ORIGINAL

23-1018

No. 23-____

In the Supreme Court of the United States

HAROLD JEAN-BAPTISTE,

Petitioner,

v.

CITY OF NEW YORK, MAYOR ERIC ADAMS AND CORPORATE COUNSEL,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

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March 11, 2024

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QUESTION PRESENTED

Whether New York State Section 400 restrictions on conceal carry handgun license violate the Second Amendment. Under the provision of New York State Section 400 New York City Police Department violated the Second Amendment by created new ad hoc requirements on the fly, requiring financial means to travel to the Island of Manhattan only, ignoring safety risk for self-protection and not providing viable option to obtain a conceal carry handgun license by mail for able citizens or citizens with disabilities that are unable to travel.

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant

- Harold Jean-Baptiste

Respondents and Defendant-Appellees

- City of New York, Mayor Eric Adams and Corporate Counsel

Respondents and Defendants

- U.S. Department of Justice
- Merrick B. Garland, Attorney General of the United States
- Federal Bureau of Investigation
- Christopher Wray, Director of the FBI
- Damian Williams, U.S. Attorney for the Southern of New York
- Letitia James, New York Attorney General

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Second Circuit

No. 23-1064

Harold Jean-Baptiste, *Plaintiff-Appellant*, v. City of New York, et al., *Defendants-Appellees*, United States Department of Justice, et al., *Defendants*.

Date of Final Order: December 14, 2023

U.S. District Court, Southern District of New York

No. 23-CV-1897

Harold Jean-Baptiste, *Plaintiff*, v. United States Department of Justice, et al., *Defendants*.

Date of Final Order: July 6, 2023

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Harold Jean-Baptiste, respectfully petition for writ of certiorari to review the Judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The judgment of the U.S. Court of Appeals for the Second Circuit was entered on December 14, 2023 (App.1a), the U.S. Court of Appeals dismissed the case erroneously for "lacks an arguable basis either in law or in fact", the law violations were clear, and the facts of this case are well documented in the complaint. U.S. Court of Appeals judgement was an error and should have issued an Order default judgment since the respondent did not appear before the U.S. Court of Appeals. The Petitioner files a petition for a Writ of Certiorari to correct the U.S. Court of Appeals for the Second Circuit judicial error and inexcusable neglect. The petition for a writ of certiorari was filed to correct judicial error of the U.S. Court of Appeals.

JURISDICTION

The judgment of the Second Circuit was entered on December 14, 2023. (App.1a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

On March 3, 2023, the Petitioner filed a complaint in U.S. District Court for the Southern District of New York individually on behalf of himself against *City of New York, et al.,* who discriminated against the Petitioner, subjected to a Human Rights, Civil Rights violation and purposely and willfully denied the Petitioner the right to obtain a conceal to carry handgun license therefore violated the Second Amendment. The U.S. District Court of the Southern District of New York dismiss the lawsuit without merit despite the Defendants not appearing. The Petitioner appealed the ruling to U.S. Court of Appeals for the Second Circuit, to overturn the errors of the U.S. District Court but the errors was ignored by the U.S. Court of Appeals for the Second Circuit and dismissed the case for "lacks an arguable basis either in law or in fact", when jurisdiction was proper under 28 U.S.C. § 1291, 28 U.S.C. § 1292 and 28 U.S.C. § 1295 and added more judicial error.

The Petitioner prays the Supreme Court overturn the errors of U.S. Court of Appeals for the Second Circuit and reinstate the Petitioner's due process and apply the law correctly. Most importantly to main-

tain the integrity of the Judicial System and set a precedence to ensure that rule of law matters and make sure this never ever happens to someone else in the future. The Writ of Certiorari is before the Supreme Court on the merit of U.S. Court of Appeals for the Second Circuit applied the law incorrectly, denied due process, First Amendment Right to Petition, unfair judicial review, error, mistake, inexcusable neglect, public interest, and New York State provision Section 400 violate the Second Amendment. The rules that govern the Courts matters, one set of rules for everyone before the U.S. Court of Appeals and no one or entity is above the law.

REASONS FOR GRANTING THE PETITION

Petitioner contends that the Supreme Court should grant Writ of Certiorari to review this case base on the inexcusable error of the U.S. Court of Appeals for the Second Circuit, U.S. Court of Appeals applied the law incorrectly, unfair judicial review, denial of First Amendment Right to Petition, error, mistake, inexcusable neglect and whether New York State Section 400 violate the Second Amendment.

The U.S. Court of Appeals decision on this case was flawed based on judicial error and failed to adhere to laws that govern the Court. The Petitioner filed the lawsuit to seek justice and fair judicial review, based on the oath of service taken by every Judge in the United States in all U.S. Districts. The U.S. Court of Appeals denying the Petitioner's due process when proper jurisdiction exist is a grave

injustice by U.S. Court of Appeals for the Second Circuit. Regardless if the Petitioner is "Pro Se", the First Amendment Right to Petition and fair judicial review should not be obstructed the U.S. Court of Appeals and prays the Supreme Court grant a review and correct the improper application of the law and set a precedence even a "Pro Se" has the right to a fair judicial review.

I. U.S. DISTRICT COURT APPLIED THE LAW INCORRECTLY.

The U.S. Court of Appeals for the Second Circuit applied the law incorrectly by dismissing the case for frivolous reasons, when the case was appeal on under jurisdiction of 28 U.S.C. § 1291, 28 U.S.C. § 1292 and 28 U.S.C. § 1295. Even early in the Judicial System the Supreme Court stated,

> [o]ne system of law in one portion of its territory and another system in another, provided it did not encroach upon the proper jurisdiction of the United States, nor abridge the privileges or immunities of citizens of the United States, nor deny to any person within its jurisdiction the equal protection of the laws in the same district, nor deprive him of his rights without due process of law.

See Maxwell v. Dow, 176 U.S. 581, 598 (1900).

The U.S. Court of Appeals should apply one system of law for every case present before the Court, U.S. Court of Appeals failure to recognized violation of law and the clear evidence of facts on this case, was an error of judgement and applied the law incorrectly to not issue default judgment since the respondent did not appear before the U.S. Court of Appeals. "The

Court has no authority to enact rules that "abridge, enlarge or modify any substantive right." *Ibid.* Pursuant to this authority, the Court promulgated the Federal Rules of Civil Procedure to "govern the procedure in the United States district courts in all suits of a civil nature", *see Cooter Gell v. Hartmarx Corp.*, 496 U.S. 384, 391 (1990).

The U.S. Court of Appeals applied the law incorrectly; the proper ruling of the case is within the U.S. Court of Appeals jurisdiction and to obstruct the Court jurisdiction is applying the law incorrectly and judicial error. The Supreme Court stated, "cases must be acknowledged to have diluted the absolute purity of the rule that Article III jurisdiction is always an antecedent question, none of them even approaches approval of a doctrine of 'hypothetical jurisdiction' that enables a court to resolve contested questions of law", *see Steel Co. v. Citizens for Better Env't*, 523 U.S. 83, 101 (1998). The Supreme Court stated when "the District Court has jurisdiction of this cause. It was error to dismiss the complaint for lack of jurisdiction, *see Doud v. Hodge*, 350 U.S. 485, 487 (1956). The Supreme Court stated, "acting within its proper jurisdiction, has given the parties a full and fair opportunity to litigate federal claims, and thereby has shown itself willing and able to protect federal rights", *see Allen v. McCurry*, 449 U.S. 90, 104 (1980).

The U.S. Court of Appeals error in ruling of "lacks an arguable basis either in law or in fact" was not only a mistake but violated the Petitioner's federal rights for due process and a fair judicial review. The Supreme Court stated, "traditional purpose of confining a district court to a lawful exercise of its jurisdiction or to compel it to exercise its proper jurisdiction", *see*

Will v. United States, 389 U.S. 90, 95 n.2 (1967). The Supreme Court stated, even if such difficulties may not be insuperable, vexing problems of courts with proper jurisdiction of the law must be applied correctly, *see Foley Bros. v. Filardo*, 336 U.S. 281, 299 (1949). The Supreme Court stated, "That judicial power, as we have seen, is the right to determine actual controversies arising between adverse litigants, duly instituted in courts of proper jurisdiction", *see Liberty Warehouse Co. v. Grannis*, 273 U.S. 70, 75 (1927). The U.S. Court of Appeals had proper jurisdiction failed to apply the law accordingly when proper jurisdiction of law existed, that failure to apply the law correctly was judicial an error.

II. DENIED FIRST AMENDMENT RIGHT TO PETITION.

The freedom of petition clause guarantees that Americans can petition the government, entity or individual to redress their grievances without fear of retribution or punishment. This was an important principle valued by the Founding Fathers, in orchestrating the laws that govern the Court. The freedom of petition clause played an important role in the Civil Rights petition for every person in America. At the earliest occurrence in the Judicial System, the Court stated,

> It is a right which the party can claim; and if he shows himself entitled to it on the facts in the record, there is no discretion in the Court to withhold it. A refusal is error — judicial error — which this Court is bound to correct when the matter, as in this instance, is fairly before it. That the order asked for by Petitioner should have been granted, seems to us very clear.

See Railroad Company v. Soutter, 69 U.S. 510, 522 (1864).

Past precedence of the Court stated, "We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard", *see Graham v. Connor*, 490 U.S. 386, 388 (1989). Have the Right to Petition and due process is guiding foundation for the Judicial System, to obstruct that would derail the guiding principles of foundation the Judicial System is built on. Past Courts stated, "we recognized that the right of access to the Courts is an aspect of the First Amendment Right to Petition", *see Bill Johnson's Restaurants, Inc. v. Nat'l Labor Relations Bd.*, 461 U.S. 731, 741 (1983). The obstruction of the Right to Petition by past Court stated, "The Right to Petition the Courts cannot be so handicapped", *see Railroad Trainmen v. Virginia Bar*, 377 U.S. 1, 7 (1964). "It must be underscored that this Court has recognized the "Right to Petition as one of the most precious of the liberties safeguarded by the Bill of Rights", *see Lozman v. City of Riviera Beach*, 138 S.Ct. 1945, 1954 (2018). The U.S. Court of Appeals ruling for dismissal hindered the Petitioner's right to due process before the Court, therefore depriving the Petitioner's First Amendment Right to Petition. Past Court stated, "to any original party or intervenor of right seeking relief from extraordinarily prejudicial interlocutory orders, including the right to appeal from a final judgment and the Right to Petition", *see Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370, 385 (1987).

The U.S. Court of Appeals impeded the Petitioner's Right to Petition is an abuse of the Judicial

System guidelines for providing a fair judicial review for a Petitioner, therefore the Supreme Court should not allow this abuse of the Judicial System and set a precedence to correct it. According to past Court, "the right of access to the Courts, the Right to Petition is substantive rather than procedural and therefore "cannot be obstructed, regardless of the procedural means applied", *see Franco v. Kelly*, 854 F.2d 584, 589 (2d Cir. 1988). Most importantly past Court stated, "The right of individuals to pursue legal redress for claims that have a reasonable basis in law or fact is protected by the First Amendment Right to Petition and the Fourteenth Amendment right to substantive due process", *see Snyder v. Nolen*, 380 F.3d 279, 291 (7th Cir. 2004).

Nothing in the First Amendment itself suggests that the First Amendment Right to Petition for redress of grievances only attaches when the petitioning takes a specific form, *see Pearson v. Welborn*, 471 F.3d 732, 741 (7th Cir. 2006). It is by now well established that access to the Courts is protected by the First Amendment Right to Petition for redress of grievances, *see Wilson v. Thompson*, 593 F.2d 1375, 1387 (5th Cir. 1979). The Supreme Court stated, "held that the First Amendment Right to Petition the government includes the right to file other civil actions in Court that have a reasonable basis in law or fact", *see Silva v. Vittorio*, 658 F.3d 1090, 1102 (9th Cir. 2011). "Meaningful access to the Courts is a fundamental Constitutional Right, grounded in the First Amendment Right to Petition and the Fifth and Fourteenth Amendment due process clauses", *see Johnson v. Atkins*, 999 F.2d 99, 100 (5th Cir. 1993). The United States Supreme Court has recognized "the Right to

Petition as one of the most precious of the liberties safeguarded by the Bill of Rights", *see Lozman v. City of Riviera Beach,* 138 S.Ct. 1945, (1946).

The Supreme Court should look at the gravity of allegations and to deny a "Pro Se" Petitioner from having due process before the Court and the severity of the allegations by the respondent and denying the Petitioner's right to due process and implies the respondent is above the law in noiseless way. The Supreme Court stated, "At its core, the right to due process reflects a fundamental value in our American constitutional system. Our understanding of that value is the basis upon which we have resolved", *see Boddie v. Connecticut,* 401 U.S. 371, 374 (1971).

The Supreme Court should examine more precisely the weight of First Amendment Right to Petition by the Constitution, the calamity of the Federal Laws violations presented by the Petitioner who is filing "Pro Se" the opportunity to present the case before the Court to grant the Petitioner's due process. First, the risk of an erroneous deprivation of the law since the respondent never responded or gave notice of appearance to the U.S. Court of Appeals, therefore the U.S. Court of Appeals should have issued an order of default judgment since the respondent failed to respond in 14 days "after receiving a docketing notice from the circuit clerk" and no notice of appearance according to the *U.S. Court of Appeals for Second Circuit Rule 12.3(a).* According to *Circuit Rules U.S. Court of Appeals for District of Columbia Circuit rule 12.3(c)* the U.S. Court of Appeals failed to enter judgment for the relief requested based on default judgment.

The Petitioner's fair due process was denied, and the concept of the Judicial System is to provide a fair judicial review, the U.S. Court of Appeals ruling was an error to deny the Petitioner's right to due process in applying the law correctly and fair due process.

III. ERRORS, MISTAKES, AND INEXCUSABLE NEGLECT.

The U.S. Court of Appeals ignored the rule of the Court and made an error in judgment to dismiss the case, which was inexcusable neglect. The U.S. Court of Appeals clearly had jurisdiction to correct the U.S. District Court for the District of Columbia, not doing so was inexcusable error and neglect. The errors, mistakes and inexcusable neglect by the U.S. Court of Appeals denied the Petitioner a fair judicial review. In *United States v. Olano*, 507 U.S. 725 (1993), the U.S. Supreme Court established three conditions that must be met before a Court may consider exercising its discretion to correct the error.

First, there must be an error that has not been intentionally relinquished or abandoned. Second, the error must be plain—that is to say, clear, or obvious. Third, the error must have affected the Petitioner substantial rights. To satisfy this third condition, the Petitioner ordinarily must show a reasonable probability that, but for the error, the outcome of the proceeding would have been different, as noted in *Cameron v. Seitz*, 38 F.3d 264 (1994).

The U.S. Court of Appeals actions was a clear error and effected the outcome of the judicial proceeding. Prior Courts stated, "Remedies for judicial error may be cumbersome but the injury flowing from an error generally is not irreparable, and orderly processes are imperative to the operation of the adversary

system of justice", *see Maness v. Meyers*, 419 U.S. 449, 460 (1975). Prior Court have stated "the Court must view the evidence in a light most favorable to the party against whom the motion is made and give that party the benefit of all reasonable inferences", *see Cameron v. Seitz*, 38 F.3d 264 (1994).

The Supreme Court stated,

> The equitable powers of Courts of law over their own process to prevent abuse, oppression, and injustice are inherent and equally extensive and efficient, as is also their power to protect their own jurisdiction. . . . In whatever form, the remedy is administered, whether according to a procedure in equity or at law, the rights of the parties will be preserved and protected against judicial error, and the final decree or judgment will be reviewable, by appeal or writ of error, according to the nature of the case

See Krippendorf v. Hyde, 110 U.S. 276 (1884).

> U.S. Const. amend. XIV does not, in guaranteeing due process, assure immunity from judicial error. It is only miscarriages of such gravity and magnitude that they cannot be expected to happen in an enlightened system of justice, or be tolerated by it if they do, that cause the Court to intervene to review, in the name of the federal constitution

See Stein v. New York, 346 U.S. 156 (1953).

The Supreme Court stated,

> It is a right which the party can claim; and

> if he shows himself entitled to it on the facts in the record, there is no discretion in the Court to withhold it. A refusal is error–judicial error-which this Court is bound to correct when the matter, as in this instance, is fairly before it.

See Milwaukie & M. R. Co. v. Soutter, 69 U.S. 510 (1864).

The Supreme Court stated,

> That risk of unnecessary deprivation of liberty particularly undermines the fairness, integrity, or public reputation of judicial proceedings in the context of a plain guidelines error because guideline's miscalculations ultimately result from judicial error, as the District Court is charged in the first instance with ensuring the Guidelines range it considers is correct.

See Rosales-Mireles v. United States, 138 S.Ct. (1897).

Prior Court stated, "The doctrine of stare decisis allows us to revisit an earlier decision where experience with its application reveals that it is unworkable," *see Payne v. Tennessee*, 501 U.S. 808, 827, 111 S.Ct. 2597, 115 L.Ed.2d 720 (1991). The U.S. Court of Appeals errors on the case is unworkable because the ruling on the case was not applied to rules and law that governs the Court. Prior Court ruling on errors stated,

> Experience is all the more instructive when the decision in question rejected a claim of unconstitutional vagueness. Unlike other judicial mistakes that need correction, the

> error of having rejected a vagueness challenge manifests itself precisely in subsequent judicial decisions: 'a black hole of confusion and uncertainty' that frustrates any effort to impart "some sense of order and direction.

See United States v. Vann, 660 F.3d 771, 787 (CA4 2011). The U.S. Court of Appeals did not follow the law correctly, created a sense of confusion the Supreme Court can provide clarity on how the Court should follow the rule of law that govern the judicial system and reverse the U.S. Court of Appeals Order and apply the law correctly. "It is a judge's duty to decide all cases within his jurisdiction that are brought before him. . . . His errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with litigation", *see Forrester v. White*, 484 U.S. 219, 227, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988).

Prior Court have provided insights on evaluating judicial neglect,

> To determine whether any of a judge's actions were taken outside his judicial capacity, the "nature of the act" is examined, *i.e.*, whether it is a function normally performed by a judge, and to the expectations of the parties, *i.e.*, whether they dealt with the judge in his judicial capacity.

See Cameron v. Seitz, 38 F.3d 264 (1994). Prior Court stated, "judicial error, is the requirement that judges write opinions providing logical reasons for treating one situation differently from another", *see Arkansas Writers' Project, Inc. v. Ragland*, 481 U.S. 221, 235 (1987).

The U.S. Court of Appeals never provided any explanation or logical reasons for treating the Petitioner differently when apply the rules that govern the Court. Prior Court stated, "Rule 60(b)(1) "may be invoked for the correction of judicial error, but only to rectify an obvious error of law, apparent on the record", *see United States v. City of New Orleans*, 947 F.Supp.2d 601, 624 (E.D. La. 2013). Past Court stated, "facially obvious" judicial error in its decision and finds that the factual and legal conclusions in the court's order are "arguable." Therefore, relief is unavailable under Rule 60(b)(1)", *see Watson v. City of Kansas City, Kansas*, Civil Action No. 99-2106-CM, at *18 (D. Kan. Apr. 12, 2002). The U.S. Court of Appeals judicial interference applied the law different, made an error and ignored the rules of the Court, therefore inexcusable neglect by the U.S. Court of Appeals. The U.S. Court of Appeals actions on the case were uncharacteristic of sound legal judgment and is inexcusable neglect by the U.S. Court of Appeals and denied the Petitioner a fair judicial review. The U.S. Court of Appeals made a mistake, error and inexcusable neglect in applying the law correctly, by not issuing default judgment since the respondent did appear before the U.S. Court of Appeals, and the ruling was an error without clear legal merit or respect for the rule law that govern the U.S. Court of Appeals.

IV. PUBLIC INTEREST.

It's in the public interest that the Supreme Court apply the law correctly as a result of the respondent failure to appear before the U.S. Court of Appeals or gave notice of appearance to the U.S. Court of Appeals therefore the rule of law must be applied accordingly

based on the rules of the U.S. Court of Appeals. According to the rules of the Court non-appearance in the U.S. Court of Appeals is subjected to default judgment or provide the Petitioner a full fact-finding judicial review. It's in the public interest the Supreme Court maintained the integrity of the Judicial System because the rule of law matters, and law-abiding straightforward rulings must always be considered when applying the law and to ensure that errors of the U.S. Court of Appeals are corrected and maintain judicial equality. It's in the public interest the Supreme Court set a precedence that the confidence in the Court is upheld to protect the public interest strong faith in judicial process, that the Court ruling is based on fact of the law, not judicial errors. The Supreme Court stated, "the balancing exercise in some other case might require us to make a somewhat more precise determination regarding the significance of the public interest and the historical importance of the events in question", *see Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 175 (2004).

It's in the public interest the Supreme Court intervene in matter that would set a good precedence for the public interest to uphold the rule of law in the Judicial System that any errors of the lower Courts will be corrected by the Supreme Court and prevent judicial bias or inexcusable neglect. It is not mere avoidance of a trial, but avoidance of a trial that would imperil a substantial public interest, that counts when asking whether an order is "effectively" unreviewable or hinder the public interest to prevent the similar allegations in this case, *see Will v. Hallock*, 546 U.S. 345, 353 (2006). When factors are profoundly serious violation of law by a party it's the Court duty

to consider the effect of the public interest, in the public interest and should be construed liberally in furtherance of their purpose and, if possible, so as to avoid incongruous results, *see B.P. Steamboat Co. v. Norton*, 284 U.S. 408 (1932). In applying any reasonableness standard, including one of constitutional dimension, an argument that the public interest demands a particular rule must receive careful consideration, the effect of obliviousness to factors that would protect the public interest would be a stain to the Court function in the society, *see Camara v. Municipal Court*, 387 U.S. 523, 533 (1967). It's in the public interest that Supreme Court does not let the errors of the U.S. Court of Appeals stand to deteriorate what guiding principles the Judicial System stands for, that the Court is impartial, rulings are base fact of the law and judicial honor to apply the law correctly.

V. SECOND AMENDMENT VIOLATION.

The Second Amendment of the United States Constitution reads: "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed". The language is clear that any obstacles that infringement the Second Amendment is clearly unconstitutional. It's of reasonable rational that due diligence is warranted on an individual's background to obtain a conceal to carry firearm to assure public safety, however under the provision of New York State Section 400 New York Police Department use New York State Section 400 as method to execute bias on any citizen they want to hinder or deny a conceal to carry firearm permit, which infringe on a citizen's Second Amendment right to bear Arms. In

2022, the Supreme Court further expanded upon the precedent set by *Heller*.

In *New York State Rifle & Pistol Association v. Bruen. In Bruen*, (2022) the Court struck down a New York law requiring parties interested in purchasing a handgun for the use of self-defense outside of the home to obtain a license because the law issued licenses on a "may-issue" rather than a "shall issue" basis. The Petitioner submitted all the requirement for the application for conceal to carry handgun license bases on an attempt kidnapping incident in which a NYPD police report was filed. New York City Police Department created ad hoc requirement on the fly using provision of New York State Section 400 as method to infringe on Petitioner's Second Amendment right to bear Arms. The first obstacle by New York City Police Department use under New York State Section 400 was requirement of a non-driver ID which is not part of any requirements of New York State Section 400. Second obstacle was a requirement of a gas bill from your home address and the despite providing it the application was still not granted for a conceal to carry handgun license. Third obstacle was fingerprints cards which are a homogenous card available everywhere, completed and submitted to New York City Police Department in which it was not accepted. The Petitioner stated to Officer Richard DeRiggs of New York City Police Department conceal to carry division via email according to Section 400(4) the finger prints was mailed to his office as to comply to New York State Section 400(4) as it states clearly,

> Two copies of such fingerprints shall be taken on standard fingerprint cards eight

> inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license finger prints will used for background check.

All the requirement was submitted to comply to New York State Section 400 for a conceal to carry handgun license and NYPD required in-person fingerprints to be captured only at the island of Manhattan. These obstacles by New York State and New York City Police Department are infringements on the Second Amendment and therefore New York State Section 400 is unconstitutional. Supreme Court, "Justice Kavanaugh joined by Justice Roberts emphasizes that *New York State Rifle & Pistol Association v. Bruen. In Bruen*, (2022) is not intended to invalidate "shall-issue" licensing structures or other restrictions on firearm ownership including fingerprinting, background checks, mental health evaluations, mandatory training requirements, and potential other requirements. Additionally, this concurrence draws a line between objective gun control measures, where an individual must pass a set of predeter-

mined requirements, which are constitutional, and subjective gun control measures, such as licensing at a state official's discretion, which are not".

New York State Section 400 as it stands creates unnecessary gun control measures that violate the Second Amendment which are an infringements of individual right to bear Arms, therefore unconstitutional. New York Stated Section 400 does not accommodate for individuals who are unable to travel to One Police Plaza on the island of Manhattan only or safety concerns to travel alone or for individual without financial means or disabilities to travel to only one physical address on the island of Manhattan to fore fill a homogenous fingerprints card, which can easily be mailed for a background check. The obstacle created by New York State are insensitive to citizens' rights to bear Arms who are unable to travel because for financial means or have a disability, these obstacles by New York State are not only obtuse to the concept of self-defense for protection of one's safety but a direct violation of the Second Amendment. Prior Court stated, regarding whether a violation of one's Second Amendment rights creates irreparable harm is equally applicable to violations of one's equal protection rights, *see Exodus Refugee Immigration, Inc. v. Pence,* Case No. 1:15–cv-01858–TWP–DKL, 2016 WL 772897, at *14 (S.D. Ind. Feb. 29, 2016).

Past Court stated, "claim against violations of the Second Amendment, violations are by an unlawful judgment" which has "violated petitioner's liberty, pursuit of happiness and second amendment rights, *see Taebel v. Sonberg,* No. 2:18-cv-00138 TLN AC (PS), at *2-3 (E.D. Cal. Jan. 25, 2018). New York State

Section 400 as it stands creates burden for irreparable harm for one's equal protection of rights under the law and pursuit to happiness to protect oneself from potential harm. Past Court stated, "law imposes a burden on conduct falling within the scope of the Second Amendment's guarantee", *see GeorgiaCarry. org, Inc. v. Georgia,* 687 F.3d 1244, 1261 n.34 (11th Cir. 2012). Prior Court stated, "denied the ability to purchase a firearm," along with his conclusion that this constituted a Second Amendment violation", *see Parker v. United States,* No. 4:20-CV-1251 NCC, at *5 (E.D. Mo. Sep. 15, 2020). The Supreme Court stated, "In *New York State Rifle & Pistol Assn., Inc. v. Bruen* (2022) 597 U.S. 1 (Bruen), the United States Supreme Court held that the New York concealed-carry licensing scheme violated the Second Amendment because it provided that the state may issue a license only if the applicant shows "proper cause" for obtaining a license. (*Id.* at pp. 11, 70-71.)

The "proper cause" requirement was interpreted by New York courts to require the applicant to demonstrate a special need for self-protection, such as by presenting evidence of threats, attacks, or other dangers. (*Id.* at pp. 12-13.) The United States Supreme Court struck down the New York licensing law, concluding the state cannot prevent law-abiding citizens with the ordinary need for self-defense from keeping and bearing arms. *see People v. Davis,* No. C097319, at *3-387 (Cal. Ct. App. Jan. 23, 2024). Despite the most recent history of the Supreme Court stating New York State handgun licensing law prevented a citizen from self-defense, New York State has create new obstacle to violate the Second Amendment.

Many other states like Florida and Arizona provides options to facilitate a handgun license by mail for those without financial means to travel or have a disability. New York State stands alone not having a method to facilitate a handgun application by mail for those unable to travel to One Police Plaza on the island of Manhattan and waiting period for an in-person interview requirement is ask by New York State as another obstacle to delay or denied handgun license, even all U.S. District Courts, New York State Family Courts or other New York State institution provide video meeting or interview available to everyone free via online.

The obstacle created by New York State under provision Section 400 are used a method to discriminate and prevent any handgun license to citizens, therefore infringe on the Second Amendment rights to bear Arms. New York Stated has history of violating the Second Amendment, Supreme Court documented this, "New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense" *see, New York State Rifle & Pistol Assn., Inc. v. Bruen,* No. 20-843, at *2 (June 23, 2022). Since the ruling by the Supreme Court, New York State has created new requirements that violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense. Supreme Court stated, "the Second Amendment "is the very product of an interest balancing by the people," and it "surely elevates above all other interests the right of law-abiding, responsible citizens to use arms" for self-defense", *see New York State*

Rifle & Pistol Assn., Inc. v. Bruen, No. 20-843, at *2 (June 23, 2022). Supreme Court stated, "New York's proper-cause requirement as a "sensitive-place" law lacks merit because there is no historical basis for New York to effectively declare the island of Manhattan a "sensitive place" simply because it is crowded and protected generally by the New York City Police Department", *see New York State Rifle & Pistol Assn., Inc. v. Bruen*, No. 20-843, at *3 (June 23, 2022).

It clear that New York State has not respected the Supreme Court ruling finding that New York Stated violate the Second Amendment, it the duty of the Supreme Court to enforce a stronger ruling for New York State by sanctioning New York State and remove all obstacles that violate the Second Amendment on New York State Section 400. It's inconceivable that New York State and New York City Police Department can't not provide fast, fair method and without obstacles to obtain a conceal to carry handgun license by mail for citizens without financial means or disability to travel. Supreme Court stated, "the Court cannot conclude from this historical record that, by the time of the founding, English law would have justified restricting the right to publicly bear arms suited for self-defense only to those who demonstrate some special need for self-protection", *see New York State Rifle & Pistol Assn., Inc. v. Bruen*, No. 20-843, at *4 (June 23, 2022).

The Supreme Court stated,

> [o]nly after the ratification of the Second Amendment in 1791 did public-carry restrictions proliferate. Respondents rely heavily on these restrictions, which generally fell into three categories: common-law offenses, statu-

> tory prohibitions, and "surety" statutes. None of these restrictions imposed a substantial burden on public carry analogous to that imposed by New York's restrictive licensing regime.

See New York State Rifle & Pistol Assn., Inc. v. Bruen, No. 20-843, at *4 (June 23, 2022). The Supreme Court stated, "historical evidence from antebellum America does demonstrate that the manner of public carry was subject to reasonable regulation, but none of these limitations on the right to bear arms operated to prevent law-abiding citizens with ordinary self-defense needs from carrying arms in public for that purpose", *see New York State Rifle & Pistol Assn., Inc. v. Bruen,* No. 20-843, at *5 (June 23, 2022).

The Supreme Court has shown that New York State cannot prevent a law-abiding citizen with ordinary self-defense needs, despite the Supreme Court ruling, New York State has done this again and using New York State Section 400 laws to deny someone of self-defense therefore violate the Second Amendment and New York State Section 400 is unconstitutional. Prior Court stated, "the constitutional right to bear arms in public for self-defense is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees", *see McDonald v. City of Chicago,* 561 U.S. 742, 785 (2010). Past Court stated, "waiting period under the Second Amendment. Specifically, petitioners allege that the waiting period is unconstitutional", *see Silvester v. Becerra,* 138 S.Ct. 945, 946 (2018). Prior Court stated, "holding that a regulation that "makes it impossible for citizens to use [their firearms] for the core lawful purpose of self-defense" is unconstitutional", *see*

Duncan v. Becerra, 970 F.3d 1133, 1146 (9th Cir. 2020). New York State Section 400 creates restrictions purposely, willfully, unconstitutionally, and intentionally as an instrument of bias to prevent who NYPD feel at their leisure to have a conceal to carry handgun license therefore direct violation of the Second Amendment.

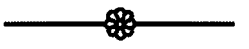
Supreme Court stated, "At the very least, we cannot conclude from this historical record that, by the time of the founding, English law would have justified restricting the right to publicly bear arms suited for self-defense only to those who demonstrate some special need for self-protection", *see New York State Rifle & Pistol Assn., Inc. v. Bruen*, No. 20-843, at *43 (June 23, 2022). The Second Amendment clause since the founding fathers craft it, never mentioned any application of the modern era in New York State, sufficiently probative to defend New York State proper cause to implement ad hoc requirements to prevent a handgun license. The Supreme Court stated it so eloquently, "Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command", *see Konigsberg*, 366 U.S., at 50, n. 10, *New York State Rifle & Pistol Assn., Inc. v. Bruen,* No. 20-843, at *21 (June 23, 2022). Supreme Court stated, "we assessed the lawfulness of that handgun ban by scrutinizing whether it comported with history and tradition. Although we noted that the ban "would fail constitu-

tional muster" "[u]nder any of the standards of scrutiny that we have applied to enumerated constitutional rights," *id.*, at 628-629, we did not engage in means-end scrutiny when resolving the constitutional question. Instead, we focused on the historically unprecedented nature of the District's ban, observing that "[f]ew laws in the history of our Nation have come close to [that] severe restriction." *Id.*, at 629.

Likewise, when one of the dissents attempted to justify the District's prohibition with "founding-era historical precedent," including "various restrictive laws in the colonial period," we addressed each purported analogue and concluded that they were either irrelevant or "d[id] not remotely burden the right of self-defense as much as an absolute ban on handguns." *Id.*, at 631-632; *see id.*, at 631-634. Thus, our earlier historical analysis sufficed to show that the Second Amendment did not countenance a "complete prohibition" on the use of "the most popular weapon chosen by Americans for self-defense in the home", *see New York State Rifle & Pistol Assn., Inc. v. Bruen,* No. 20-843, at *18-19 (June 23, 2022).

There is no rational intelligent person who can't see New York State and New York City Police Department restrictions under New York State Section 400 is not bias, violated the Second Amendment and is unconstitutional. In modern society in 2024 a citizen of fitting background who for fill all the requirements for handgun license should be process in good faith manner in very reasonable documented timeframe, and most importantly accommodate a citizen's application by mail, without financial means or disability to travel to only one location on the island of Manhattan for an interview or fill fingerprints card (all

fingerprints cards are homogenous) when they can be mailed and process for background check. The overwhelming conclusion is New York State Section 400 is used as system to execute bias, violation of the Second Amendment and therefore unconstitutional.



CONCLUSION

The Petitioner prays a writ of certiorari is granted to correct the errors of the U.S. Court of Appeals for the Second Circuit and find that New York State continues to violate the Second Amendment and New York State Section 400 is unconstitutional. The Petitioner prays the Supreme Court correct the judicial error and inexcusable neglect by the U.S. Court of Appeals for the Second Circuit and provide the Petitioner due process in applying the law correctly and reinstate the integrity of the Court. Most importantly, set a strong precedence that New York State cannot have laws that infringe on the Second Amendment rights to bear Arms, and any abuse of Human Rights, Civil Rights and Federal Laws should never be allowed and hold them accountable for their actions. The rule of law applies to everyone, and no one is above the law.

Respectfully submitted,

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