



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: 0216976632 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- CLYDE PHILLIPS Hearing Date: 10/10/2025 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
0216976632	Dismissed	08/20/2025	W 36 ST/6th Avenue Manhattan

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 CLYDE PHILLIPS 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 10, 2025. Respondent's counsel, Mr. 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 because 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 whether the Respondent was operating a vehicle, whether there was a pedestrian who had the right of way, whether the incident occurred at a crosswalk, and whether there was physical injury to the pedestrian, a required element of this charge. I find these arguments persuasive.

I 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 "failed to yield right of way w/injuries". However, the summons fails to allege whether there was a pedestrian involved here, or a cyclist, and if the pedestrian or cyclist 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, whether it was Respondent's vehicle that came into contact with the pedestrian and if that contact caused physical injury to the pedestrian. See *NYPD v. Renee Mouhadeb*, Appeal No. 2401299 (September 26, 2024).

Therefore, the summons is dismissed.



10/10/2025

10/10/2025

George Drakopoulos, Hearing Officer

Date