



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: 0196651290 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- JESUS CRUZ Hearing Date: 08/21/2025 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
0196651290	Dismissed	04/11/2025	I/O 18 AVE/ 65 ST Brooklyn

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

Findings of Fact & Conclusions of Law

I find Respondent Jesus Cruz not in violation of the charge of NYC Administrative Code § 19-190(b) for failure to yield right of way to pedestrian causing physical injury.

Petitioner NYPD did not appear. Respondent Jesus Cruz appeared through counsel at a telephone hearing on August 21, 2025. Respondent's counsel, Mr. Michael Nacmias, waived the presence of the issuing officer, and the use of an interpreter.

Respondent was charged with violating section 19-190(b) of the Administrative Code on April 11, 2025, at 8:55 pm.

Respondent's counsel moved to dismiss the summons on two separate grounds: (1) improper service of the summons based on the defective affidavit of service, which was left blank and was not signed; and (2) Petitioner failed to make a prima facie case as the summons does not allege sufficient facts for the violation charged. Specifically, Respondent's counsel argued that the summons failed to allege that there was physical injury when physical injury is a required element of the charge. I find both arguments persuasive.

For the reasons stated in *NYPD v. Ajaz B. Kiani, Appeal No. 1801238 (June 18, 2020)*, I find that upon Respondent's challenge to service, Petitioner failed to establish proper service where 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.

I also find that Petitioner failed to make a prima facie case here. Code Section § 19-190(a) makes it a violation to fail to yield to a pedestrian or person riding a bicycle when such pedestrian or cyclist has the right of way. Moreover, Code Section § 19-190(b) states that "any driver of a motor vehicle who violates subdivision a of this section and whose motor vehicle causes contact with a pedestrian or person riding a bicycle and thereby causes physical injury". In addition, OATH rule 6-08(c) states that a summons must contain "[a] clear and concise statement sufficient to inform the Respondent with reasonable certainty and clarity of the essential facts alleged to constitute the violation or the violations charged, including the date, time where applicable, and place when and where such facts were observed...". Here, Petitioner simply alleged in the summons that Respondent "failed to yield to a pedestrian in the crosswalk". However, the summons fails to allege whether the pedestrian had the right of way, a required element of Code § 19-190(a). See *City of New York v. Christopher Colander, Appeal No. 1701338 (February 1, 2018)*. Moreover, the summons fails to allege the required elements under Code § 19-190(b), such as whether Respondent's vehicle came into contact with the pedestrian and if that contact caused physical injury to the pedestrian. See *NYPD v. Renee Mouhadeb, Appeal No. 2401299 (September 26, 2024)*.

Therefore, the summons is dismissed.



08/21/2025

08/21/2025

George Drakopoulos, Hearing Officer

Date