



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: 0199199698 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ALWYANE K GILFILLIAN Hearing Date: 11/01/2024 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
0199199698	Dismissed	09/12/2024	B/W 37 Avenue and 28 Street 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

The hearing on summons number 0199199698 was conducted via telephone conference call on November 1, 2024.

Respondent ALWYANE K GILFILLIAN appeared at the hearing through attorney Michael Nacmias. No appearance by Petitioner, New York City Police Department.

The Issuing Officer alleges in the handwritten summons that Respondent violated Admin. Code 19-190(b). Specifically, the summons reads: "Right of way failure to yield physical injury."

Respondent moves to dismiss the summons as the affidavit of service is blank.

Respondent also argues it does not make out a prima facie case, as the summons does not directly allege who was injured and does not detail what happened.

I find that Petitioner failed to provide sufficient proof of service. Here, Petitioner filed a completely blank "Affidavit (Certificate) of Service," lacking the IO's signature or any description of the manner of service. As Petitioner did not appear at the hearing to supplement its proof of service with any testimony or other evidence, and as the summons and affidavit of service lack any information regarding service, service is defective.

I also find that the summons fails to make out a prima facie case, as it does not include any specific information as to who had the right of way, who failed to yield, who suffered physical injury, and any specifics regarding the physical injury. Accordingly, the summons is dismissed.



11/01/2024

11/01/2024

Alexandra Saker, Hearing Officer

Date