

NO. 22-7325

IN THE
SUPREME COURT OF THE UNITED STATES

NOEL L. BROWN, PETITIONER

-against-

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

ON PETITION FOR REHEARING EN BANC OF
PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT

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

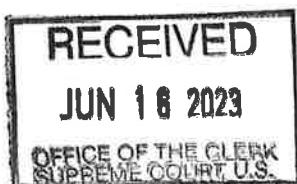
(UNITED STATES SUPREME COURT)

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

NOEL L. BROWN-MW 0387

SCI. SOMERSET

1590 WALTER MILL ROAD SOMERSET, PA 15510



QUESTION PRESENTED FOR REHEARING

1. Is the Supreme Court of the United States, the undisputed guardians of the science or philosophy of law, (Jurisprudence) as defined by the Constitution to the United States?

Suggested Answer; YES! regardless of popular or political views within or outside of this United States.

2. Should the properly served respondents non-response to the above petition be construed as an evasion of service? Suggested Answer; YES! a petition in the United States highest court must be regarded as priority, whether you are petitioner or a respondent.

LIST OF PARTIES

A list of all parties to the proceedings in the court whose judgment is the subject of this petition for Rehearing En Banc, 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, N.Y. 10007.

2. United States Court of Appeals Second Circuit 40 Foley Square, New York N.Y. 10007.

3. United States District Court for Southern District of New York, 500 Pearl Street, New York N.Y. 10007.

TABLE OF AUTHORITY CITED

CASES:

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

COPPEDGE V. U.S.:

FED. R. CIV. P. 24 (a)(1)(3)(4)(5)

28 U.S.C. §1915(a)(1)(b)(4)(h)

28 U.S.C. §1914

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APPENDIX (A): COPY OF THE SECOND CIRCUIT DOCKET ENTRY.

IN THE SUPREME COURT OF THE UNITED STATES
FOR REHEARING EN BANC OF WRIT OF CERTIORARI

Petitioner respectfully prays that a rehearing en banc of writ of certiorari be granted to review the judgment below.

OPINION/ORDER

The opinion/order of the Supreme Court of the United States appears at Appendix (B) to this petition and is reported at the U.S. Supreme Court, on June 5, 2023.

No other opinion/order is attached within this rehearing petition.

JURISDICTION

The date on which the Supreme Court of the United States decided my case appears at Appendix (B).

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) "Holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue".
2. *Hughes v. Rowe*, the court states a pro se, pleading should be held to less stringent standards than formal pleading drafted by lawyers.
3. To request authorization to proceed in forma pauperis (IFP), submit a signed IFP application under 28 U.S.C. §1914, 1915, to proceed without prepayment of fees.
4. No certifies under 28 U.S.C. §1915(a)(3) that any appeal from the District Court order would not be taken in good faith, and therefore IFP status should not be denied for the purpose of appellant's appeal.

STATEMENT OF THE CASE

On March 31, 2021. The District Court Southern District of New York, dismissed the civil action false-arrest claim as barred by Heck v. Humphrey, petitioner accordingly, motioned for appeal to the United States Court of Appeal Second Circuit. Along with notice to appeal, appellant filed his application to proceed without prepaying fees or costs, to proceed in forma pauperis (IFP).

The District Court denied the petition for IFP status, without stating their reason for doing so. However, the second circuit correctly remand the case, but error in the the limit to which the case had been remanded, and without further review to identify other such mistakes.

REASON FOR GRANTING THE PETITION FOR WRIT OF CERTIORARI ON REHEARING EN BANC

Problems in the District Court's legal rulings, the denial of IFP, and other procedural defects that may indirectly have led to, or at least kept from scrutiny, the Court of Appeals Second Circuit, from finding substantially more court error or other such mistakes. Besides stating dismissal without prejudice, because the suit maybe reinstated should illegal conviction be expunged, declared invalid, or called into question by a federal court's issuance of a writ of habeas corpus. That said, Leave is necessary to resolve the myriad of issues raised by the Supreme Court's decision in Hughes v. Rowe, & Coppededge v. United States. Mr. Brown's case presents an ideal vehicle for this Court to address two novel issues that are not currently before it. Accordingly, I reiterate my request that the petition for writ of certiorari must be GRANTED.

CONCLUSION

In Sum, interest of justice require it.

06/9/23

Respectfully Submitted,



COMBINED CERTIFICATIONS

I, Noel Brown, do hereby certify that the grounds incorporated within this petition for rehearing of writ of certiorari, are limited to intervening circumstances of substantial and controlling effect.

I, Noel Brown, further certify that the petition for writ of certiorari is presented in good faith and not for any other frivolous reasons.

DECLARATION OF SERVICE

I, Noel Brown, pursuant to 28 U.S.C. §1746, declares under penalty of perjury as follows: that on June 9/2023, he mailed the attached petition to respondents via United States Postal Service to the following address:

Zachary W. Carter, counsel for interested party Corporation Counsel of the City of New York. 100 Church Street room 3-221 N.Y., N.Y. 10007.

United States Court of Appeal Second Circuit 40 Foley Square N.Y., N.Y. 10007.

District Court Southern District of N.Y. 500 Pearl Street N.Y., N.Y. 10007.

I declare under penalty of perjury that the foregoing is true and correct. Executed June 9/2023.

Yours Truly,



APPENDIX (A)

United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: December 08, 2022
Docket #: 22-1468
Short Title: Brown v. New York City Police Department

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 18-cv-3287
DC Court: SDNY (NEW YORK
CITY)
DC Judge: Cave
DC Judge: Oetken

CASE STATUS UPDATE NOTICE

In response to your letter dated November 28, 2022, your appeal is open. Please note the attached copy of the docket sheet. Please note that your motion to proceed in forma pauperis was sent to the district court for determination. Once a decision is ruled upon, you will be notified on how your case will proceed.

Inquiries regarding this case may be directed to 212-857-8546.

General Docket
Court of Appeals, 2nd Circuit

Court of Appeals Docket #: 22-1468 **Docketed:** 07/11/2022
Nature of Suit: 3550 PRISONER PET-Civil Rights
Brown v. New York City Police Department
Appeal From: SDNY (NEW YORK CITY)
Fee Status: IFP Pending in USCA

Case Type Information:

- 1) Prisoner
- 2) State
- 3) Civil Rights

Originating Court Information:

District: 0208-1 : 18-cv-3287

Trial Judge: J. Paul Oetken, U.S. District Judge

Trial Judge: Sarah L. Cave, U.S. Magistrate Judge

Date Filed: 04/13/2018

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
03/31/2021	03/31/2021	07/05/2022	07/11/2022

Prior Cases:

None

Current Cases:

None

Panel Assignment:

Noel Brown (State Prisoner: MW0387)
Plaintiff - Appellant

Noel Brown, -
Terminated: 07/12/2022
[NTC Pro Se]
SCI Somerset
PO Box 33028
St. Petersburg, FL 33733

Noel Brown, -
[NTC Pro Se]
SCI Somerset
1590 Walters Mill Road
Somerset, PA 15510-0001

NYPD P.O. Anthony Kempinski, Badge #26684
Defendant - Appellee

Jane Lori Gordon, -
[COR NTC Government]
New York City Law Department
100 Church Street
New York, NY 10007

Sylvia Hinds-Radix, Esq., Corporation Counsel
Terminated: 07/25/2022
Direct: 212-356-0800
[COR NTC Government]
New York City Law Department
100 Church Street
New York, NY 10007

Julie Steiner, -
Direct: 212-356-0844
[COR NTC Government]
New York City Law Department
100 Church Street
New York, NY 10007

NYPD P.O. Kim Li, Badge #13537
Defendant - Appellee

Jane Lori Gordon, -
[COR NTC Government]
(see above)

Sylvia Hinds-Radix, Esq., Corporation Counsel
Terminated: 07/25/2022
Direct: 212-356-0800
[COR NTC Government]
(see above)

Julie Steiner, -
Direct: 212-356-0844
[COR NTC Government]
(see above)

City of New York
Defendant - Appellee

Jane Lori Gordon, -
[COR NTC Government]
(see above)

Sylvia Hinds-Radix, Esq., Corporation Counsel
Terminated: 07/25/2022
Direct: 212-356-0800
[COR NTC Government]
(see above)

Julie Steiner, -
Direct: 212-356-0844

Captain Firsov
Defendant - Appellee

[COR NTC Government]
(see above)

Jane Lori Gordon, -
[COR NTC Government]
(see above)

Sylvia Hinds-Radix, Esq., Corporation Counsel
Terminated: 07/25/2022
Direct: 212-356-0800
[COR NTC Government]
(see above)

Julie Steiner, -
Direct: 212-356-0844
[COR NTC Government]
(see above)

New York City Police Department
Defendant

Fifth Precinct New York County
Defendant

William Doyle
Defendant

Andrew Oliver
Defendant

Alan Lee
Defendant

Dillon John Doe
Defendant

John Doe
Defendant

NYPD P.O. Grissel Lachhman
Defendant

Afsi Khot
Defendant

Legal Aid Society
Defendant

Rebecca Dunnan, District Attorney
Defendant

New York State Department of Motor Vehicles
Defendant

New York City Department of Corrections
Defendant

New York City Board of Corrections
Defendant

Manhattan Detention Complex
Defendant

Rikers Island Facility
Defendant

NYCD C.O. Simon
Defendant

State of New York
Defendant

NYCD C.O. Dail
Defendant

NYCD C.O. Covinton
Defendant

Noel Brown,

Plaintiff - Appellant,

v.

NYPD P.O. Anthony Kempinski, Badge #26684, NYPD P.O. Kim Li, Badge #13537, City of New York, Captain Firsov,

Defendants - Appellees,

New York City Police Department, Fifth Precinct New York County, William Doyle, Andrew Oliver, Alan Lee, Dillon John Doe, John Doe, NYPD P.O. Grissel Lachhman, Afsi Khot, Legal Aid Society, Rebecca Dunnan, District Attorney, New York State Department of Motor Vehicles, New York City Department of Corrections, New York City Board of Corrections, Manhattan Detention Complex, Rikers Island Facility, NYCD C.O. Simon, State of New York, NYCD C.O. Dail,

NYCD C.O. Covington,

Defendants.

07/11/2022	<input type="checkbox"/>	<u>1</u>	NOTICE OF PRISONER APPEAL, with district court docket, on behalf of Appellant Noel Brown, FILED. [3346689] [22-1468] [Entered: 07/12/2022 07:10 PM] 25 pg, 538.68 KB
07/11/2022	<input type="checkbox"/>	<u>2</u>	DISTRICT COURT ORDER, dated 03/31/2021, RECEIVED.[3346690] [22-1468] [Entered: 07/12/2022 07:15 PM] 5 pg, 130.41 KB
07/11/2022	<input type="checkbox"/>	<u>3</u>	DISTRICT COURT JUDGMENT, dated 03/31/2021, RECEIVED. [3346691] [22-1468] [Entered: 07/12/2022 07:23 PM] 1 pg, 33.15 KB
07/11/2022	<input type="checkbox"/>	<u>4</u>	MOTION, to proceed in forma pauperis, on behalf of Appellant Noel Brown, FILED. Service date 06/30/2022 by US mail.[3346692] [22-1468] [Entered: 07/12/2022 07:24 PM]
07/11/2022	<input type="checkbox"/>	<u>5</u>	AUTHORIZATION FORM, REQUESTED.[3346693] [22-1468] [Entered: 07/12/2022 07:25 PM] 1 pg, 96.99 KB
07/11/2022	<input type="checkbox"/>	<u>6</u>	ELECTRONIC INDEX, in lieu of record, FILED.[3346694] [22-1468] [Entered: 07/12/2022 07:26 PM] 16 pg, 324.15 KB
07/12/2022	<input type="checkbox"/>	<u>8</u>	DEFECTIVE DOCUMENT, Motion, to proceed in forma paupers, [4], on behalf of Appellant Noel Brown, copy to pro se appellant, FILED. [3346696] [22-1468] [Entered: 07/12/2022 07:36 PM] 2 pg, 130.54 KB
07/12/2022	<input type="checkbox"/>	<u>9</u>	INSTRUCTIONAL FORMS, to Pro Se litigant, SENT.[3346701] [22-1468] [Entered: 07/12/2022 08:26 PM] 1 pg, 113.5 KB
07/25/2022	<input type="checkbox"/>	<u>10</u>	NOTICE OF APPEARANCE AS SUBSTITUTE COUNSEL, on behalf of Appellee City of New York, Firsov, Anthony Kempinski and Kim Li, FILED. Service date 07/25/2022 by CM/ECF, US mail. [3353433] [22-1468] [Entered: 07/25/2022 11:43 AM] 2 pg, 146.04 KB
07/25/2022	<input type="checkbox"/>	<u>11</u>	ATTORNEY, Julie Steiner, [10], in place of attorney Sylvia Hinds-Radix, SUBSTITUTED.[3353477] [22-1468] [Entered: 07/25/2022 12:03 PM]
07/25/2022	<input type="checkbox"/>	<u>12</u>	NOTICE OF APPEARANCE AS ADDITIONAL COUNSEL, on behalf of Appellee City of New York, Firsov, Anthony Kempinski and Kim Li, FILED. Service date 07/25/2022 by US mail. [3353737] [22-1468] [Entered: 07/25/2022 03:11 PM] 2 pg, 107.49 KB
07/25/2022	<input type="checkbox"/>	<u>13</u>	ATTORNEY, Jane Lori Gordon for City of New York, Kim Li, Anthony Kempinski and Firsov, in case 22-1468, [12], ADDED. [3353750] [22-1468] [Entered: 07/25/2022 03:19 PM]
08/01/2022	<input type="checkbox"/>	<u>14</u>	UNDELIVERABLE MAIL, to USCA from USPS, RECEIVED. [3358185] [22-1468] [Entered: 08/02/2022 11:14 AM] 15 pg, 418.44 KB

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08/01/2022	<input type="checkbox"/>	<u>15</u>	UNDELIVERABLE MAIL, to USCA from USPS, RECEIVED. [3358187] [22-1468] [Entered: 08/02/2022 11:14 AM] 11 pg, 294.38 KB
08/15/2022	<input type="checkbox"/>	<u>17</u>	ACKNOWLEDGMENT AND NOTICE OF APPEARANCE FORM, on behalf of Party Noel Brown, FILED. Service date 08/08/2022 by US mail.[3365861] [22-1468] [Entered: 08/16/2022 09:54 AM] 2 pg, 131.88 KB
08/15/2022	<input type="checkbox"/>	<u>18</u>	FORM D-P, on behalf of Appellant Noel Brown, FILED. Service date 08/08/2022 by US mail.[3365866] [22-1468] [Entered: 08/16/2022 09:55 AM] 2 pg, 140.56 KB
08/15/2022	<input type="checkbox"/>	<u>19</u>	LR 31.2 SCHEDULING NOTIFICATION, on behalf of Appellant Noel Brown, informing Court of proposed due date 10/14/2022, RECEIVED. Service date 08/08/2022 by US mail.[3365868] [22-1468] [Entered: 08/16/2022 09:56 AM] 2 pg, 124.79 KB
08/15/2022	<input type="checkbox"/>	<u>20</u>	MOTION, to proceed in forma pauperis, on behalf of Appellant Noel Brown, FILED. Service date 08/08/2022 by US mail.[3365872] [22-1468] [Entered: 08/16/2022 09:59 AM] 21 pg, 1.2 MB
08/15/2022	<input type="checkbox"/>	<u>21</u>	PRISON LITIGATION REFORM ACT AUTHORIZATION FORM, FILED. Service date 08/08/2022 by US mail.[3365884] [22-1468] [Entered: 08/16/2022 10:04 AM] 3 pg, 251.91 KB
08/16/2022	<input type="checkbox"/>	<u>22</u>	CURED DEFECTIVE MOTION, to proceed in forma pauperis, [20], on behalf of Appellant Noel Brown, FILED.[3365898] [22-1468] [Entered: 08/16/2022 10:12 AM]
08/16/2022	<input type="checkbox"/>	<u>23</u>	CERTIFIED PRISONER AUTHORIZATION FORM, dated 08/16/2022, to SCI Somerset, in care of Warden, ISSUED.[3365903] [22-1468] [Entered: 08/16/2022 10:16 AM] 3 pg, 863.19 KB
09/01/2022	<input type="checkbox"/>	<u>28</u>	TRUST ACCOUNT STATEMENT, on behalf of Appellant Noel Brown, FILED. Service date 08/24/2022 by US mail.[3375642] [22-1468] [Entered: 09/01/2022 06:22 PM] 6 pg, 810.62 KB
11/17/2022	<input type="checkbox"/>	<u>33</u>	MOTION ORDER, abeyance of motion to proceed in forma pauperis [20] filed by Appellant Noel Brown, copy to pro se appellant, by JFB, FILED. [3421816][33] [22-1468] [Entered: 11/17/2022 01:49 PM] 1 pg, 153.33 KB
11/17/2022	<input type="checkbox"/>	<u>34</u>	CERTIFIED ORDER, dated 11/17/2022, to SDNY (NEW YORK CITY), ISSUED.[3421833] [22-1468] [Entered: 11/17/2022 01:53 PM] 22 pg, 1.95 MB
12/07/2022	<input type="checkbox"/>	<u>36</u>	LETTER, dated 11/28/2022, on behalf of Appellant Noel Brown, requesting case status, RECEIVED. Service date 11/28/2022 by US mail.[3433696] [22-1468] [Entered: 12/08/2022 06:30 PM] 2 pg, 211.62 KB

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- Documents and Docket Report**
- Documents and Docket Summary**
- Documents Only**

 Include Page NumbersSelected Pages: Selected Size:

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

June 5, 2023

Scott S. Harris
Clerk of the Court
(202) 479-3011

Mr. Noel Brown
Prisoner ID #MW0387
SCI Somerset
1600 Walter Mill Road
Somerset, PA 15510

Re: Noel Brown
v. City of New York, New York, et al.
No. 22-7325

Dear Mr. Brown:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



Scott S. Harris, Clerk