



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: 0211638525 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- JAVIER MEDINA Hearing Date: 02/13/2025 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
0211638525	Dismissed	12/25/2024	501 Fort Hamilton Parkway 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

On February 13, 2025, a telephonic hearing was held with respect to the instant matter. Petitioner, the New York City Police Department, did not appear. Respondent, represented by attorney Michael Nacmias, waived the appearance of an interpreter and elected to proceed without the issuing officer present.

In the summons, Petitioner states that Officer Nash observed Javier Medina violate Administrative Code 19-190(B) in that "right of way- failure to yield physical injury" on October 25, 2024, at 9:00A.M. in front of 4501 Fort Hamilton Parkway.

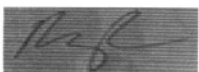
Respondent requests dismissal for two reasons: (1) there is no affidavit of service, and therefore, service was inadequate and

(2) the allegations fail to make out a prima facie violation of Admin Code 19-190(B) since the language on the summons mirrors the statute, and that the allegations as written are facially insufficient.

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).

I credit Respondent's testimony and find that the summons is defective since there are zero factual allegations detailing the conduct in this case. While the summons itself states "right of way-failure", Respondent correctly avers that there is no allegation that Mr. Medina was in a vehicle, that the pedestrian was in a crosswalk or that there was even a pedestrian. Moreover, I find that the Affidavit of Service is blank and there was no evidence presented to show that the respondent was properly served with the summons.

Accordingly, the instant summons is dismissed.



02/13/2025

02/13/2025

Raymond Queliz, Hearing Officer

Date