



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
*Hearings Division*

**DECISION**

|                                                                                                       |                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Michael Nacmias, Esq. - Nacmias Law Firm</b><br>592 Pacific Street 1st Floor<br>Brooklyn, NY 11217 | <b>Summons No: 0218998919 et al. (1 Summons)</b><br><br><b>NEW YORK CITY POLICE DEPT,</b><br><br><b>-against-</b><br><br><b>HESNAM A ALDNIRAFI</b><br><br><b>Hearing Date: 02/25/2025</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount: \$0.00</b>          |
| <b>Community Service(Hr): Not Applicable</b> |

| <b>SUMMONS #</b> | <b>SUMMARY DISPOSITION</b> | <b>DATE OF OCCURRENCE</b> | <b>PLACE OF OCCURRENCE</b>   |
|------------------|----------------------------|---------------------------|------------------------------|
| 0218998919       | Dismissed                  | 10/10/2024                | Livonia and Ashford Brooklyn |

| <b>LINE ITEM</b> | <b>OATH CODE</b> | <b>CODE SECTION/RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|------------------|------------------|--------------------------|---------------|----------------|
| 1                | AD6B             | A.C. 19-136(b)           | Dismissed     | \$0.00         |

**Findings of Fact & Conclusions of Law**

Petitioner NYPD did not appear. Attorney Michael Nacmias appeared on behalf of HESNAM A ALDNIRAFI at telephone hearing on February 25, 2025. Respondent's counsel waived the present of the issuing officer, formal reading of the charges and the use of a translator.

Respondent was charged with violating section 19-136(B) of the Administrative Code. The issuing officer wrote that defendant was on the sidewalk with their car. Date of occurrence was 10/10/24.

Respondent's counsel made two arguments in support of the dismissal of the summons. First, the summons was defective

since it had a blank affidavit of service. Thus, Petitioner failed to provide proper proof of service as per the CPLR. Second, the summons is facially defective because the cited rule is for vehicles parked on the sidewalk. Here, is not clear if the Respondent is operating their vehicle on the sidewalk or left their vehicle parked on the sidewalk. No additional evidence was submitted.

The Board has held that service is improper when the Issuing Officer fails to provide any information on the affidavit of service and petitioner offered no testimony or other evidence at the hearing as to how the summons was served. See *NYC v. M & G General Construction*, Appeal No. 1200063 (May 31, 2012); reaffirmed in *NYPD v. Doe*, Appeal No.1800218 (May 17, 2018). See also *NYPD v. Barrett Cherelle*, Appeal No. 2000420 (June 18, 2020).

In addition, OATH rule 6-08(c)(2) 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..."

I give credit to the issuing officer's sworn statement but find that it fails to establish a violation. The summons is vague as to whether the vehicle was parked on the sidewalk. Moreover, I find that the Affidavit of Service is blank and there was no evidence presented to show that Respondent was properly served with the summons.

Therefore, the summons is dismissed.

|                                                                                   |            |
|-----------------------------------------------------------------------------------|------------|
|  | 02/27/2025 |
| 02/27/2025                                                                        | 02/27/2025 |
| Raul Quezada, Hearing Officer                                                     | Date       |