

NO. 22-7325

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IN THE  
SUPREME COURT OF THE UNITED STATES

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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

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

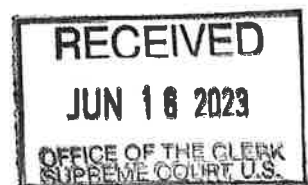
(UNITED STATES SUPREME COURT)

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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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 reinstituted 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, & Coppedge 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**

<b>Court of Appeals Docket #:</b> 22-1468		<b>Docketed:</b> 07/11/2022													
<b>Nature of Suit:</b> 3550 PRISONER PET-Civil Rights Brown v. New York City Police Department <b>Appeal From:</b> SDNY (NEW YORK CITY) <b>Fee Status:</b> IFP Pending in USCA															
<b>Case Type Information:</b> 1) Prisoner 2) State 3) Civil Rights															
<b>Originating Court Information:</b> <b>District:</b> 0208-1 : 18-cv-3287 <b>Trial Judge:</b> J. Paul Oetken, U.S. District Judge <b>Trial Judge:</b> Sarah L. Cave, U.S. Magistrate Judge <b>Date Filed:</b> 04/13/2018 <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><b>Date</b></td> <td style="text-align: center;"><b>Date Order/Judgment</b></td> <td style="text-align: center;"><b>Date NOA</b></td> <td style="text-align: center;"><b>Date Rec'd</b></td> </tr> <tr> <td style="text-align: center;"><b>Order/Judgment:</b></td> <td style="text-align: center;"><b>EOD:</b></td> <td style="text-align: center;"><b>Filed:</b></td> <td style="text-align: center;"><b>COA:</b></td> </tr> <tr> <td style="text-align: center;">03/31/2021</td> <td style="text-align: center;">03/31/2021</td> <td style="text-align: center;">07/05/2022</td> <td style="text-align: center;">07/11/2022</td> </tr> </table>				<b>Date</b>	<b>Date Order/Judgment</b>	<b>Date NOA</b>	<b>Date Rec'd</b>	<b>Order/Judgment:</b>	<b>EOD:</b>	<b>Filed:</b>	<b>COA:</b>	03/31/2021	03/31/2021	07/05/2022	07/11/2022
<b>Date</b>	<b>Date Order/Judgment</b>	<b>Date NOA</b>	<b>Date Rec'd</b>												
<b>Order/Judgment:</b>	<b>EOD:</b>	<b>Filed:</b>	<b>COA:</b>												
03/31/2021	03/31/2021	07/05/2022	07/11/2022												
<b>Prior Cases:</b> None															
<b>Current Cases:</b> None															
<b>Panel Assignment:</b> Not available															

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. Covinton,

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 pauperis, [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

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	

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

☒ **Include Page Numbers**

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

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

June 5, 2023

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,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

**Scott S. Harris, Clerk**