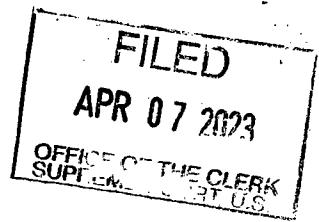


22-7325 ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



NOEL L. BROWN - PETITIONER

-against-

NEW YORK CITY POLICE DEPARTMENT, et al. - DEFENDANTS-RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES SUPREME COURT

(NAME OF COURT THAT LAST RULED ON THE MERITS OF THIS CASE)

(UNITED STATES COURT OF APPEALS SECOND CIRCUIT)

Petition for Writ of Certiorari under 28 U.S.C. §1254(1).

NOEL L. BROWN -MW0387

SCI. SOMERSET

1590 WALTER MILL ROAD SOMERSET, PA 15510

QUESTIONS PRESENTED

1. Did the Denial of Appellant's motion for *in forma pauperis*, by the U.S. Court of Appeals, violate Rule 24(A)(5), of the Federal Rule of Appellate Procedure?
2. Does the substantial holding in statue 28 U.S.C. §1915(b)(4), "In event shall a prisoner be prohibited from bringing a civil action or appealing a civil judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee. Apply on collateral review to petitioner?
3. Is it Error of Law, for the United States Court of Appeal to deny petitioner's Motion for *Informa Pauperis*, in the Court of Appeals, when said motion included the affidavit prescribed by Rule 24(A)(1)?
4. Does the dismissal of petitioner's appeal by the Court of Appeals because "it lacks an arguable basis either in law or in fact." Construe as an abuse of discretion, because the Appeal Court cannot make appealable order otherwise unappealable, since right to appeal exist under Rule(3). Apply on collateral review to petitioner?
5. Does the Court of Appeals Remand, for the "District Court to modify its judgment to reflect that Appellant's false-arrest claim is dismissed without prejudice." Prejudice per se? because arrestee did win favorable termination of charges against him, leading to his arrest, which were resolved with grant of Not Guilty, on VTL 511 charges, and mistrial of after the fact charges of weapon possession, in a jury trial within the State of New York Supreme Court. WHEREBY, should *Fruit of the Poisonous Tree Doctrine*, and the *Exclusionary Rule*. Apply on collateral review to petitioner?

QUESTIONS PRESENTED

6. Where no notice of the District Court's denial pursuant to Rule 24(A)(4) occurred. Should petitioner now a prisoner be prohibited from his appeals as of right?
7. Should the U.S. Court of Appeals for the Second Circuit, have assess petitioner's affidavit submitted prescribed by Rule 24(A)(1), and if funds exist, collect, as a partial payment towards petitioner's appeal. Apply on collateral review to petitioner?

## LIST OF PARTIES

A list of all parties to the proceedings in the court whose judgment is the subject of this petition for a Writ of Certiorari is as follows:

1. Corporation Counsel of the City of New York

Zachary W. Carter

Counsel for interested party Corporation Counsel of the City of New York  
100 Church Street Room 3-221  
New York, NY 10007.

TABLE OF AUTHORITIES CITED

CASES:

HUGHES V. ROWE, 449 U.S. 5, 9 (1980).

STATUES AND RULES:

FED. R. CIV. P. RULE 24(A)(1)(3)(4)(5)  
28 U.S.C. §1915(B)(4).

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APPENDIX (A): COPY OF THE UNITED STATES COURT OF APPEALS DECISION AND ORDER.	
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IN THE SUPREME COURT OF THE UNITED STATES  
FOR WRIT OF CERTIORARI

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

OPINION/ORDER

The opinion of the highest Federal Court to review the merits in this case appears at Appendix A to this petition and is reported at United States Court of Appeals for the Second Circuit, on February 15, 2023.

The opinion of the Southern District of New York District Court, is reported on March 31, 2021.

## JURISDICTION

The date on which the United States Court of Appeal decided my case appears at Appendix A.

The Jurisdiction of the United States Supreme Court, is invoked under 28 U.S.C. §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. §1915. Proceeding in forma pauperis: Sub. Sec.(b)(4)"In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.
2. A favorable termination of charges leading to an arrest, constitute legal causation on false arrest and false imprisonment per se.
3. In the absence of the trial court certify writing that it is not taken an appeal in forma pauperis, in good faith. Prisoner may appeal as of right.
4. Hughes v.. Rowe, the court states a pro se, pleading should be held to "less stringent standards than formal pleadings drafted by lawyers."
5. The interpretation of informa pauperis, under §1915(a)(1) Subject to section (b), "any court of the United States authorize the commencement prosecution or defense of any suit, action or proceeding civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such person/prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress."

## STATEMENT OF THE CASE

Petitioner brought his cause of action after being falsely arrested, under the falsely asserted authority of the New York City Police Department and there employees. The case went to trial whereby, petitioner Noel Brown, plaintiff/Appellant arrestee did win favorable termination of charges against him, leading to his arrest by the NYPD. Whereby, the jury and the court fund that the New York Police Officers had no probable cause for making the traffic stop and making the arrest of petitioner, claiming VTL511. Petitioner filed civil suit claiming §1983 and Monell Claims, in the District Court Southern District of New York.

On March 31, 2021. The District Court dismissed the civil action false-arrest claim as barred by Heck v. Humphrey, Petitioner accordingly, motion for appeal to the United States Court of Appeals Second Circuit. Requesting to proceed on appeal in Forma Pauperis, and included the affidavit prisoner seeking to bring a civil appeal a judgment in a civil action proceeding without prepayment of fees or security therefor.

## REASON FOR GRANTING THE PETITION FOR WRIT OF CERTIORARI

Court of Appeals de novo dismissal for "it lacks an arguable basis either in law or in fact." constitutes an error of law on review. The United States Court of Appeals should accept all allegations in the complaint and motions as true and should construe them in the light most favorable to the plaintiff/appellant. Additionally, the Court of Appeals should uphold appeals as of right and meaningful court access. Furthermore, the appeal had at least an arguable basis in the law. Allegations were sufficient to state an false-arrest claim for a injury, and a need for redress.

Due Process: Requires procedural protection. A fundamental fair process including in forma pauperis and appeal.

## CONCLUSION:

The petition for writ of certiorari should be GRANTED. Thank You.

04/07/2023

Respectfully Submitted,

