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**In the Supreme Court of the United States**

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TOWAKI KOMATSU,  
Petitioner,

v.

CITY OF NEW YORK, ET AL.

Respondents.

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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**PETITION FOR REHEARING**

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**Petitioner, pro se**

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## LIST OF PARTIES

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

**A. Group 1:**

- |                         |                              |
|-------------------------|------------------------------|
| 1. The City of New York | 15. Judith Lê                |
| 2. Frank Amill          | 16. Brian Leo                |
| 3. John Avellino        | 17. Liang Lin                |
| 4. Andrew Benjamin      | 18. James O'Neil             |
| 5. Bill de Blasio       | 19. Alexander Opoku-Agyemang |
| 6. Alana Brady          | 20. Steve Ortiz              |
| 7. Lawrence Byrne, Jr.  | 21. Jeffrey Peattie          |
| 8. Andrew Cummings      | 22. Matthew Pereira          |
| 9. Michael Dano         | 23. Steven Perez             |
| 10. Jonathan Darche     | 24. Donovan Richards         |
| 11. Ruben Farrell       | 25. Claudia Rodriguez        |
| 12. Saquoi Harris       | 26. Joseph Tompkins          |
| 13. Robert Holmes       | 27. Jeffrey Zimmerman        |
| 14. Avdo Javorovac      |                              |

**B. Group 2:** Neelam Chhikara, Darcel Clark, and Tara Collins

**C. Group 3:** United States Marshals Service

## RELATED CASES

1. *Komatsu v. City of New York*, No. 20-10942 (VEC)(RWL)(S.D.N.Y. Jun. 17, 2022)
2. *People v. Komatsu*, No. 2017BX048917 (Bronx Crim. Ct. Jan. 23, 2020)
3. *Komatsu v. City of New York*, No. 22-603 (L) (2d Cir. Aug. 30, 2022)
4. *Komatsu v. City of New York*, No. 22-1337 (2d Cir. Aug. 29, 2022)
5. *Komatsu v. City of New York*, No. 21-511 (2d Cir. Nov. 3, 2021)
6. *USA v. Komatsu*, No. 18-cr-651(ST)(E.D.N.Y. Oct. 21, 2019)
7. *USA v. Komatsu*, No. 18-cr-671(VEC)(S.D.N.Y.)
8. *Komatsu v. USA*, No. 21-cv-1838 (RJD)(RLM)(S.D.N.Y. Jan. 19, 2023)

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## PETITION FOR REHEARING

I, Towaki Komatsu, am the petitioner and petition for rehearing of this Court's 3/20/23 order that denied my petition for a writ of certiorari. The next 2 tables list acronyms that I will use in this petition due to this Court's requirement for me to be concise that correspond to **a)** other litigation involving me and **b)** various entities, people, and other things.

#	Acronym	Refers To
1	K1	<i>Komatsu v. City of New York</i> , No. 20-cv-10942 (VEC) (RWL) (S.D.N.Y. Jun. 17, 2022)
2	K2	<i>Komatsu v. USA</i> , No. 21-cv-1838 (RJD) (RLM)(S.D.N.Y. Jan. 19, 2023)
3	K3	<i>Komatsu v. USA</i> , No. 23-95 (2d Cir. April 7, 2023)
4	K4	<i>USA v. Komatsu</i> , No. 18-cr-651 (ST)(E.D.N.Y. Oct. 21, 2019)
5	K5	<i>USA v. Komatsu</i> , No. 18-cr-671 (VEC)(S.D.N.Y.)

#	Acronym	Refers To
1	CSOs	Federal court security officers
2	DPM	The Daniel Patrick Moynihan federal courthouse in Manhattan
3	The Second Circuit	The U.S. Court of Appeals for the Second Circuit
4	TM	The Thurgood Marshall federal courthouse in Manhattan
5	USAO	U.S. Attorney's Office for the Southern District of New York
6	USMS	U.S. Marshals Service
7	The USMS' crimes	How I defined this between pages 5 and 7 in the PDF file for my 6/2/22 filing in K2 (Dkt. 145)

1. When I state in this petition that something warrants rehearing and reversal of this Court's denial of my petition, I will simply say "warrants rehearing". Rule 44(2) of this Court prohibits me from using grounds that I previously presented to this Court for this appeal in support of this petition, but it doesn't bar me from elaborating about such grounds partly by discussing examples of them and clarifying them as long as I didn't previously do so.

2. K2 was a countersuit of mine against CSOs and USMS personnel about the malicious prosecution that was pursued against me that corresponds to the related cases of K4 and K5 in which I prevailed on 10/21/19.

**SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED AND INTERVENING  
CIRCUMSTANCES OF SUCH A NATURE THAT WARRANTS REHEARING**

1. This Court prejudicially didn't consider the following material facts that warrant reversal of its decision to deny me certiorari for this appeal:

a. *In re Sims*, 534 F.3d 117 (2d Cir. 2008) confirms that any and all medical records of mine that concerned mental health matters were exempt from compelled disclosure on account of the material fact that I never waived that the privilege nor otherwise intended to waive the privilege that corresponds to such medical information in the event that such information may possibly have existed. The directive that was issued to me in K1 that ordered me to issue release that would grant access to my medical records never was enforceable partly because that directive violated this matter about what is known as the "psychotherapist-patient privilege" and was discussed in *Jaffee v. Redmond*, 518 U.S. 1, 116 S. Ct. 1923, 135 L. Ed. 2d 337 (1996). The primary reason why U.S. District Judge Valerie Caproni dismissed K1 was because of my refusal to be illegally bullied and coerced into waiving that privilege and my privacy rights about the remainder of my medical records after I intentionally never ever did anything whatsoever to put my medical information at issue in K1.

b. On 1/19/23, U.S. District Judge Raymond Dearie fraudulently dismissed K2 and also fraudulently thereafter refused to even consider granting me reconsideration about that dismissal. K2 was my countersuit about the material fact that I prevailed in K4 that was a malicious prosecution that was commenced against me in response to the fact that CSOs and USMS personnel lied about me and themselves to subject me to First Amendment retaliation about entirely valid, timely, truthful, and detailed complaints that I reported against CSOs and USMS personnel. Such complaints were partly about the fact that CSOs had been criminally assaulting and seizing me inside of DPM since February of 2018 while I conducted myself in a

lawful manner. The fact that Judge Dearie fraudulently dismissed K2 after Judge Caproni was assigned to K5 underscores the material fact that Judge Caproni was among the judges who were legally required to intervene on my behalf against CSOs and the USMS in response to the USMS' crimes. This point is similar to how football games are conducted with respect to the fact that when a player on a team isn't performing well enough, he or she invariably gets benched as a different player from that same team is then activated to substitute for him or her in that game. Hindsight confirms that the fact that Judge Dearie cemented his status as a dutiful and subservient cat's paw for the USMS and CSOs by fraudulently refusing to intervene on my behalf about the USMS' crimes indisputably confirms that Judge Caproni engaged in criminal negligence and deliberate indifference towards me long before K1 was dismissed as she illegally never intervened on my behalf against CSOs and USMS personnel about the USMS' crimes. What I just discussed further underscores the fact that Judge Caproni was legally required to recuse herself from K1 before she dismissed K1. This point is largely about but-for causation in regards to the fact that her illegal refusal to intervene on my behalf against CSOs and the USMS proximately enabled further illegal acts and omissions against me by CSOs partly on 6/29/21 as CSO Peter Kornas criminally assaulted and seized me inside of DPM while I conducted myself in a lawful manner. CSO Anthony Venturella witnessed that then and ordered Mr. Kornas to get his hands off of me. The fact that Mr. Venturella is now among the plaintiffs in United States Court Security Officers v. United States Marshals Service, No. 22-cv-1380 (VM)(S.D.N.Y.) that is about the fact that he and other CSOs have been subjected to wage-theft at the direction of the USMS buttresses my point about the fact that the USMS functions as a criminal organization in New York City at my expense and that of some CSOs largely because judges haven't been providing proper oversight about how the USMS actually operates.

c. Prior to submitting this petition for rehearing, I submitted filings in K1 since 3/22/23 to Judge Caproni I which I urged her to grant me reconsideration and reversal about her dismissal of K1. However, hindsight confirms that she prejudicially and materially lied as she refused on both 3/27/23 (Dkt. 341) and 3/29/23 (Dkt. 345 and 346) to grant me that. For this reason, I urge this Court to diligently and objectively read the entirety of the legal filings that I submitted in K1 since 3/22/23 that corresponds to docket numbers 339, 342, 343, and 344 that I incorporate by reference as though fully set forth herein. The indisputable fact that there absolutely nothing in the record in K1 that indicates that Judge Caproni ever considered the fact that the Second Circuit explicitly stated the following in In re Sims, 534 F.3d 117 (2d Cir. 2008) was clear error by Judge Caproni in K1 that requires reversal of her dismissal of K1 and her recusal in K1:

“we conclude that the order requiring disclosure of Sims's mental health records to respondents was beyond the permissible limits of discretion.”

d. At 3:06 pm on 4/3/23, I, CSO Vincent Chirico, and another male CSO all saw an image of my face and my name while that was clearly, illegally, discriminatorily, pretextually, publicly, and prominently shown yet again on a tablet computer screen inside of TM in a security screening area on its first floor to the left of its main entrance. That occurred while I was conducting myself in an entirely lawful manner. This is relevant largely because of the fact that this speaks very loudly about the fact that the illegal harassment, provocation, and stigmatization of me inside of federal courthouse through acts and omissions by Judge Caproni, other federal judges, the USMS, and CSOs directly and through the use of CSOs and USMS personnel as proxies has never ended. That circumstance retrospectively confirms that the frustration, anger, sarcasm, and nastiness that I periodically expressed in legal filings of mine in K1 was always excusable because it was being provoked by CSOs, the USMS, and omissions of Judge Caproni

and other judges by not ending that abuse against me. There are numerous video security cameras installed in the area where I saw that image of my face on 4/3/23 at 3:06 pm. However, the USMS controls those cameras and has steadfastly and criminally refused to provide me the video recordings from such cameras to engage in an illegal cover-up.

e. The fact that Judge Caproni and other judges are still illegally letting USMS personnel and CSOs to display an image of my face and name on tablet computer screens inside of federal courthouses to stigmatize, provoke, and harass me retrospectively affirms that the sanctions that were imposed against me in K1 in response to offensive remarks of mine in legal filings in K1 were discriminatory and unenforceable. Grayned v. City of Rockford, 408 U.S. 104, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972) affirms this by pointing out that a “vague law impermissibly delegates basic policy matters to” law-enforcement personnel that include judges, CSOs, and USMS personnel “for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.” 18 U.S.C. §401 also affirms this because Judge Caproni and other judges could sanction USMS personnel and CSOs in response to their behavior toward me. However, no judge ever has done so.

2. Furthermore, this Court mustn’t lose sight about the fact that the Second Circuit is still demonstrating prohibited bias, animus, discrimination, and vexatious behavior towards me. This is relevant largely because the Second Circuit illegally didn’t let me submit an appeal to it about K1’s dismissal. Although the Second Circuit issued an order on 4/7/23 in K3 in which it vacated a strike order that it baselessly issued for that appeal, the Second Circuit plainly confirmed in that 4/7/23 order that it was intentionally engaging in dilatory and vexatious behavior towards me by slow-walking that appeal. That appeal is of Judge Dearie’s fraudulent dismissal of K2. The Second Circuit’s insolent decision to subject me to such delay tactics is the latest clear

indication that all federal court litigation of mine needs to be immediately reassigned to a different judicial circuit than the Second Circuit on account of the fact that I simply can't rely on the U.S. Court of Appeals for the Second Circuit nor subordinate judges to fully uphold and comply with my constitutional rights and other prevailing legal standards in regards to me. Such reassignment to the Eight Circuit or the Third Circuit appear to be viable options.

3. What I will discuss next is about why findings that the U.S. Court of Appeals for the Eighth Circuit issued yesterday in Rinne v. Camden County, No. 21-3858 (8th Cir. Apr. 13, 2023) support having this Court grant me rehearing for this appeal and reversal of its denial of my petition for a writ of certiorari. First, page 5 in that decision refers to “steps that engage “the punitive machinery of government” to impose “concrete consequences” in retaliation for speaking out against the government.” That sentiment also reflects the First Amendment retaliation that I experienced by Judge Caproni and U.S. Magistrate Judge Robert Lehrburger in response to entirely valid complaints that I reported to them about the fact that they illegally weren't intervening on my behalf to end the USMS' crimes. This excerpt also certainly pertains the retribution that still face from the USMS and CSOs for having legally whipped the USMS, CSOs, and the USAO by virtue of the dismissal of K4. Page 4 in Rinne v. Camden County points out that criticism “of public officials and the administration of governmental policies “lies at the heart of speech protected by the First Amendment”.”

4. In addition, in order to have properly adjudicated this appeal, this Court needed to have been mindful about but-for causation with respect to the fact that Defendants Saquoi Harris and Steven Perez both illegally seized, stalked, and harassed me on 12/26/17 in a traditional public forum while I conducted myself in an entirely lawful manner as their actions against me proximately triggered my legal self-defense rights against them just 12 days after I testified

against the NYPD during a public hearing on 12/14/17 to the New York City Council. The decision that was issued in Butchino v. City of Plattsburg, No. 8: 20-cv-796 (MAD/CFH) (N.D.N.Y. Jan. 14, 2022) contains the following findings that addressed this matter about the fact that judges need to properly consider actions by law-enforcement personnel that proximately provoke and trigger adversarial interactions between members of the public and such law-enforcement personnel to ascertain whether such law-enforcement personnel are liable for sparking such adversarial interactions that wouldn't have otherwise occurred:

- a. "The *Sage* court denied a motion to dismiss because the plaintiff became violent "only after being threatened with arrest and shown a handcuff case."
- b. "denying summary judgment against a reasonable accommodation claim where the officers could have respected plaintiff's "comfort zone, engaged in non-threatening communications and used the passage of time to defuse the situation rather than precipitating a deadly confrontation""

5. The preceding findings reinforce my point in my petition for a writ of certiorari for this appeal about the fact that I couldn't lawfully be compelled to issue a release for my medical records in K1 largely because **a)** Defendant Saquoi Harris illegally didn't immediately and continuously record a video recording on 12/26/17 with his NYPD body-camera from the moment that I met him and Defendant Steven Perez that would have otherwise enabled me to provide this Court with a record that would have clearly shown the totality of what the interactions were that I had with them between then and 7:17 pm on 12/26/17 and/or **b)** such a video was recorded by that body-camera prior to being illegally deleted and/or withheld from me.

Respectfully submitted,

Date: April 14, 2023

Towaki Komatsu

*Towaki Komatsu*

### **CERTIFICATE OF PETITIONER**

I hereby certify that this petition for rehearing is presented in good faith and not for delay and is otherwise restricted in scope to the grounds specified in Rule 44.2.

*Towaki Komatsu*  
Towaki Komatsu