



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: 0218405110 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- PENGFEI XU Hearing Date: 09/25/2025 Hearing Location: Remote Type of Hearing: By Telephone
---	--

Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0218405110	Dismissed	04/28/2025	166 ST & FRANCIS LEWIS BLVD Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD6L	AC 19-190(B)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Summons 0218405110 alleges a violation of § 19-190(b) of the Administrative Code of the City of New York (Code), for failing to yield to a pedestrian. In the summons, the issuing officer (IO) affirmed that, at the time and place of occurrence, Respondent did fail to yield to ped in marked cross walk causing physical injury."

Petitioner, Police Department, did not appear at the hearing.

Respondent, PENGFEI XU, appeared by attorney Michael Nacmias, Esq.

Respondent's attorney moved to dismiss the summons, arguing (i) service was defective because the IO failed to sign or fill in anything on the affidavit/certificate of service located on the reverse side of the summons; and (ii) the summons failed to make out a *prima facie* case for the charge, where the IO's narrative failed to allege Respondent was operating a motor vehicle.

I find that Petitioner failed to establish proper service. Here, the purported proof of service on the reverse side of the summons was left blank and not signed and Petitioner did not appear at the hearing to supplement its proof of service. See *NYPD v. Barrett Cherelle*, Appeal No. 2000420 (June 18, 2020). I also find the summons failed to make out a *prima facie* case for the violation where it failed to allege Respondent was operating a motor vehicle.

Accordingly, the summons is dismissed.

Kevin Lawner

09/25/2025

09/25/2025

Kevin Lawner, Hearing Officer

Date