



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000842293L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- DPV TRANSPORTATION INC Hearing Date: 05/06/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$350.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000842293L	Sustained	10/13/2023	1064 AMSTERDAM AVENUE Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	\$350.00

Findings of Fact & Conclusions of Law

Ilma Babu appeared for Respondent by phone. Senior Inspector John McLaughlin, DEP, appeared by phone.

The summons alleges that a bus with MA Plate #5243B was idling while adjacent to The Cathedral School of St. John the Divine for more than one minute on 10/13/23 from 9:03 to 9:07 am.

The DEP submitted the redacted complaint (P1); weather report (P2) photos of bus (P3) and video. However, the video does not show any school.

The DEP moved to amend to a violation of idling for more than three minutes. Ms. Babu objected.

An amendment is proper under 48 RCNY § 6-13(e) when it is "reasonably within the scope of the original summons because it is based on the same facts alleged in the IO's narrative, and it does not allege additional acts or violations not contained in the original summons." See *DOB v. Booth 45 LLC*, Appeal No. 1901338 (October 10, 2019). Here, because of the amendment, a charge of idling for more than three minutes could establish the violation, per § 24-163(a). That Respondent's idling went on for more than four minutes was alleged in the original summons. Therefore, the amended charge did not exceed the scope of the facts alleged in the IO's narrative. And it did not allege an additional act or violation because the same idling was the basis of the original charge.

Here, I am amending the summons to a violation of idling for more than three minutes. The video does show that.

Ms. Babu did not have any other valid defenses. I find that the summons and video are credible and establish a prima facie case that the bus was idling for more than three minutes. Summons sustained.

E. Barrett

05/15/2026

05/15/2026

Elizabeth Barrett, Judicial Hearing Officer

Date