

<b>Elliot Place Estates LLC v Williams</b>
2026 NY Slip Op 31927(U)
April 29, 2026
Supreme Court, Bronx County
Docket Number: Index No. LT-305764-24/BX
Judge: Krzysztof Lach
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CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX: HOUSING PART

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ELLIOT PLACE ESATES LLC

Index No. LT-305764-24/BX

Petitioner,

**DECISION/ORDER**

- against -

ADA WILLIAMS

Respondents.

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In the matter at bar, the Court held a traverse hearing concerning service of the notice of petition and petition. At the hearing, Dillon J Desane was called on Petitioner's direct and further re-called on Respondent's direct. Mr. Desane was the process server who allegedly effectuated service of process.

It is axiomatic that proper service of process must be effectuated for the Housing Court to obtain personal jurisdiction over a respondent in a nonpayment/holdover proceeding (*New York City Hous. Auth. Butler Houses v Williams*, 7 Misc 3d 1028[A] [Civ Ct, New York County 2005, Madhavan, J.]. At a traverse hearing, "[petitioner] must establish jurisdiction by a preponderance of the evidence" (*Skyline Agency, Inc. v Ambrose Coppotelli, Inc.*, 117 AD2d 135, 139 [2d Dept 1986]; see also *Eros Intl. PLC v Mangrove Partners*, 191 AD3d 464 [1st Dept 2021]).

Here, Mr. Desane's affidavit of service avers that he effectuated service of the notice of petition and petition by conspicuous-place service. "RPAPL 735 (1) permits conspicuous-place service when the petitioner has attempted personal delivery to the respondent or to a person of suitable age and discretion at the premises sought to be recovered and failed, after having made a 'reasonable application,' which requires that there is 'at least a reasonable expectation of success in finding a person on the premises to whom delivery may be made'" (*156 Nassau Ave. HDFC v Tchernitsky*, 62 Misc 3d 140[A] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2019], quoting *809-811 Kings Highway, LLC v Pulse Laser Skin Care*, 25 Misc 3d 130[A], 2009 NY Slip Op 52121[U], \*1 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2009]). It is well settled that "at least two attempts at personal service are needed to satisfy the 'reasonable application' standard" of RPAPL 735 (1) (*809-811 Kings Highway, LLC v Pulse Laser Skin Care*, 2009 NY Slip Op 52121[U], \*1-2; see *Eight Assoc. v Hynes*, 102 AD2d 746, 748 [1984], affd 65 NY2d 739 [1985]).

In addition to testifying as to the services of process that were effectuated, a process server in New York City is required by statute to bring all records relating to the matter at issue (22 NYCRR § 208.29). Those records must include such information

as the title of the case, index number, court, name of the person served, and the date, time and place of service (*see* General Business Law §§ 89–c, 89–cc). They must also include records from a mobile device that utilizes software that “makes an electronic record of the location where, and the time and date when,” process is being served or attempted to be served using GPS “technology or Assisted–Global Positioning System (“A–GPS”) technology” (N.Y. City Code [6 RCNY] § 2–233b[a][1][I]).

Under Petitioner’s direct, no GPS records from the process server relating to service of process of the notice of petition and petition were introduced into evidence. Petitioner’s counsel explicitly stated that she would not be introducing the same. The Court is cognizant that not all records that a process server brings to a hearing must then be admitted into evidence to establish their credibility (*e.g. Kardanis v Velis*, 90 AD2d 727, 728 [1982]). The process server and Petitioner’s attorney, however, failed to provide any excuse for the omission of the GPS records.

The absence of the GPS records at the traverse hearing alone may not have been fatal to Petitioner’s efforts to establish proper service but for the process server’s troubled history of service. The Court notes that the New York City Department of Consumer and Worker Protections (DCWP), an agency of the City of New York that, among other duties and authorities, licenses process servers entered into a consent order and settlement agreement<sup>1</sup> (hereinafter “consent order”) with Dillon J Desane. The consent order was entered in response to a summons that was issued by DCWP. This summons itself followed an investigation and/or audit by DCWP of certain acts and practices of Dillon J. Desane related to his role as a process server. The consent order required Dillon J. Desane to, among other information required by law, to include in his affidavits of service “the GPS location, time and date of the service that [Dillon J. Desane] created pursuant to 6 RCNY § 2-233b) (The GPS location shall be expressed in latitude/longitude format and the GPS date and time shall be the date and time as determined by global positioning system or assisted-global positioning system technology).” The affidavit of service at issue here failed to include the information required by the consent order.

The purposeful withholding of the GPS information on direct coupled with the process servers’ repeated failure<sup>2</sup> to comply with the consent order wholly undermined his credibility. Accordingly, traverse is SUSTAINED and the proceeding is DISMISSED on the ground that the Petitioner failed to prove by a preponderance of evidence that the notice of petition and petition were properly served.


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<sup>1</sup> The consent order was dated November 2, 2023.

<sup>2</sup> The Court notes that GPS tracking information was similarly omitted by the process server in his affidavit of service for the rent demand

This dismissal is without prejudice to Petitioner's claims to the outstanding rent.

Dated: April 29, 2026  
Bronx, New York

  
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Hon. Krzysztof Lach