



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0220517698 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ZITA R FEATHERSTONE Hearing Date: 07/14/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$25.00
Community Service(Hr): 1

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0220517698	Sustained	05/25/2026	15 River Street Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AX25	AC 10-125	Sustained	\$25.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on Court Call on July 14, 2026. Petitioner did not appear. Respondent was represented by Michael Nacmias, Esq.

The summons charged a violation of 10-125(b) of the Administrative Code, open container of alcoholic beverage in public. The summons alleged respondent was observed "with a open [illegible #] oz can Fresh Coast Talea IPA beer in her right hand..."

Respondent argued that the summons did not state a prima facie case. AC 10-125(b) states, "No person shall drink or consume an alcoholic beverage, or possess, with intent to drink or consume, an open container containing an alcoholic

beverage in any public place except at a block party, feast or similar function for which a permit has been obtained.” Respondent noted that AC 10-125 defines alcoholic beverage as, “Any liquid intended for human consumption containing more than one-half of one percent (.005) of alcohol by volume.” Respondent argued the summons did not state facts from which it could be inferred that the contents of the can had .005% alcohol, as it may have been non-alcoholic. Respondent did not offer evidence that it was, but merely argued the summons did not state a prima facie case. Merriam-Webster.com defines “beer” as “a carbonated, fermented alcoholic beverage that is usually made from malted cereal grain (especially barley), is flavored with hops, and typically contains less than a 5% alcohol content.” The allegation, describing the can as labelled as beer and as India Pale Ale, suggests that the beverage was alcoholic. In NYPD v. J. Doe, Appeal No. 2501417 (January 5, 2026), the Appeals Board upheld a determination at hearing that the description of a bottle of Heineken beer was sufficient where there was testimony that it was non-alcoholic Heineken. The Appeals Board noted the evidence submitted to bolster respondent’s testimony was inconsistent, and it had failed to refute the allegation in the summons. Here, there was no attempt to refute the allegation. As in J. Doe, the allegation that it was beer was sufficient to establish a prima facie case. Respondent also noted that the summons did not state respondent was observed drinking from the can. AC 10-125(c) stated, “Possession of an open container containing an alcoholic beverage by any person shall create a rebuttable presumption that such person did intend to consume the contents thereof in violation of this section.” It is not necessary for respondent to be observed drinking from the can; possession of the open container in a public place is sufficient to establish the violation.

I credit the summons. The summons is sustained.

Respondent has the option to either pay the civil penalty imposed or complete community service. The civil penalty imposed is listed above. If respondent chooses to pay the civil penalty, it must be paid within 35 days if the decision is mailed.

If Respondent chooses community service, respondent must complete 1 hour by 19 days if mailed.

If Respondent chooses community service and fails to complete community service by the deadline, respondent will be required to pay the monetary penalty 30 days from the date of the decision or 35 days if the decision was mailed.

Donald Lash

07/14/2026

07/14/2026

Donald Lash, Judicial Hearing Officer

Date