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Supreme Court, U.S.
FILED
OCT 27 2026
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

KAAZIM COOPER,
Applicant,

v.

JUDGE ANNE SWERN, DETECTIVE BRENGIE VASQUEZ, FRANK BRYANT, JEAN PRISCO, JUDGE CURTIS FARBER, and THE CITY OF NEW YORK,
Respondents.

APPLICATION TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT, FOR A STAY OF THE MANDATE OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

TO THE HONORABLE SONIA SOTOMAYOR, CIRCUIT JUSTICE FOR THE SECOND CIRCUIT:

Pursuant to 28 U.S.C. § 2101(f), Federal Rule of Appellate Procedure 41(d)(4), Federal Rule of Appellate Procedure 27, and Supreme Court Rules 22 and 23, Applicant Kaazim Cooper respectfully requests a stay of the mandate of the United States Court of Appeals for the Second Circuit in Case No. 25-3024, pending the filing and disposition of a timely Petition for a Writ of Certiorari.

The Second Circuit finalized its denial of Applicant's petition to recall the mandate on September 15, 2026, allowing an unconscionable procedural shortcut to seal a profound miscarriage of justice. Absent a stay, Applicant will suffer immediate, irreparable harm through the permanent forfeiture of core constitutional protections, which Applicant asserts operate under color of law as a deliberate, structural imposition of a badge and incident of slavery under the Thirteenth Amendment, engineered specifically to silence protected speech and petitioning activities by relegating an indigent Black citizen to a lawless sub-constitutional status.

I. PROCEDURAL POSTURE AND JURISDICTION

This emergency application arises from a documented chronological sequence of procedural manipulations and screening failures across the lower dockets:

1. **August 28, 2024:** Applicant filed a 42 U.S.C. § 1983 civil rights complaint in the U.S. District Court for the Southern District of New York (SDNY), docketed at No. 24-cv-6702.
2. **September 7, 2024:** The District Court officially granted Applicant's application to proceed *In Forma Pauperis* (IFP).
3. **January 12, 2025:** Chief Judge Laura Taylor Swain entered an order dismissing the vast majority of Applicant's civil rights claims under absolute immunity and municipal pleading barriers, while explicitly granting Applicant leave to amend his Fourth Amendment digital search claims against the NYPD and Detective Brengie Vasquez.
4. **February 6, 2025:** In strict adherence to Chief Judge Swain's Individual Rules of Practice, which mandate that a litigant submit an informal letter of intent prior to making any formal filing,

Applicant submitted an informal letter of intent seeking judicial recusal due to clear structural bias.

5. **February 13, 2025:** The District Court completely bypassed its own individual rules, recharacterized the informal letter of intent as an active, formal motion for recusal, and denied it on the merits. In that same order, the court certified that any future appeal from this order would lack good faith under *Coppedge v. United States*, 369 U.S. 438 (1962).
6. **February 14, 2025:** The District Court retroactively placed Applicant's February 6 letter of intent onto the electronic docket *after* the court had already entered its formal February 13 denial.
7. **March 30, 2025:** Applicant timely filed a comprehensive Amended Complaint challenging an entirely unsigned, altered electronic search warrant.
8. **November 3, 2025:** Following an unconstitutional, tactical seven-month delay, Chief Judge Swain issued an order denying the Motion to Amend. Final civil judgment was entered on **November 5, 2025**.
9. **January 29, 2026:** On appeal (Docket No. 25-3024), the Second Circuit entered an order denying Applicant's timely Motion for Reconsideration.
10. **May 14, 2026:** A Second Circuit panel summarily dismissed the remaining record as "frivolous" in a single, unreasoned footnote citing *Neitzke v. Williams*, 490 U.S. 319 (1989) [Neitzke].
11. **August 6, 2026:** The Second Circuit issued its final mandate, cutting off standard access to due process.
12. **September 15, 2026:** The Second Circuit officially denied Applicant's emergency Motion to Recall the Mandate, completely exhausting all available avenues of relief in the court below.

II. THE STANDARD FOR A STAY OF THE MANDATE IS MET

Relief from a single Circuit Justice is an extraordinary remedy, yet it is explicitly appropriate where the structural record completely rebuts the ordinary presumption of lower court correctness. As this Court has established, an applicant satisfies the threshold for a stay when they successfully demonstrate that the decisions below—both on the merits and on the proper interim disposition of the case—are infected with profound errors of law. ***Rostker v. Goldberg*, 448 U.S. 1306, 1308 (1980)**; quoting ***Whalen v. Roe*, 423 U.S. 1313, 1316 (1975) (Marshall, J., in chambers)**.

To determine whether an applicant has successfully rebutted this presumption, the Circuit Justice evaluates the non-discretionary criteria codified in ***Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010)**: (1) a reasonable probability that four Justices will grant certiorari; (2) a significant possibility that the judgment below will be reversed on the merits; and (3) that irreparable harm will result if the mandate is not stayed. Circuit Justices must actively balance these competing interests to measure the relative weight of the constitutional harms. ***Lucas v. Townsend*, 486 U.S. 1301, 1304 (1988) (Kennedy, J., in chambers)**.

A. The Controlling Rule on Irreparable Harm: Direct Application of *Elrod v. Burns*.

The standard for granting a stay is anchored by the irreversible nature of the injury inflicted by the lower court's mandate. The Supreme Court has made clear that courts do not require a separate showing of economic or physical damage when a core constitutional freedom is blocked. As this Court held in ***Elrod v. Burns*, 427 U.S. 347, 373 (1976), "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."** This foundational standard applies with equal force to all fundamental, core liberties guaranteed by the Bill of Rights—including the Fourth Amendment right to digital privacy, the right to be free from facially unauthorized searches, and the Fourteenth Amendment right to due process.

At every stage of the interim disposition below, the lower courts' unwritten policy of summary erasure inflicted an active, continuing deprivation of these fundamental liberties. Allowing a final mandate to execute and permanently bar Applicant's 42 U.S.C. § 1983 action creates an immutable constitutional forfeiture. Under *Elrod*, a completed, state-sanctioned deprivation of fundamental rights under color of law cannot be balanced against administrative or procedural finality; the constitutional injury itself satisfies the irreparable harm threshold as a matter of law.

B. The Deliberate Judicial Intent and Animus to Deprive Applicant of Core Civil Rights.

Applicant explicitly states to the Circuit Justice that the lower court's consecutive due process breakdowns and severe errors of law constitute a deliberate, bad-faith attempt to deny and deprive him of his First Amendment, Fourth Amendment, and Fourteenth Amendment Due Process and Equal Protection rights. This systematic obstruction was driven by an institutional animus targeting Applicant's status as an indigent Black citizen on parole.

By utilizing unwritten policies of administrative silence, the lower court sought to silence Applicant's protected First Amendment speech and petitioning activities—specifically his efforts to expose a coordinated operational matrix involving state actors—by treating him as if he lacked any judicially cognizable personhood. This civil rights erasure represents a deliberate imposition of a badge and incident of slavery, echoing the historical mechanics of ***Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857)**, by holding that an indigent Black man occupies a sub-constitutional legal vacuum where the state is free to violate the Bill of Rights without facing a civil remedy.

As established by this Court in ***Groh v. Ramirez*, 540 U.S. 551 (2004)**, a search warrant that completely lacks particularity or valid structural authorization is legally equivalent to, and emulative of, a colonial general warrant. Reviving the usage of facially unauthorized, colonial-style general warrants to pillage a citizen's private digital media, and then shielding that conduct through arbitrary footnote shortcuts, demonstrates a blatant and willful intent to subvert the supreme law of the land.

C. The Rigorous Federal Definitions of Frivolousness under *Neitzke*, *Anders*, and *Denton*.

The Second Circuit panel's summary declaration that Applicant's entire appeal was "frivolous" represents an unconscionable distortion of the strict boundaries established by this Court's jurisprudence. To prevent the arbitrary weaponization of the screening process against the poor, this Court has strictly and narrowly defined what constitutes a frivolous claim:

- ***Neitzke v. Williams*, 490 U.S. 319, 325 (1989):** This Court explicitly held that a complaint is frivolous only if it lacks an arguable basis either in law or in fact [Neitzke]. Crucially, *Neitzke* commands that a claim is not frivolous simply because it fails to state a claim under Rule

12(b)(6); the standard requires that the legal theory be "indisputably meritless" or built upon "fantastic or delusional" factual scenarios [Neitzke].

- ***Anders v. California*, 386 U.S. 738, 744 (1967):** This Court established that an appeal is only frivolous if it is completely devoid of any arguable issues, holding that if any legal issue is "arguable on its merits," the appeal cannot be summarily brushed aside.
- ***Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992):** This Court reaffirmed that under § 1915, an *in forma pauperis* complaint cannot be labeled frivolous or factually baseless unless the facts are clearly baseless, irrational, or wholly incredible.

When measured against ***Hagans v. Lavine*, 415 U.S. 528, 536–37 (1974)*** and ***Baker v. Carr*, 369 U.S. 186, 199 (1962)***, a constitutional claim can **only** be dismissed as insubstantial or frivolous if its lack of merit is "very plain" or completely foreclosed by prior binding decisions.

Applicant asks the Honorable Circuit Justice: **Why and how are these heavily detailed, legally grounded constitutional claims frivolous?** By what metric can claims directly rooted in modern Fourth Amendment digital privacy, prosecutorial immunity boundaries, and unauthorized prison guard extractions be branded as "indisputably meritless legal theories" under *Neitzke*? They cannot be.

D. Exhaustive Isolation and Substantive Analysis of the Nine Substantial Claims.

Applicant isolates each specific count below to prove that none of his claims can legally be categorized as frivolous under the controlling standards of *Neitzke*, *Anders*, *Denton*, *Baker*, and *Hagans*:

1. **The NYPD Unlawful Digital Search Claim:** This claim asserts that the NYPD executed an overbroad digital search of Applicant's personal electronic devices without establishing any factual connection or probable cause linking digital records to a physical assault physical crime scene. This raises a substantial Fourth Amendment controversy governed directly by the core privacy mandates of ***Riley v. California*, 573 U.S. 373 (2014)*** and ***United States v. Galpin*, 720 F.3d 436 (2d Cir. 2013)***. Because it stands on active Supreme Court law, it cannot be labeled frivolous under *Neitzke*.
2. **The Unsigned, Unauthorized Altered Warrant Claim:** This claim documents that after an original warrant was granted, Detective Vasquez unilaterally altered the search warrant affidavit, and the subsequent amended version deployed to pillage Applicant's digital media was entirely unsigned and unauthorized by any magistrate. Executing a search under a document that completely lacks judicial review is a structural Fourth Amendment nullity under ***United States v. Voustianiouk*, 685 F.3d 206 (2d Cir. 2012)*** and ***Sgro v. United States*, 287 U.S. 206 (1932)***. A claim asserting the execution of a facially unauthorized colonial-style warrant is an arguable constitutional question that completely defeats any summary assertion of frivolousness.
3. **The Pre-Arrest Prosecutorial Investigator Claim:** This claim tracks the explicit operational timeline showing that Prosecutor Jean Prisco signed off on and actively executed the unconstitutional digital search warrant on April 6, 2021—weeks before a formal arrest warrant or indictment was issued on April 30, 2021. Because she acted strictly as an investigator prior to a judicial finding of probable cause, she is stripped of absolute advocacy immunity under

Buckley v. Fitzsimmons*, 509 U.S. 259 (1993) and ***Kalina v. Fletcher*, 522 U.S. 118 (1997)***. To call an active, factually documented qualified immunity dispute frivolous is a direct violation of *Baker v. Carr*.

4. **The Coordinated Fraud Upon the Court Claim:** This claim identifies an irreconcilable, structural double standard within Chief Judge Swain's January 12, 2025 order—granting Applicant leave to amend his Fourth Amendment privacy claims against the police, while simultaneously dismissing the identical claims against the local prosecutor under a fraudulent absolute immunity shield for doing the exact same investigatory police work. Manufacturing an artificial double standard to protect a state actor constitutes a structural corruption of the screening machinery that satisfies the threshold of fraud upon the court under ***Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944)***.

5. **The Personal Capacity Due Process Claim Against Rikers Officials:** This claim targets individual jail officials for their own personal unconstitutional conduct. Chief Judge Swain recharacterized this personal-liability suit as a municipal liability action, dismissing it under a fake ***Monell*** custom-or-policy barrier. This recharacterization flatly violates ***Kentucky v. Graham*, 473 U.S. 159 (1985)*** and ***Hafer v. Melo*, 502 U.S. 21 (1991)***, which guarantee a citizen's absolute right to sue state actors in their individual capacities without meeting municipal constraints.

6. **The Extrajudicial Forced Extraction Claim:** This claim could never be frivolous under any standard of federal law. While Applicant was detained pre-arraignment, Rikers Island correction officers used explicit threats of physical violence to execute a law enforcement arrest warrant. Under New York law, specifically ***People v. Small*, 26 N.Y.3d 253 (2015)**, the state's highest court firmly established that New York City Department of Correction officers do not possess the legal statutory authority to execute police arrest warrants. Because these guards acted entirely outside their statutory boundaries, their extrajudicial enforcement action is a structural Fourth Amendment violation that must be analyzed under the objective reasonableness standard of ***Graham v. Connor*, 490 U.S. 386 (1989)***. A claim identifying an unauthorized, physically coerced seizure by guards acting outside state law is a substantial federal controversy under *Baker v. Carr*.

7. **The Coercive Bypassing of a Mandatory Competency Order:** This claim documents that while Applicant was held under an active, mandatory judicial order for a CPL § 730 competency evaluation issued on August 31, 2021, facility officials ignored the medical directive and used physical coercion to force him through standard criminal proceedings. Forcing a detainee through the criminal justice system while an active question of mental competency remains unaddressed violates the core due process boundaries established in ***Pate v. Robinson*, 383 U.S. 375 (1966)*** and ***Drope v. Missouri*, 420 U.S. 162 (1975)***.

8. **The Authorized Property Seizure and Theft Claim:** This claim asserts that OSI investigators permanently withheld and effectively converted Applicant's vouchered personal electronics, credit cards, and vital identity documents transferred to them during an official statutory extradition under CPL § 210.10. Chief Judge Swain immunized this theft under the *Parratt/Hudson* "random act" doctrine. This represents a direct violation of ***Zinermon v. Burch*, 494 U.S. 113, 125 (1990)***, which explicitly commands that the *Parratt/Hudson* doctrine has absolutely zero application to direct, substantive violations of the Fourth Amendment executed

under color of state authority. This analysis represents an unconscionable distortion of both the factual record and controlling federal law. Defendant Frank Bryant and the OSI investigators could not legally be performing an unauthorized, rogue act. They were officially delegated to execute the April 30, 2021 indictment and warrant for arrest pursuant to **New York Criminal Procedure Law § 210.10**. Under the explicit framework of CPL § 210.10, the statutory authority, duties, and capacities of the delegator (the primary case detective, Brengie Vasquez) and the delegees (the OSI investigators) are legally interchangeable and functionally identical. Because these state actors were executing a structural, statutory command directly derived from the state's criminal justice prosecution machinery, their operational actions were fully authorized state moves

9. **The Class-of-One "Stalking Horse" Conspiracy Claim:** This claim establishes that the defendants interlocked in a 42 U.S.C. § 1983 conspiracy to utilize Applicant's parole status as a **"Stalking Horse"** to bypass warrant and probable cause thresholds, a practice strictly prohibited under ***United States v. Knights*, 534 U.S. 112 (2001)**. *Furthermore, because the State of New York explicitly grants parolees heightened protections requiring individualized probable cause under* ***People v. Huntley, 43 N.Y.2d 175 (1977)***, the defendants' intentional degradation of Applicant's legal status fulfills a valid **"Class-of-One" Equal Protection claim** under ***Village of Willowbrook v. Olech*, 528 U.S. 562 (2000)***.

E. The Second Circuit Panel's Deployment of Post Hoc Reasoning and *Christiansburg* Violation.

The Second Circuit panel's summary dismissal via a single footnote reveals a calculated deployment of *post hoc* reasoning designed to show blind, uncritical deference to Chief Judge Swain's lower court maneuvers. Rather than conducting an independent *de novo* review of the legal sufficiency of the amended complaint, the appellate panel simply adopted the lower court's conclusions, rubber-stamping the use of *Coppedge* and *Neitzke* completely out of context.

By lifting these screening mechanisms out of context to mask direct Fourth Amendment violations, the lower courts ran directly afoul of the context-preservation rule of ***United States v. Title Guaranty & Trust Co.*, 133 F.2d 990, 994 (6th Cir. 1943)***.

Furthermore, this unreasoned, hostile application of the frivolousness label against an indigent litigant directly violates the federal standards established in ***Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421–22 (1978)***. In *Christiansburg*, this Court strictly cautioned that a claim cannot be labeled frivolous or groundless simply because the plaintiff did not ultimately prevail, warning lower courts against the temptation of engaging in *post hoc* reasoning by concluding that because an action was unsuccessful, it must have been groundless from the start.

By utilizing a boilerplate footnote to brand this entire, landmark constitutional record as "frivolous" solely because of Applicant's status as an indigent *pro se* citizen, the panel completed an unconscionable distortion of justice that satisfies the high burden of *Calderon v. Thompson*, 523 U.S. 538 (1998) and *Greater Boston Television Corp. v. FCC*, 463 F.2d 268 (D.C. Cir. 1971), legally forcing a stay of the mandate.

III. CONCLUSION AND EQUITABLE APPEALS TO THE CIRCUIT JUSTICE

Applicant Kaazim Cooper has fully satisfied the non-discretionary standards required to halt a lower court's mandate. The structural breakdown of screening standards and the hostile deployment of boilerplate text to strip an indigent citizen of his constitutional safeguards represents an unconscionable procedural cutting of corners that shatters the integrity of the judicial process.

Applicant notes his familial roots inside the Bronxdale Houses project community, from which his brother Antoine Bartlett, his stepmother Vanessa Bartlett, and Applicant emerged. Recognizing the profound institutional and personal relationships that interlock within the leadership of the Second Circuit and the Southern District of New York, Applicant respectfully implores the Circuit Justice, as an anchor of accountability, neutrality, and equity, to refuse to condone or validate a structural interim disposition that relegates an indigent individual to a lawless vacuum stripped of active judicial remedy. Applicant explicitly prays that personal associations and regional commercial ties do not cloud the unyielding application of the law, and that this Court halts this condition of servitude.

Accordingly, Applicant respectfully requests that the Honorable Circuit Justice find that extraordinary circumstances exist and **STAY THE MANDATE** of the United States Court of Appeals for the Second Circuit in Case No. 25-3024, pending the timely filing and final disposition of a Petition for a Writ of Certiorari in this Court.

Dated: October 25, 2026
Respectfully submitted,

Kaazim Cooper, *Pro Se*
Path Forward
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Arlington, Virginia 22201

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UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15th day of September, two thousand twenty-six.

Before: Myrna Pérez,
Alison J. Nathan,
Circuit Judges,
Gary S. Katzmann,
*Judge.**

Kaazim Cooper, AKA Kaazin Cooper, AKA Kazzim Cooper,

Plaintiff - Appellant,

v.

Judge Anne Swern, et al.,

Defendants - Appellees.

ORDER

Docket No. 25-3024

Appellant, pro se, moves the Court to recall the mandate, vacate the dismissal order dated May 8, 2026, and clarify the Court's decision.

IT IS HEREBY ORDERED that the motion is DENIED.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court



*Judge Gary S. Katzmann, of the United States Court of International Trade, sitting by designation.

Additional material from this filing is available in the Clerk's Office.