

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5th day of March, two thousand and nineteen.

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Alan Giordani, individually  
and as Proposed Executor for  
the Estate of Nancy Giordani,

Petitioner-Appellant

v.

United States District Court  
for the Southern District of  
New York,

Respondent-Appellee.

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**NOTICE OF MOTION  
TO STAY AND  
REINSTATE**

Docket No. 18-2546

Appellant Alan Giordani duly swears and deposes pursuant to U.S.C. Section 1001 that,

This motion is submitted requesting this Court to immediately stay the docketing of its strike order and default, resulting from the Appellant's non-compliance to file an appeal brief by February 19, 2019 and further reinstate the appeal, together with granting leave to file an extraordinary writ with the U.S. Supreme

App. 2

Court, together with all other relief this Court deems just and appropriate at this time.

In as much as the appellant's non-compliance to timely file the brief in this matter by February 19, 2019 appears to be entirely this Court's refusal to provide appropriate directives to its administrative personnel and clerks, to properly upload its E.C.F. System with the April 9, 2018 submissions, that the Docket Sheet designates as Document "1" "2" and "3", then this failure resulted in the lack of capacity to file a joint appendix, or otherwise furnish this Court's case manager "Jason" the ability to accept the filing for this Court's review on the merits. This appellant made two motions in January for this specific and much needed relief, that were decided January 29, 2019 by Judge Ralph Winter, with two orders that failed to contain the explicit language sufficient to order or direct this upload of the Documents upon which the June 25, 2018 dismissal was entirely based. Additionally, this matter was thereafter submitted to this Court on February 1, 2019 in a Motion to "reconsider," and by order dated February 13, 2019 again denied the necessary relief, that would have enabled this appellant to timely file his brief.

This Court, should take further notice that each of these motions were submitted and supported with a proposed brief that demonstrated that Judge Colleen McMahon dismissal was a complete error and demonstrated the District Court's obvious failure to read and understand that the matters before her, at that time had not previously been adjudicated, and that her

### App. 3

failure to comprehend that the survey maps, and metes and bounds involved two separate and distinct parcels of land, and that this and the other matters in the petition were not at all “frivolous,” and that the appellant should have prevailed on the underlying substantive merits.

This “error” included the failure to provide a federal monitor or other relief, so that this matter could be properly reviewed in a proper judicial context, and not ex-parte. The Second Circuit Court recognized this initially at the time the Notice of Appeal was filed last August, by appointing the U.S. Attorney for S.D.N.Y. In as much as there has been no meaningful contact, the appellant must believe that this was little more than a nominal appointment. There has been no objection made with respect to the proposed appendix which has been presented in the brief, and submitted as a supporting exhibit in the motion practice demonstrating that the failure to submit was not the fault of this undersigned movant, but instead indicative of a matter beyond his control.

Respectfully, this Court should be mindful of the C-Span interview earlier this month between Judge Robert Katzman and Justice Sonia Sotomayor, describing what appears to be at least some reflection of how an ordinarily prudent S.D.N.Y. District Court should proceed in her duties, which at the very minimum should include some communication with the litigant to understand what the end goal of the party is, or needs to be. Petitioner practiced Law in Bronx County for more than ten years, and perceives this to have

#### App. 4

been a reasonable expression of jurisprudence of all of the judges before who this petitioner appeared. This does not necessarily hold true in Queens County, and in this matter, where anomalies and irregularities exist, then the result must be deemed as suspect. The failure of Judge McMahon, to contact this petitioner prior to undertaking and deciding her June 25, 2018 "sua sponte dismissal", was such a remarkable error, that completely ignored the most basic Constitutional notions of fair notice and due process, that this matter too, must be construed as suspect. Had she made contact, or alternatively assigned a U.S. Attorney, or other party to do so, then her obvious misunderstanding would have readily been clarified. This failure appears to be part of the same continued effort of government officials in New York to obstruct and frustrate the underlying matter and pervert justice.

Attached, please find a copy of a letter from former U.S. Congressman Anthony Wiener, dated 1999, that was submitted as part of the correspondence, demonstrating an effort to exhaust all administrative remedies. This letter, was one of the 260 pages from the April 9, 2018 petition, that the Court refused to upload into its E.C.F. System. The petitioner believes that he is one of the many scoundrels who pervaded New York State, City and Queens County government, to such an extent, that the underlying scheme persisted from that time to the present, in what must questionably be an appearance of continued concealment or omission of duties. Petitioner believes Mr. Wiener stood at or near the periphery of political power and influence, that

included a seat on the U.S. Congressional Judiciary Committee, as well as at the vortex of Queens County political contributors and “dark money,” and which is the motive why he failed to take any additional affirmative measures to assist his afflicted constituents. Likewise, the underlying filing contains a roadmap of the many other officials who knew and should have known of the conspiracy to violate and deprive constituent civil rights, and who did nothing, in furtherance of their own career ambitions.

This Court should also be mindful that the April 9, 2018 filing, contained an application seeking protective relief that included what appears to be a profound need for an expansion of Heller-McDonald and Second Amendment Law and jurisprudence, that includes an alternate access to firearms and licensing, that this Petitioner truly believes is part of New York’s ubiquitous pervading graft and systemic corruption, that is the essence of this entire litigation.

This Petitioner cited this Court’s February 23, 2018 decision by Judge Lynch in “New York State Rifle and Pistol Assoc. v. New York State and N.Y.P.D. Firearms Licensing Division,” that describes New York’s current policies as error and inconsistent with the U.S. Constitution, and further advocated the need to recognize the need for a necessary federal remedy and prescriptive relief including and in the form of a “constitutional carry” provision. Additionally, the petitioner asserts that New York’s current subjective “may issue” standard needs to adapt a objective “shall issue” standard. Judge McMahon completely ignored this

App. 6

prong of the application for relief that was sought. Rather than refer it to a Court of appropriate jurisdiction, this failure may be indicative of prejudice, bias or some attempt to advance or maintain a policy preference or agenda. This failure appears to have been an abuse of power, or misuse of discretion.

In as much as N.Y.S.R & P was appealed and granted certiorari before the U.S. Supreme Court on January 22, 2019 then it is incumbent on this Court to now refer this prong of the Petitioner's underlying submission, together with this extraordinary writ, to the U.S. Supreme Court for its immediate review, and thereafter, await for its remedial directions. Accordingly, the Court needs to immediately stay the docketing of the default and dismissal order, and further refer the extraordinary writ accordingly.

There has been no other application for the relief requested within made before this or any other court, other than that described above, aside from a motion submitted electronically to the Second Circuit on February 27, 2019 to stay the docketing of the default in the event the Court is delayed with this review.

Accordingly, and in the interest of justice, this motion should be granted in its entirety.

March 5, 2019

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ALAN GIORDANI  
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App. 7

**Congress of the United States  
House of Representatives  
Washington, DC 20515**

**ANTHONY D. WEINER**  
NEW YORK

COMMITTEE:

**JUDICIARY**

☐ 501 CANNON BUILDING  
WASHINGTON, DC 20515  
(202) 225-6816

**FRESHMAN WHIP**

☐ DISTRICT OFFICES:  
1201 EMMONS AVE.,  
SUITE 212  
BROOKLYN, NY 11235  
(718) 332-8001

☐ 116-21 QUEENS BLVD.,  
RM. 200  
FOREST HILLS, NY 11245

☐ 90-15 ROCKAWAY  
BEACH BLVD.  
ROCKAWAY BEACH, NY  
11883

May 4, 1999

James Leonard  
Commissioner  
Department of Buildings  
126-06 Queens Boulevard  
Forest Hills, NY 11415

Dear Commissioner Leonard:

I have been contacted by my constituents with regard to extension work at a pub located at 82-11 Eliot

App. 8

Avenue, between 82nd Street and 83rd Street, in Queens, in my district, that allegedly has been found to be in violation of building codes.

According to my constituents, the owner of this property has already been issued violations by the Department of Buildings, but the extension has yet to be dismantled.

Please investigate this matter thoroughly and inform me of your findings so that I may notify my constituents.

Thank you in advance for your prompt attention and reply to this important matter.

Sincerely

/s/ Anthony D. Weiner  
ANTHONY D. WEINER  
Member of Congress

ADW:jh

cc: Allan [sic] Giordani

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App. 9

**From:** cmecf@ca2.uscourts.gov  
**Sent:** Tuesday, January 29, 2019 3:34 PM  
**To:** alangiordani@gmail.com  
**Subject:** 18-2546 In re: Alan Giordani "Motion Order FILED denying to stay"

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

**Court of Appeals, 2nd Circuit**

**Notice of Docket Activity**

The following transaction was filed on 01/29/2019

**Case Name:** In re: Alan Giordani

**Case Number:** 18-2546

**Document(s):** Document(s)

**Docket Text:**

MOTION ORDER, denying motion to stay the briefing schedule [85] filed by Appellant Alan Giordani, by RKW, FILED. [2484655][89] [18-2546]

**Notice will be electronically mailed to:**

Mr. Alan Vincent Giordani, -: alangiordani@gmail.com, pchelpme@optimum.net

App. 10

**Notice will be stored in the notice cart for:**

Quality Control 1

The following document(s) are associated with this transaction:

**Document Description:** Motion Order FILED

**Original Filename:** 18-2546 ord.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1161632333  
[Date=01/29/2019] [FileNumber=-2484655-0] [7340be-  
aale1e95edd108df9f4135b4edd0ac0ac5f5b00379fb437  
348e56ac22c9035f02385fb3869c77ab7c50666e4bd8e3  
1f26aaa4c5c786f8181eb8525731978]]

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**From:** cmecf@ca2.uscourts.gov

**Sent:** Tuesday, January 29, 2019 3:39 PM

**To:** alangiordani@gmail.com

**Subject:** 18-2546 In re: Alan Giordani "Order  
FILED"

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App. 11

**Court of Appeals, 2nd Circuit**

**Notice of Docket Activity**

The following transaction was filed on 01/29/2019

**Case Name:** In re: Alan Giordani

**Case Number:** 18-2546

**Document(s):** Document(s)

**Docket Text:**

ORDER, dated 01/29/2019, dismissing appeal [sic] by 02/19/2019 unless Appellant Alan Giordani submits a brief and appendix, FILED.[2484671] [18-2546]

**Notice will be electronically mailed to:**

Mr. Alan Vincent Giordani, -: alangiordani@gmail.com,  
pchelpme@optimum.net

The following document(s) are associated with this transaction:

**Document Description:** Default\_Dis\_Brief/Due\_Pro\_Se\_APET

**Original Filename:**

/opt/ACECF/live/forms/JasonWang\_182546\_2484671\_Default\_Dis\_Brief\_Due\_Pro\_Se\_APET\_347.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1161632333 [Date-01/29/2019]  
[FileNumber=2484671-0]

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9472842a5617740cb276b912fe24e13e25]]

**Recipients:**

- Mr. Alan Vincent Giordani, -
-

App. 12

**From:** cmecf@ca2.uscourts.gov  
**Sent:** Wednesday, February 13, 2019 3:03 PM  
**To:** alangiordani@gmail.com  
**Subject:** 18-2546 In re: Alan Giordani "Motion Order FILED denying to reconsider"

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**Court of Appeals, 2nd Circuit**

**Notice of Docket Activity**

The following transaction was filed on 02/13/2019

**Case Name:** In re: Alan Giordani

**Case Number:** 18-2546

**Document(s):** Document(s)

**Docket Text:**

MOTION ORDER, denying motion to reconsider the 01/29/2019 order[92] filed by Appellant Alan Giordani, by RKW, FILED. [2496107][96] [18-2546]

**Notice will be electronically mailed to:**

Mr. Alan Vincent Giordani, -: alangiordani@gmail.com,  
pchelpme@optimum.net

App. 13

**Notice will be stored in the notice cart for:**

Quality Control 1

The following document(s) are associated with this transaction:

**Document Description:** Motion Order FILED

**Original Filename:** 18-2546 den recon ord.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1161632333 [Date=02/13/2019]

[FileNumber=2496107-0]

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5d916e340403d6646eccd8d8ddcd8c8cc5b57ecab9440bb  
4e2d61d2f41d004050ebbfaed7890aba]]

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**From:** cmecf@ca2.uscourts.gov

**Sent:** Wednesday, February 20, 2019 11:41 AM

**To:** alangiordani@gmail.com

**Subject:** 18-2546 In re: Alan Giordani "Schedule Default FILED"

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

App. 14

**Court of Appeals, 2nd Circuit**

**Notice of Docket Activity**

The following transaction was filed on 02/20/2019

**Case Name:** In re: Alan Giordani

**Case Number:** 18-2546

**Docket Text:**

ORDER, [90] appeal dismissed for Appellant Alan Giordani failure to file brief and appendix, EFFEC-TIVE. [2500532] [18-2546]

**Notice will be electronically mailed to:**

Mr. Alan Vincent Giordani,-: alangiordani@gmail.com,  
pchelpme@optimum.net

**Notice will be stored in the notice cart for:**

Quality Control 1

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App. 15

*New York Times (1857-Current file); Sep 7, 1972*

## **8 POLICE INDICTED IN ADDICT ARRESTS**

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### **Accused of Stealing \$10,000 From Suspects in Bronx During Last 2½ Years**

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**By DAVID BURNHAM**

Three detectives and five patrolmen have been indicted for stealing money from addicts while making narcotics arrests in the last two and a half years. District Attorney Burton B. Roberts of the Bronx announced yesterday.

The investigation leading to the indictment of the eight men on a variety of robbery, grand larceny, conspiracy and official misconduct charges was unusual because it was sparked by information from a police undercover agent and completed with the assistance of a second policeman who agreed to cooperate after he reportedly had been caught stealing.

The men were accused of having stolen \$10,000. Mr. Roberts said at a news conference that the investigation was continuing and that more indictments were expected.

The importance of the case and the unusual techniques used to investigate it—in the eyes of the Police Department—were indicated by the presence at the conference of Commissioner Patrick V. Murphy, First Deputy Commissioner William H. T. Smith, Deputy

App. 16

Commissioner William P. McCarthy, who is in charge of organized-crime control, and other police officials.

In another unusual development in the case, Mr. Roberts asked Supreme Court Justice Joseph P. Sullivan to release from jail two addicts who the prosecutor said had pleaded guilty to possession of heroin and cocaine and had been sentenced to jail on the basis of untrue sworn statements by two of the eight indicted policemen.

Mr. Roberts said his office had decided to make similar requests for the defendants in four other cases because of apparent police perjury and still was investigating 15 additional cases.

The two prisoners were released yesterday, pending a final decision Sept. 14. Each has already served seven and a half months in jail.

Mr. Roberts said that the investigation by his office and the Police Department, which resulted in the charges against the eight policemen, proved that intimate cooperation existed between the two branches of law enforcement and their sincere desire "to rid the department of corruption."

"We must eliminate the scourge of police corruption if we are to eliminate the scourge of crime that infects this city," he declared.

Commissioner Murphy, sitting at the prosecutor's side in his office in the State Supreme Court Building at 151 Grand Concourse in the Bronx, said he found it



"troubling" that corruption appeared to continue despite the many efforts to prevent it.

The Commissioner announced he was conducting his own investigation to determine whether the commanders involved had "lived up to their responsibilities."

If the investigation found commanders who had failed to properly supervise their men, he said, they could be removed from their commands, demoted or face Police Department charges.

Questioned about the impact of the indictments on police morale, Mr. Murphy said "morale is strengthened as our integrity is strengthened."

The investigation disclosed yesterday is the second major inquiry on police corruption to emerge here in the last few months in which policemen implicated in criminal acts have been persuaded to collect evidence against their colleagues.

This investigative technique, pioneered here by the Knapp Commission, resulted in criminal or department charges being brought five months ago against 37 policemen assigned to enforce gambling laws in Brooklyn.

The Bronx indictments were different in that the initial investigation, which began in February, was triggered by leads provided by a policeman specifically assigned to narcotics enforcement in the Bronx to spot indications of corruption.

According to Mr. Roberts, the information of Edward Williams, as undercover policeman, led to the indictment of three other policemen on charges of robbery and grand larceny for allegedly stealing \$250 in cash while making a narcotics arrest on Feb. 11.

From the initial lead provided by the undercover policeman and the additional assistance of the "turned" detective, who Mr. Roberts identified as Vincent O'Keefe, the investigators identified 11 instances where money—anywhere from \$47 to \$4,000—was stolen from addicts.

Not all of the eight policemen were involved in each alleged theft but two groups of them were indicted for conspiring to steal and share the funds taken from those they were arresting.

The eight policemen pleaded not guilty at their arraignment yesterday before Justice Sullivan and were paroled without bail pending a hearing Wednesday.

The detectives indicted are John Reilly, 28 years old; James Connolly, 36, and Theodore Crews, 38. The patrolmen indicted are Robert Petro, 34; Patrick Kelly, 28; Joseph DeRoss, 27; Barney Cohen, 37, and Lewis Orologio, 41.

All have now been suspended from the department pending final disposition of their cases.

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