



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: 0217042248 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- GIORGI PILASHVILI Hearing Date: 12/20/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0217042248	Dismissed	08/03/2024	Gravesend Neck Road and Bedford Avenue Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AX25	AC 10-125	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

This matter was heard remotely, via telephonic conference, on December 20, 2024. Respondent appeared via Michael Nacmias, identified as the attorney the named respondent, authorized to appear on their behalf. [Michael Sargo, a colleague of Mr. Nacmias, appeared initially, but asked me to hold for Mr. Nacmias.] Petitioner did not appear.

The summons alleges a violation of NYC Adm Code 10-125. The date of occurrence was August 3, 2024, at 3:19am.

In the summons, the issuing officer (IO) details: "At TPO, the undersigned observed the defendant sitting in a park holding an open 24 oz bottle of Heineken in plain view."

Respondent inquired about the affidavit of service; I informed him that it was blank. Respondent moves to dismiss, due to the affidavit being blank, citing to Appeal number 2000420. (I confirmed that respondent referred to NYPD v. Barrett Cherelle, Appeal No. 2000420 (June 18, 2020).) Respondent also testifies that the Code requires an APV of 0.05, and moves to dismiss on those grounds as well.

I credit respondent's testimony, and grant his motion to dismiss, since as a matter of law, this summons is defective, as its affidavit of service is entirely blank, and not filled out at all. OATH rules require that a petitioner submit both a valid summons, and proof of service; otherwise, OATH cannot assert jurisdiction over the matter. Respondent correctly cites to Barrett Cherelle in this matter.

As such, the summons is hereby dismissed, for lack of jurisdiction.

 12/20/2024	12/20/2024
Craig Messing, Hearing Officer	Date