

No. 20-7144

Supreme Court, U.S.

FILED

NOV 16 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

XUEJIE HE

-PETITIONER

VS.

HAIRONG XUE,

-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

STATE OF NEW YORK  
COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

**ORIGINAL**

XUE JIE HE , Pro Se

40 Ann Street

New York, New York 10038

3472689418

## **QUESTION PRESENTED**

Whether it violates the equal protection clause of the Fourteenth Amendment to the U.S. Constitution,

1. The petitioner does not owe the statement and rent, the deposit should be returned, under GOB - § 7-108(1)(e)?
2. Can the trial court destroy the trial transcripts?

## **LIST OF PARTIES**

[•] All parties appear in the caption of the case on the cover page.

## **RELATED CASES**

Wallace v. Pastore, 742 A.2d 1090 (Pa. Super. 1999)

## INDEX TO APPENDICES

**APPENDIX A** ORDERED, the motion for poor person relief &c. is dismissed, that the motion for leave to appeal is dismissed that this Court does not have jurisdiction(see NY Const, art VI, § 3; CPLR 5602);  
[Mo.No.2020-396] State Of New York Court Of Appeals [Hon. Janet DiFiore, presiding]. [Entered:05/17/20]

**APPENDIX B** An arbitrator's decision, denied, both sides consented to arbitration, the arbitration dismissed the matter after a trial.  
[SC 890/2018] Civil Court of the City of New York County of New York. [Hon.Joan M. Kenney]. [Entered:08/16/18]

**APPENDIX C** ORDERED that the motion for a poor person to leave to appeal is denied as academic. The motion for reargument is denied;  
[Mo.No.2020-396] State Of New York Court Of Appeals [Hon. Janet DiFiore, presiding]. [Entered:09/10/20]

**APPENDIX D** NOTICE OF APPEAL. Document filed by Xuejie He (tp)  
[SC 890/2018][Entered:09/06/18]

**APPENDIX E** Plaintiff motion was denied. Plaintiff also failed to demonstrate that vacatur of the award was proper under any of the grounds set forth in CPLR 7511 [b] [1].  
[570916/2018] Supreme Court of the Appellate Term, First Department of New York. [Hon. Ling-Cohan J.P., Gonzalez, Cooper, JJ.] [Entered: 12/20/18]

**APPENDIX F** Ordered that the motion for permission to reargue and / or leave to appeal to the Appellate Division, First Department of New York is denied.  
[570916/2018] Supreme Court of the Appellate Term, First Department of New York. [Hon. Ling-Cohan J.P., Gonzalez, Cooper, JJ.] [Entered 02/26/19]

**APPENDIX G** Ordered that the motion for leave to appeal as a poor person is denied.  
[M-1757] Supreme Court of the State of New York Appellate Division, First Department. [Hon. Rosalyn H. Richter, Sallie Manzanet - Daniels, Troy K. Webber, Cynthia S. Kern].[Entered:06/18/19]

**APPENDIX H** Receipt of security deposit. [Entered:04/01/17]

**APPENDIX I** Judgment in favor of He, Xuejie, total judgment \$23320.63.  
[SC 1097/2017] Civil the small Court of the City of New York County of New York. [Arbitrator] [Entered:08/10/17]

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

**[●] For cases from state courts:**

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the State Of New York Court Of Appeals court appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

**JURISDICTION**

**[●] For cases from state courts:**

The date on which the highest state court decided my case was May 17, 2020. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: September 10, 2020 and a copy of the order denying rehearing appears at Appendix C.

The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a)

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Fourteenth Amendment to the United States Constitution (Section 1.)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

New York Consolidated Laws, General Obligations GOB - § 7-108(1)(e)

1. (e). Within fourteen days after the tenant has vacated the premises, the landlord shall provide the tenant with an itemized statement indicating the basis for the amount of the deposit retained, if any, and shall return any remaining portion of the deposit to the tenant. If a landlord fails to provide the tenant with the statement and deposit within fourteen days, the landlord shall forfeit any right to retain any portion of the deposit.

9 U.S. Code § 10(3)

(3)where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced;

NY CPLR § 7511 (2015)(b)(1,)(ii)

(b) 1. (ii) partiality of an arbitrator appointed as a neutral, except where  
the award was by confession; or

NY Penal Law § 190.25(1)

1. Impersonates another and does an act in such assumed character with intent to  
obtain a benefit or to injure or defraud another;

### **STATEMENT OF THE CASE**

1. This civil action is to claim deposit of lease by Petitioner Xuejie He, ("He" or "Petitioner,") against Respondents Hairong Xue ("Xue" or "Respondents") in violation New York Consolidated Laws, General Obligations GOB - § 7-108(1)(e).

2. On April 1, 2017, The respondent Hairong Xue impersonated Helen Xie's name to sign one month rent and deposit receipt to petitioner, the day of check-in. [A-H].

3. On April 26, 2017, The petitioner moved out, there is no outstanding payment, but Xue refused to refund the deposit under the contract.

4. On May 15, 2018, The petitioner filed a claim deposit again Index No.890/18 to Civil the small Court of the City of New York County of New York.

5. On June 14, 2018, an arbitrator Mchil P Mcve dismissed Claim of petitioner in Civil the small Court of the City of New York County of New York,

The arbitrator refused to hear evidence pertinent of petitioner :

- (a) The respondent fails to provide any statement and deposit to the arbitrator.
- (b) The petitioner provided Xue signed the receipt of rent and deposit on April 1, 2017.[A-H]
- (c) The losses of petitioner was \$490 for finding Helen Xie, that the judgement Helen Xie pay \$2320.63 to petitioner for Index No. 1097/2017 on August 10, 2017. [A-I].

6. On August 16, 2018, The Civil the small Court Hon.Joan M. Kenney denied arbitration award vacated and, Civil the Small court destroys this trial transcripts. [A-B].

7. The petitioner filed a timely Notice of Appeal for arbitrator refused to hear evidence on August 28, 2018. [A-D].

8. On December 20,2018, Appellate Term of the Supreme Court, First Department denied motion of arbitration award vacated of plaintiff. [A-E]

9. On February 26, 2019, Appellate Term of the Supreme Court, First Department permission to reargue and/or leave to appeal to the Appellate Division, First Department of New York is denied. [A-F].

10. On June 18, 2019, Supreme Court of the State of New York Appellate Division, First Judicial Department denied the motion of petitioner for a poor person to leave to appeal. [A-G].

11. On May 17, 2020, State Of New York Court Of Appeals dismissed the motion of petitioner for a poor person to leave to appeal. [A-A].

12. On September 10, 2020, State Of New York Court Of Appeals denied the motion of petitioner for reargument for a poor person to leave to appeal. [A-C].

13. WHEREFORE PLAINTIFF PRAYS for judgment against Respondent, and each of them as follows:

For \$ 2,023.5 general damages for Respondents' fraud, and for punitive damages according to proof, and for reasonable the petitioner legal research's fees and costs incurred herein, and for such other and further relief as the court may deem just and proper.

### **REASONS FOR GRANTING THE WRIT**

REASONS FOR GRANTING THE WRIT was the lower Court of judiciary discrimination:

The lower Court dismissed the motion of Petitioner for a poor person to leave to appeal, violates 28 U.S. C. §1915.

Has so far departed from the accepted and usual course of judicial proceedings, sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: November 15, 2020