



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 0217806427 et al. (1 summonses)

NEW YORK CITY POLICE DEPT,

-against-

GIOVANNA PASTRANA

Hearing Date : 12/18/2024

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0217806427	Dismissed	08/12/2024	68 AVE / FRESH POND ROAD, Queens

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

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

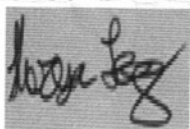
Summons 0217806427 charges a violation of Administrative Code § 19-190(b) for failing to yield at a crosswalk resulting in physical injury. The hearing was on 12/18/2024. Petitioner did not appear. Respondent appeared through attorney Michael Nacmias.

The issuing officer wrote that Respondent made a left turn onto 68th Avenue and Fresh Pond Road and did strike pedestrian with her vehicle causing physical injury.

Respondent's counsel made a motion to dismiss for failure to file proof of service, and referred to Appeal No. 2000420 in support. Counsel made a second motion to dismiss, stating that the summons was facially defective because it does not plead that Respondent failed to yield or right of way as required by statute, and it does not adequately define a physical injury within the meaning of the statute.

Section 19-190(b) imposes a fine on a motor vehicle that fails to yield to a pedestrian, comes in contact with the pedestrian, and causes a physical injury.

Before turning to the merits of the summons, service must be established. Per 48 RCNY § 6-08(a)(1), Petitioner is required to file proof of service before the hearing. Here, Petitioner has filed the summons without proof of service. Accordingly, the summons is dismissed.



12/18/2024

12/18/2024

Theresa Leary, Hearing Officer

Date

