



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: 0200738479 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- EMMANUEL OWUSIU Hearing Date: 10/07/2025 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
0200738479	Dismissed	03/25/2025	EAST GUN HILL ROAD & DEKALB AVE Bronx

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

Findings of Fact & Conclusions of Law

I find Respondent Emmanuel Owusiu not in violation of the charge of NYC Administrative Code § 19-190(b) for failure to yield right of way to pedestrian causing physical injury.

Petitioner NYPD did not appear. Respondent appeared through counsel at a telephone hearing on October 7, 2025. Respondent's counsel, Michael Nacmias, waived the presence of the issuing officer, the use of an interpreter and the reading of the summons.

Respondent was charged with violating section 19-190(b) of the Administrative Code.

Respondent's counsel moved to dismiss the summons on three separate grounds: (1) improper service of the summons based on the defective affidavit of service, which was blank and not signed; (2) lack of jurisdiction, based on the defective affidavit of service, which was blank and not signed and (3) Petitioner failed to make a prima facie case as the summons does not allege sufficient facts for the violation charged. Specifically, Respondent's counsel argued that the summons failed to allege who had the right of way, whether Respondent was driving a vehicle and whether physical injury was caused, which is a required element for this charge. I find these arguments persuasive.

For the reasons stated in *NYPD v. Ajaz B. Kiani, Appeal No. 1801238 (June 18, 2020)*, I find that upon Respondent's challenge to service, 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.

I also find that Petitioner failed to make a prima facie case here. Code Section § 19-190(a) makes it a violation to fail to yield to a pedestrian or person riding a bicycle when such pedestrian or cyclist has the right of way. Moreover, Code Section § 19-190(b) states that "any driver of a motor vehicle who violates subdivision a of this section and whose motor vehicle causes contact with a pedestrian or person riding a bicycle and thereby causes physical injury". In addition, OATH rule 6-08(c) 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...". Here, Petitioner simply alleged in the summons "respondent struck a pedestrian in a marked crosswalk/signal casing injury." However, the summons fails to allege the pedestrian had the right of way, a required element of Code § 19-190(a). See *City of New York v. Christopher Colander, Appeal No 1701338 (February 1, 2018)*. Moreover, the summons fails to allege the required elements under Code § 19-190(b), such as whether the Respondent was operating a vehicle, and whether there was physical injury to the pedestrian.

Therefore, the summons is dismissed.



10/08/2025

10/08/2025

George Drakopoulos, Hearing Officer

Date