pipe" on the nightstand with a white residue.  
14 According to the report, Mr. Brill said he used it to smoke  
15 methamphetamine on a few occasions and it was last used about  
16 four months ago. Mr. Brill was arrested for a violation of  
17 Health and Safety Code section 11364(a). The SF Taxi Detail  
18 has not yet provided evidence of a conviction following this  
19 arrest, however, the documents submitted by Mr. Brill suggest  
20 there was a conviction on 12/19/06 which was set aside on  
21 9/25/07 after completion of a drug rehabilitation program.

22 **V. Hearing Officer's Recommendation**

23 Given the current charges (for possession of narcotics and a  
24 controlled substance) against Mr. Brill and his two prior  
25 arrests for possession of drug paraphernalia, the hearing  
26 officer finds that Mr. Brill has a history of an association  
27 with drugs. Consequently, he poses a threat to public safety  
28 while driving a taxicab.

1 The hearing officer recommends that the summary suspension  
2 remain in effect. Prior to or at the disposition of the  
3 criminal charges, the Commission may reconsider whether to lift  
4 the suspension, move for revocation of Mr. Brill's permit or  
5 take other disciplinary action it deems appropriate.

6 Julie Rosenberg  
7  
8 Julie Rosenberg, Esq.

3/28/08  
Date

9 Hearing Officer

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