



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: 0211628937 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ELVIN BURGOS RIVERA Hearing Date: 02/02/2026 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
0211628937	Dismissed	09/14/2025	LOUISIANA AVENUE & STANLEY AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AS9I	16-118 (6)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Michael Nacmias, Esq., appeared as the attorney for the respondent, Elvin Burgos Rivera, and waived the appearance of the issuing officer. The petitioner, the New York Police Department, did not appear.

The summons alleges that on 09/14/25 at 9:40 PM, at the intersection of Louisiana Avenue and Stanley Avenue, the undersigned did observe defendant urinating from driver's side door on Stanley Avenue and Louisiana Avenue.

The respondent is charged with Administrative Code 16-118(6), which states, "No swill, brine, offensive animal matter, noxious liquid, or other filthy matter of any kind, shall be allowed by any person to fall upon or run into any street, or public place, or be

taken to or put therein.”

Respondent’s attorney moved to dismiss the summons. The Affidavit of Service is blank. Petitioner failed to provide proof of service. There is no jurisdiction over the respondent. He cited Appeals No. 2000420.

On the merits, he denied the allegation. There is no prima facie case.

Respondent’s attorney’s statements are persuasive and provide a meritorious defense. As the Affidavit (Certificate) of Service was left blank, “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.” NYPD v. Barrett Cherelle, Appeal No. 2000420, June 18, 2020. I find that in the instant case, petitioner had failed to establish that service was properly effectuated.

Accordingly, the summons is dismissed and no penalty is due.

Grace Chen

02/17/2026

02/17/2026

Grace Chen, Judicial Hearing Officer

Date