

No: 25-795

In the Supreme Court of the United States

Montgomery Blair Sibley,

Petitioner,

v.

Chauncey J. Watches, Erin M. Peradotto, John V. Centra,
John M. Curran, Brian F. DeJoseph, Jenny Rivera, Michael
J, Garcia, Anthony Cannataro, Madeline Singas and
Shirley Troutman,

Respondents.

On Petition for Writ of Certiorari to the
United States Court Of Appeals For The Second Circuit

PETITION FOR WRIT OF CERTIORARI

Montgomery Blair Sibley

Petitioner

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QUESTIONS PRESENTED FOR REVIEW

Although this Second Amendment case began seven years ago primarily centered upon the denial of a pistol permit by New York State based upon secret evidence undisclosed to Petitioner, the case metamorphosed into a forensic exposition of the decent of the New York State and federal justice systems far below Constitutional minimums and thus raises the following four (4) important questions for review:

WHETHER federal *in forma pauperis* litigants may be significantly denied immediate access to Court while filing-fee paying litigants suffer no such constraints as the Second Circuit has here below tacitly approved?

WHETHER New York's handgun licensing substantive law and licensing adjudicative practices denied Petitioner: (i) his Second Amendment rights, (ii) due process and (iii) equal protection?

WHETHER the Second Circuit's refusal to address significant issues raised by Petitioner by summarily claiming those issues were "without merit" impermissibly trespassed upon Petitioner's right to "petition" and be meaningfully "heard" and thereby breached the settled principle that litigants in similar situations should be treated the same, a fundamental component of *stare decisis* and the rule of law?

WHETHER the *corrigendum* of 42 United States Code §1983 required by the "separation-of-powers" principle and intellectual integrity obligates this Court to reconsider the scope of the judge-made doctrine of judicial immunity stated in *Pierson v. Ray*, 386 U. S. 547, 554 (1967)?

RULE 29.6 STATEMENT

Neither Petitioner nor Respondents are corporate entities.

STATEMENT OF RELATED PROCEEDINGS

There are no related proceedings.

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**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Petitioner, Montgomery Blair Sibley (hereinafter “Sibley”), prays that a writ of certiorari issue to review the judgments and opinions of the United States Court of Appeals for the Second Circuit entered on **August 26, 2025** and **September 30, 2025**.

First, review must be granted as the Second Circuit has so far departed from the accepted and usual course of judicial proceedings, and/or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power. Second, the Second Circuit has decided important questions of federal law that have not been, but should be, settled by this Court.

OPINIONS BELOW

The **March 18, 2024**, Decision and Order of the United States District Court for the Western District of New York granting Defendants' motion to dismiss the Fifth Amended Complaint is reprinted in the appendix hereto, *Appendix – 2*.

The **August 26, 2025**, Summary Affirmance Order of the United States Court of Appeals for the Second Circuit is reprinted in the appendix hereto, *Appendix – 11*.

The **September 30, 2025**, Order of the United States Court of Appeals for the Second Circuit denying panel rehearing and rehearing *en banc* is reprinted in the appendix hereto, *Appendix – 17*.

JURISDICTION

Jurisdiction in the United States District Court for the Western District of New York was invoked pursuant to 28 U.S. Code §1331, §2201, §2202 and the Ku Klux Klan Act of 1871 which is inaccurately codified at 42 U.S.C. §1983. The dates of the judgments of the United States Court of Appeals for the Second Circuit sought to be reviewed are **August 26, 2025** and **September 30, 2025**.

This Court has jurisdiction to review on a writ of certiorari the judgments or orders in question under 28 U.S. Code §1254.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES AND REGULATIONS INVOLVED

An Act to Enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for Other Purposes, 17 Stat. 13 (1871)(hereinafter “Ku Klux Klan Act of 1871”).

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That any person who, under color of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, ***any such law, statute, ordinance, regulation, custom or usage of the State to the contrary notwithstanding,***¹ be liable to the party injured in any action at law, suit in equity, or

1 The emphasized language was omitted from the codification of the Ku Klux Klan Act of 1871 into 42 U.S.C. §1983.

other proper proceeding for redress; such proceeding to be prosecuted in the several district or circuit courts of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts, under the provisions of the act of the ninth of April eighteen hundred and sixty-six, entitled “An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication”, and the other remedial laws of the United States which are in their nature applicable in such cases.²

42 U.S. Code § 1983 - Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall [. . .] be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.³

2 Retrieved from: <https://www.govinfo.gov/content/pkg/STATUTE-17/pdf/STATUTE-17-Pg13.pdf#page=1>

3 Retrieved from: [https://uscode.house.gov/view.xhtml?req=\(title:42%20section:1983%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:42%20section:1983%20edition:prelim))

STATEMENT OF THE CASE

I. THE FACTS MATERIAL TO CONSIDERATION OF THE QUESTIONS PRESENTED

On **July 18, 2018**, Sibley filed his State of New York Pistol/Revolver License Application (“Application”) with the Clerk of Steuben County, New York.

On or about **May 16, 2019**, the Defendant/Appellee Handgun Licensing Officer Chauncey Watches (“Licensing Officer”) *ex parte* contacted Sibley’s employer by telephone seeking information about the scope of Sibley’s activities as a licensed New York Nuisance Wildlife Control Operator.

On **May 29, 2019** – three hundred fifteen (315) days or 10 ½ months after Sibley filed his Application – the Licensing Officer sent Sibley a letter denying Sibley a Pistol/Revolver License. In that letter, the Licensing Officer stated in pertinent part: (i) “That the [Licensing Officer] had reviewed Sibley’s application” and “the investigation submitted by the Steuben County Sheriff’s Department”, (ii) “The basis for the denial results from concerns about your being sufficiently responsible to possess and care for a pistol” and (iii) “[T]he the [Licensing Officer] is concerned that your history demonstrates that you place your own interest above the interests of society”.

On **June 14, 2019**, Sibley responded to the **May 29, 2019**, letter from the Licensing Officer stating in sum and substance: (i) that he was requesting a hearing on the denial, (ii) requesting copies of all written investigation reports and/or objections from any police authority or person reported to the Licensing Officer, and (iii) requesting the sum and substance of any orally-communicated information received by the Licensing

Officer regarding Sibley's application.

In response, on **June 25, 2019**, the Licensing Officer wrote Sibley stating: (i) "Pursuant to your request I have scheduled a hearing on **July 31, 2019**", (ii) "You should be prepared to proceed on that date with any evidence which you intend to present to the Court including testimony from you or any other witness concerning your application" and (iii) "I have reviewed your requests for information and documents and find them to be without legal basis and therefore **they are denied**." The **July 31, 2019**, hearing date was subsequently re-set for **January 10, 2020**.

On **March 9, 2020**, the Licensing Officer issued his Decision denying Sibley a pistol license. In that Decision, the Licensing Officer rested his sole reason for denying Sibley's Application that he "has failed to demonstrate his good moral character."

On or about **March 20, 2020**, Sibley filed his New York Article 78 "Notice of Petition" with the Appellate Division of the Supreme Court of New York, Fourth Department which was assigned to Defendants/Appellees Judges Erin M. Peradotto, John V. Centra, John M. Curran and Brian F. DeJoseph ("Fourth Department Defendants") .

On **May 7, 2021**, the Fourth Department Defendants entered their Memorandum and Order on Sibley's Petition ignoring Sibley's due process claims that the Licensing Officer received information about Sibley he obtained **ex parte** from the Sibley's employer and the Steuben County Sheriff's Department which the Licensing Officer: (i) relied upon in denying Sibley's Application and (ii) refused to reveal to Sibley. Sibley raised that refusal in his Motion for Rehearing. The Fourth Department Defendants denied that motion without Sibley's requested *ratio decidendi* on

July 9, 2021.

On **July 14, 2021**, Sibley filed his Notice of Appeal to the New York Court of Appeals which was heard by Defendants/Appellees Justices Janet DiFiore, Jenny Rivera, Michael J. Garcia, Rowan D. Wilson, Anthony Cannataro, Madeline Singas and Shirley Troutman (“Court of Appeals Defendants”). On **December 16, 2021**, the Court of Appeals Defendants entered their Order dismissing Sibley’s appeal stating: “no **substantial** constitutional question is directly involved.” On **April 28, 2022**, the Court of Appeals Defendants entered their Order denying Sibley’s Motion for Reargument.

II. THE PROCEDURAL HISTORY OF THE CASE MATERIAL TO CONSIDERATION OF THE QUESTIONS PRESENTED

Vital to the understanding of the factual premise for this Petition is that on **July 9, 2019** – six months prior to the **January 10, 2020**, “good character” hearing before the Licensing Officer – Sibley filed his initial complaint and request for preliminary injunction in the United States District Court for the Western District of New York which was assigned to Judge Geraci.

Contemporaneous with the filing of the Initial Complaint on **July 9, 2019**, Sibley filed his motion to proceed *in forma pauperis*. As Judge Geraci had failed to rule upon that motion for **twenty-eight (28) days** – precluding the issuance of the requested summons and thus delaying the ruling upon Sibley’s preliminary injunction motion – on **August 8, 2019**, Sibley made his Motion *Procedendo Ad Justitiam* requesting Judge Geraci to rule one way or the other on the *in forma pauperis* motion. Fifty-one (51) days later, on **September 26, 2019**, as Judge Geraci had still not ruled for **seventy-nine (79) days** upon Sibley’s *in forma pauperis* motion, and as Sibley was then

finally able to come up with the exorbitant-to-him filing fee of four hundred (\$400) dollars, Sibley deposited the filing fee with the Clerk who then finally issued the summons to allow Sibley to serve the defendants. On **October 1, 2019**, Judge Geraci entered his order holding: “Motion for Leave to Appeal (sic) *in Forma Pauperis* and Motion *Procedendo Ad Justiciam* are Moot”.

As a matter of right, Sibley subsequently filed his First Amended Complaint on **December 10, 2019**, adding, solely in their official capacities, the Defendants/Appellees: (i) His Excellency Andrew Mark Cuomo, (ii) James L. Allard, Sheriff of Steuben County, New York, (iii) Brooks Baker, District Attorney of Steuben County, and (iv) Keith M. Corlett, Superintendent of the New York State Police.

On **May 18, 2020**, Judge Geraci entered his Decision and Order granting the Defendants/Appellees’ motions to dismiss and denying Sibley’s motion for partial summary judgment and oral argument. Sibley was given leave to amend the First Amended Complaint.

After Judge Geraci dismissed Sibley’s Second Amended Complaint on a procedural issue, on **June 3, 2020**, Sibley filed his Third Amended Complaint seeking Declaratory Judgment And Preliminary And Permanent Injunctive Relief.

On **November 16, 2020**, Judge Geraci entered his Decision and Order granting Defendants/Appellees’ motions to dismiss the Third Amended Complaint but once again granting leave to Sibley to amend. In that Order, Judge Geraci dismissed with prejudice Sibley’s Claims against: (i) His Excellency Andrew Mark Cuomo, (ii) James L. Allard, Sheriff of Steuben County, New York, (iii) Brooks Baker, District Attorney of Steuben County, and (iv) Keith M.

Corlett, then-Superintendent of the New York State Police.

Constrained by Judge Geraci to proceed solely against Licensing Officer Watches, on **November 19, 2020**, Sibley filed his Fourth Amended Complaint For Declaratory Judgment And Preliminary And Permanent Injunctive Relief against Licensing Officer Watches, in his official capacity as a N.Y. Penal Law §265.00(10) Licensing Officer.

On **July 20, 2021**, Judge Geraci entered his Decision and Order granting Defendants/Appellees' motions to dismiss the Fourth Amended Complaint.

Sibley timely filed his notice of appeal to the United States Court of Appeals for the Second Circuit on **August 13, 2021**. One year later, on **August 10, 2022**, the Second Circuit panel reversed and remanded the matter back to the District Court directing Judge Geraci in pertinent part, “. . . [T]o consider in the first instance the impact, if any, of [*New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. 1 (2022)] on Sibley's claims, which concern a different provision imposing a “good moral character” requirement on applications for both carry and at-home licenses. N.Y. Penal Law §400.00(1)(b).”

On **September 9, 2022**, Sibley filed his Fifth Amended Complaint again against Licensing Officer Watches and adding claims against the Fourth Department and Court of Appeals Defendants.

On **December 13, 2022**, Judge Geraci *ex parte* issued his Order granting Defendants/Appellees Motion to Stay Sibley's case pending disposition of *Antonyuk v. Chiumento et al.*, No. 22-2908 (2nd Cir. 2023). On **December 21, 2022**, Sibley filed his 28 U.S.C. §1746 and 28 U.S.C. §455(b)(5)(i) Motion to Disqualify Judge Geraci

citing the Code of Conduct for United States Judges, Cannon 3(A)(4) & (5) based upon Judge Geraci's arbitrary refusal to hear Sibley prior to *ex parte* granting the Defendants/Appellees' Motion to Stay for indefinite stay. Judge Geraci denied the Motion to Disqualify on **December 22, 2022**.

Over a year later, after finally lifting the stay, on **March 18, 2024**, Judge Geraci granted the Defendants/Appellees' motions to dismiss the Fifth Amended Complaint with prejudice ignoring in his Order of Dismissal the explicit command of the Second Circuit to consider "in the first instance" *Bruen. Appendix – 2*. Sibley timely filed his notice of appeal of all of Judge Geraci's Orders on **April 1, 2024**.

On **August 26, 2025**, the Second Circuit entered its Summary Affirmance Order. *Appendix – 11*. On **September 30, 2025**, the Second Circuit entered its Order denying panel rehearing and rehearing *en banc. Appendix – 17*.

REASONS FOR GRANTING THE WRIT

I. **EQUAL JUSTICE UNDER LAW MUST NOT BE JUST A CAPTION ON THE FACADE OF THE SUPREME COURT BUILDING**

Unquestionably, the federal courts must administer their judicial determinations of legal rights so as to provide to "each individual that process which, in the light of the values of a free society, can be characterized as due". *Boddie v. Connecticut*, 401 U.S. 371, 380 (1971) established this black-letter law that as applied to indigent plaintiffs, a state requirement that filing and service of process fees be paid as a condition precedent to the maintenance of a

divorce action is constitutionally infirm.

As Justice Powell observed, “Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists. . . . [I]t is fundamental that justice should be the same, in substance and availability, without regard to economic status.”⁴

Here, justice was “not the same” for Sibley for as he cooled his heels for seventy-nine (79) days waiting for Judge Geraci to rule one way or the other on his *in forma pauperis* petition.

Meanwhile, filing-fee paying litigants: (i) immediately received their summons, (ii) were able to serve defendants and (iii) their case proceeded and motions were heard in the normal course. Such a deviant procedure employed by Judge Geraci below raises the economic status of a litigant as a condition precedent to immediate access to the mechanism for redress of Sibley's Second Amendment claims. *Boddie* expressly precludes such a practice.

Moreover, and as more fully treated below, the Second Circuit when confronted with this claim of deviation from judicial norms by Judge Geraci, summarily and *ex cathedra* determined that such claims were “without merit”. The failure of the Second Circuit to acknowledge, let alone address by *ratio decidendi*, Sibley's serious indictment of the *in forma pauperis* practice of Judge Geraci apparently renders this Court's explicit jurisprudence grounded in *Boddie* aspirational only.

Accordingly, as Judge Geraci so far departed from the accepted and usual course of judicial proceedings, and

4 Justice Powell's speech at the 1976 Legal Services Corporation. Retrieved from: <https://lawlib.academic.wlu.edu/2016/08/04/forty-years-ago-recalling-justice-powells-speech-on-legal-aid>.

the Second Circuit has refused to address such a departure by Judge Geraci, this Court must exercise its supervisory power to insure that federal *in forma pauperis* litigants are not denied immediate access to Court while paying litigants suffer no such constraints and accordingly grant Sibley Petition in this regard.

**II. SUBSTANTIVELY AND PROCEDURALLY, NEW YORK
SHREDDED SIBLEY'S SECOND AMENDMENT, DUE
PROCESS AND EQUAL PROTECTION RIGHTS**

Few, if any, Second Amendment cases presented to this Court so clearly highlight the disregard by the Article III inferior courts of this Court's mandates found in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2021) than those presented by the instant Petition.

Substantively, New York's "good moral character" requirement as applied to Sibley by N.Y. Penal Law Section §400.00(1)(b) was unconstitutional as it violated the Second Amendment to the United States Constitution as articulated by this Court in *Bruen*, and the Second Circuit's own ruling in *Antonyuk v. Chiumento et al.*, 89 F.4th 271 (2d Cir. 2023). In particular, New York State — and now tacitly approved by the Second Circuit — ignores this Court's holding in *Bruen* that N.Y. Section 400.00(1)(b)'s "good moral character" requirement was unconstitutional as applied to Sibley as it required the prohibited: (i) "appraisal of facts", (ii) "exercise of judgment", to (iii) result in "the formation of an opinion" that Sibley has "good moral character". *Bruen* at f/n #9.

Remarkably, on Sibley's first appeal to the Second Circuit in this matter, the panel agreed and reversed and remanded explicitly directing Judge Geraci in pertinent part, ". . . [T]o consider in the first instance the impact, if any, of *Bruen* on Sibley's claims, which concern a different provision imposing a "good moral character" requirement

on applications for both carry and at-home licenses. N.Y. Penal Law §400.00(1)(b).” On remand, Judge Geraci ignored and thus violated the Second Circuit's mandate to him by not addressing the *Bruen* issue in his subsequent Rule 12(b)(6) dismissal of Sibley's claims. Yet, when the Second Circuit was presented in the second appeal of Judge Geraci's blatant disregard of its express Order, the Second Circuit summarily dismissed Sibley's appeal in this regard as “without merit”.

Procedurally, this case highlights the Constitutionally-infirm procedural process that New York has adopted to adjudicate pistol permit applications. Just as importantly, neither (i) New York's Appellate Division, (ii) New York's Court of Appeals, (iii) Judge Geraci nor (iv) the Second Circuit would acknowledge or address Sibley's claims in this regard.

First among those claims was that “Sibley did not have the opportunity to review the Sheriff’s report on Sibley upon which Licensing Officer Watches expressly relied upon to make his determination to deny Sibley his pistol license” and that “Licensing Officer Watches expressly refused to disclose that report to Sibley despite Sibley’s request for that report”. Plainly, as noted in *Greene v. McElroy*, 360 U.S. 474, 496-497 (1959): “. . . the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue.” Here Sibley had no chance to show that the Sheriff’s Report was “untrue” as to this day he hasn't seen that Report.

Likewise, Sibley was denied the ability to present documentary and testimonial evidence by the Licensing Officer: “I have reviewed your requests for information and documents and find them to be without legal basis and therefore they are denied.” Such refusal to permit Sibley to present evidence likewise violated Sibley’s due process

rights. *Accord*: “The Due Process Clause of the Fourteenth Amendment guarantees every litigant the right ‘to present his case and have its merits fairly judged.’” *Logan v. Zimmerman Brush Co.* 455 U.S. 422, 433 (1982).

As such, New York’s handgun licensing substantive law and licensing adjudicative practices denied Sibley his (i) Second Amendment, (ii) due process and (iii) equal protection rights. Accordingly, both Judge Geraci has so far departed from the accepted and usual course of judicial proceedings as required by *Bruen*, and the Second Circuit has sanctioned such a departure by Judge Geraci, as to call for an exercise of this Court’s supervisory power. Moreover, the Second Circuit has decided it can ignore the mandate of *Bruen* which was presumably settled by this Court but as this case demonstrates is being ignored by the Second Circuit.

Therefore, this Court must grant this Petition in order to maintain its status as the supreme “judicial Power of the United States” which necessarily binds the lower court to this Court’s decisions.

III. COURTS ARE NOT AT LIBERTY TO DISREGARD ALL FORMER RULES AND DECISIONS

As stated by Justice Joseph Story, *Commentaries on the Constitution of the United States*, §377-78 (1983):

A more alarming doctrine could not be promulgated by any American court, than that it was at liberty to disregard all former rules and decisions, and to decide for itself, without reference to the settled course of antecedent principles.”

Yet here, the Second Circuit by summarily dismissing Sibley’s claims as “without merit” impermissibly trespassed upon Petitioner’s right to “petition” and be meaningfully “heard” by disregarding those antecedent principles which would – arguably had they been

acknowledged and addressed – have determined Sibley's case in his favor.

Finally, by refusing to address Sibley's significant procedural and substantive arguments, the Second Circuit has given unto itself the power to breach the settled principle that litigants in similar situations should be treated the same, a fundamental component of *stare decisis* and the rule of law. *James B. Beam Distilling Co. v. Georgia*, 501 U.S. 529, 544 (1991). Here, the Second Circuit can now treat a litigant identically similar to Sibley differently as it has buried Sibley's claim in an opinion which it has marked as having no: “precedential effect.”

Among the issues ignored by the District Court and Second Circuit:

1. Judge Geraci *ex parte* stayed the case for three hundred sixty (360) days waiting for the Second Circuit to decide *Antonyuk v. Chiumento* while ignoring the prohibition of such a stay raised by Sibley and found in *Landis v. North Am. Co.*, 299 U.S. 248, 254-55 (1936);
2. Judge Geraci’s **May 18, 2020**, ruling that: “Accordingly, the Court finds that **intermediate scrutiny applies** to Sibley’s challenge to N.Y. Penal Law § 265.01(1), and that §265.01(1) satisfies that standard. Sibley’s claim that strict scrutiny is required fails.” Of course, this Court in *Bruen* made clear that “strict scrutiny” is to be applied for claims such as Sibley's;
3. Judge Geraci held that: “Sibley challenges to N.Y. Penal Law §§ 400.00(1)(b) and (n), which provide that 'no license shall be issued . . . except for an applicant . . . (b) of good moral character . . . and (n) concerning whom no good cause exists for the denial of the license.' Sibley argues that these provisions

are void for vagueness because they encourage arbitrary and discriminatory enforcement, are overbroad, and violate the First Amendment, the Equal Protection clause, and the Privilege and Immunities clause. All of these arguments fail.” Yet one year earlier in *Antonyuk v. Chiumento*, 89 F. 4th 271 (2nd Circuit, 2023), the Second Circuit held just the opposite: “Thus, the Second Amendment does not tolerate a ‘may issue’ licensing regime, like New York’s former regime, that conditions the issuance of a concealed-carry license on a discretionary assessment of need or justification.”

4. Sibley's due process claims which listed four due process violation: (i) the 10 ½ month wait to have his application processed; (ii) the Defendant Licensing Officer engaging in an *ex parte* communications with Sibley’s employer; (iv) the “secret” report upon which the determination to deny Sibley’s application was made which the Defendant Licensing Officer refused to reveal; and (iv) the Licensing Officer's decision to deny Sibley’s application was made before Sibley was even heard.
5. The dismissal by Judge Geraci of Sibley's claims against the Governor, Superintendent of State Police, Steuben County District Attorney and the Sheriff of Steuben County. Yet this Court recognized identical claims against similar state officials in *Bruen* and the Second Circuit recognized identical claims against state officials in *Antonyuk*.

In response, the Second Circuit held that each of these claims were “without merit” and thus were to be ignored. Such a holding creates two categories of litigants: (i) those to whom *stare decisis* guides the articulated decision and (ii) those to whom *stare decisis* is ignored and thus they are summarily without explanation swept under

the rug never to be heard again.

Clearly, this Court cannot sit by and approve such a dual system as it clearly violates Equal Protection. Moreover, the rule-of-law cannot tolerate a court ignoring substantive issues before it as the Second Circuit has done here. In *Cohens v. Virginia*, 19 U.S. 264 (1821), Justice Marshall stated:

The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. **We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution.** Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty. (Emphasis added).

For these reasons, this Court must grant this Petition in order that the rule of law and *stare decisis* remain the unmovable bedrock of the Jurisprudence of the United States.

IV. THE KU KLUX KLAN ACT ERASED THE DEFENSE OF JUDICIAL IMMUNITY

The Second Circuit's Summary Order commenced its ruling stating: "We agree with the district court that Sibley's claims were barred by the doctrine of Judicial Immunity." (*App.* – 4). That doctrine was confirmed by *Pierson v. Ray*, 386 U.S. 547, 554 (1967) in which this Court could not have been clearer:

[This judicial immunity] is not for the protection or

benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences. . . We do not believe that this settled principle of law was abolished by §1983, which makes liable “every person” who under color of law deprives another person of his civil rights. The legislative record gives no clear indication that Congress meant to abolish wholesale all common law immunities. (Citations omitted).

This is where this Court's katzenjammer lies. First, the “legislative record” revealed just the opposite as noted by Justice Douglas in his dissent in *Pierson v. Ray*:

Congress intended to provide a remedy for the wrongs being perpetrated. And its members were not unaware **that certain members of the judiciary were implicated in the state of affairs which the statute was intended to rectify.** It was often noted that “[i]mmunity is given to crime, and the records of the public tribunals are searched in vain for any evidence of effective redress.” *Cong. Globe*, 42d Cong., 1st Sess., 374. Mr. Rainey of South Carolina noted that “[T]he courts are in many instances under the control of those who are wholly inimical to the impartial administration of law and equity. *Id.* at 394.” *Pierson* at 559-560.

Clearly, this Court departed from an intellectually honest appraisal of the “legislative record” in holding that §1983 does not encompass state judicial actors.

Second, this Court in *Pierson v. Ray* based its conclusion upon a flawed reading of the Ku Klux Klan Act Congress actually passed in 1871. Found at Forty-Second Congress. Sess. I. CH. 22 1871, are thirteen (13) words that are not present in the codification of the Ku Klux Klan Act

found at 42 U.S.C. §1983 upon which this Court relied upon to ground its holding that §1983 does not apply to state judicial actors.⁵ Those missing words clearly indicate that the existing “law” of judicial immunity is not a bar to a §1983 action against a state judicial officer. *Accord: Wyatt v. Cole*, 504 U.S. 158, 163 (1992)(The Ku Klux Klan Act created “a species of tort liability that on its face admits of no immunities.”)

Hence, the separation of powers principle prohibits this Court from *de facto* amending an Article I law by utilizing an inaccurate version of a statute. To allow this Court to not fully read an Article I statute elevates this Court to an un-elected, super-legislature free to ignore that which it doesn't like in an Article I statute. Moreover, as the public faith in the Supreme Court rest gingerly upon the guarantees of *stare decisis* and the intellectual integrity of its opinions, to premise such a holding on an erroneous reading of the §1983 completely vitiates that authority.

Therefore, as a *corrigendum* of 42 U.S.C. §1983 is required this Court is obligated to reconsider the scope of the doctrine of absolute Judicial Immunity stated in *Pierson v. Ray*.

CONCLUSION

Accordingly, this Petition presents to this Court indisputable proof that:

- Poor people wait while rich people enjoy immediate access to court; a dual system of justice now permitted under this Court's supervisory umbrella;
- By silent approaches and slight deviations from legal

⁵ Those missing thirteen (13) words are: “any such law, statute, ordinance, regulation, custom or usage of the State to the contrary notwithstanding, . . .”.

modes of procedure⁶, New York has implemented – and the Second Circuit has approved – illegitimate and unconstitutional practices for obtaining a pistol permit leaving a Second Amendment right trespassed upon without a remedy;

- A “without merit” summary affirmance violates: “the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. . . This is of the very essence of judicial duty.”⁷
- Last, this Petition confronts this Court with the choice to fully respect the Article I laws passed as passed or for this Court to decide for itself what part of an Article I law will be read and what part – *utilizing* brute judicial force – will be ignored. Intellectual integrity demands more from this Institution.

WHEREFORE, upon the foregoing, this Court must issue a writ of certiorari to the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

Montgomery Blair Sibley

6 “It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. *Boyd v. United States*, 116 U.S. 616, 635 (1886).

7 *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).

Contents of Appendix

Opinions Below

The **March 18, 2024**, Decision and Order of the United States District Court for the Western District of New York granting Defendants' motion to dismiss Fifth Amended Complaint is reprinted in the appendix hereto, *Appendix – 2*.

The **August 26, 2025**, Summary Affirmance Order of the United States Court of Appeals for the Second Circuit is reprinted in the appendix hereto, *Appendix – 11*.

The **September 30, 2025**, Order of the United States Court of Appeals for the Second Circuit denying panel rehearing and rehearing *en banc* is reprinted in the appendix hereto, *Appendix – 17*.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Montgomery Blair Sibley,

Plaintiff,

vs.

Case # 19-CV-6517-FPG
Decision and Order

Chauncey J. Watches, et al.,

Defendants.

_____/

In September 2022, upon remand from the Second Circuit, Plaintiff Montgomery Blair Sibley filed a motion for a preliminary injunction and a fifth amended complaint. ECF Nos. 96, 100. As is relevant here, he sued Defendants Chauncey J. Watches (a Steuben County Court Judge); Erin M. Peradotto, John V. Centra, John M. Curran, Brian F. DeJoseph (Justices on the New York Supreme Court, Appellate Division, Fourth Department); and Janet DiFiore, Jenny Rivera, Michael J. Garcia, Anthony Cannataro, Madeline Singas, and Shirley Troutman (Judges on the New York Court of Appeals).⁸ ECF No. 100 at 3-4. Defendants move to dismiss the fifth amended complaint. ECF No. 161. For the reasons that follow, Defendants' motion to dismiss is GRANTED, and Plaintiff's motion for a preliminary injunction is DENIED AS MOOT.

A complaint will survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) when it states a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). A claim for relief is plausible when the plaintiff

⁸ Plaintiff's fifth amended complaint references other defendants, but he has withdrawn those claims. See ECF No. 166 at 1 n.1.

pleads sufficient facts that allow the Court to draw the reasonable inference that the defendant is liable for the alleged misconduct. *Id.* at 678. In considering the plausibility of a claim, the Court must accept factual allegations as true and draw all reasonable inferences in the plaintiff's favor. *Faber v. Metro. Life Ins. Co.*, 648 F.3d 98, 104 (2d Cir. 2011). At the same time, the Court is not required to accord "[l]egal conclusions, deductions, or opinions couched as factual allegations . . . a presumption of truthfulness." *In re NYSE Specialists Secs. Litig.*, 503 F.3d 89, 95 (2d Cir. 2007).

The following facts are taken from the fifth amended complaint, unless otherwise noted. In November 2017, Plaintiff moved from the District of Columbia to Corning, New York. ECF No. 100 at 5. In July 2018, Plaintiff filed an application for a concealed-carry pistol license with the Steuben County Clerk. *Id.* at 5-6, 29. In December 2018, "Steuben County Deputy Sheriff McCoy" interviewed Plaintiff. *Id.* At 6.

In May 2019, Judge Watches sent a letter to Plaintiff in which he notified Plaintiff that his application had been denied. *Id.* at 7, 32. Judge Watches wrote:

Your application for a pistol permit is denied. This decision is based upon concerns expressed in the Sheriff's investigation. The basis for the denial results from concerns about your being sufficiently responsible to possess and care for a pistol; the Court is concerned that your history demonstrates that you place your own interest above the interests of society[.]

Id. at 32. The letter notified Plaintiff that he had the right to request a hearing to challenge the denial of his

application. *Id.*

Plaintiff requested a hearing. On June 14, 2019, Plaintiff sent Judge Watches a letter in which he requested “all written investigation reports,” all “orally communicated information [] received regarding [the] application,” and any “legal or educational” guidance on which he had relied to deny Plaintiff’s application. ECF No. 100 at 33. On June 25, 2019, Judge Watches denied Plaintiff’s requests. *Id.* at 34. On July 9, 2019, Plaintiff filed the present action against Judge Watches, challenging the initial denial on a number of grounds. ECF No. 1. This action and the state proceedings would thereafter proceed in tandem.

On October 25, 2019, Judge Watches sent another letter to Plaintiff, notifying him of the date of his hearing and of “several relevant issues” that would be addressed:

1. Discussion of your Florida civil contempt and incarceration;
2. Discussion of your history of vexatious litigation, including a list of all proceedings in which you have been sanctioned;
3. Discussion of your suspensions and other disciplinary action taken regarding your license to practice law in any and all jurisdictions and courts in which you previously practiced;
4. Discussion of your possession in New York State of two handguns and a cane sword without a valid permit;
5. Discussion of your need for a handgun in furtherance of your employment;
6. Discussion of the circumstances involving your prior pistol permits in Florida and New York;
7. Discussion of how your repeated and continuous failure to follow court orders in multiple courts and

jurisdictions demonstrates good moral character.

ECF No. 100 at 35. On November 12, 2019, Plaintiff responded with several requests for additional information. *Id.* at 36-37.

The hearing was held before Judge Watches on January 10, 2020. On March 9, 2020, Judge Watches issued a decision affirming his prior denial of Plaintiff's application. He noted that under New York Penal Law § 400(1)(b), an application could only be approved if the applicant was "of good moral character." *Id.* at 39. He observed that "[a] person of good moral character behaves in an ethical manner and provides [society] . . . reassurance that he can be trusted to make good decisions." *Id.* The applicant must be able to "abide by rules and regulations necessary to protect the safety of the individual and society" and "behave in an ethical manner where there are no written rules." *Id.* Judge Watches concluded that Plaintiff failed to meet this standard, largely based on Plaintiff's history of frivolous and vexatious litigation, which had led to various sanctions by state and federal courts, including his suspension from the practice of law. *See id.* at 39-40. Judge Watches also found that Plaintiff had not demonstrated remorse for, or even entirely desisted from, such improper litigation conduct. Watches inferred from Plaintiff's failure to abide by his "duties as an officer of the legal system" that Plaintiff would be unable to follow the "explicit and implicit rules inherent in the responsibility of a pistol permit holder." *Id.* at 40.

Plaintiff filed an Article 78 proceeding to challenge the decision. In May 2021, the Appellate Division, Fourth Department, affirmed the denial of Plaintiff's pistol application. *See Sibley v. Watches*, 148 N.Y.S.3d 574 (4th Dep't 2021). As is relevant here, the Appellate Division

agreed that Plaintiff's "history of pursuing vexatious and frivolous litigation," lack of remorse, and failure to "comprehend the nature of his conduct in court" supported the finding that Plaintiff "lacked good moral character." *Sibley*, 148 N.Y.S.3d at 579. In his fifth amended complaint, Plaintiff criticizes the Appellate Division's decision because it allegedly failed to address some of the issues he raised. See ECF No. 100 at 9.

Plaintiff moved for leave to appeal with the New York Court of Appeals, which it denied on the basis that "no **substantial** constitutional question is directly involved." *Sibley v. Watches*, 37 N.Y.3d 1131 (2021) (emphasis added). Plaintiff believes this rationale was erroneous because the relevant jurisdictional rule does not require that a constitutional question be "substantial" in order to permit the appeal. See N.Y. C.P.L.R. § 5601(b)(1) ("An appeal may be taken to the court of appeals as of right . . . from an order of the appellate division which finally determines an action where there is directly involved the construction of the constitution of the state or of the United States."); see also ECF No. 100 at 11, 25-26.

With respect to the present action, the Court dismissed Plaintiff's fourth amended complaint in July 2021. ECF No. 82 at 15. Because Plaintiff had been given "ample opportunity" to cure the defects in his pleadings, the Court declined to grant Plaintiff further leave to amend. *Id.* Judgment was entered against Plaintiff and the Clerk of Court closed the case. *Id.* Plaintiff appealed the judgment to the Second Circuit. ECF No. 86.

In June 2022, the Supreme Court issued its decision in the important Second Amendment case of New York *State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022). In July 2022, the New York legislature responded

by enacting the Concealed Carry Improvement Act (“CCIA”), which amended New York’s firearms regulations in several respects. See 2022 N.Y. Sess. Laws Ch. 371 (S. 51001).

In connection with Plaintiff’s appeal in this matter, the Second Circuit vacated the judgment and remanded the case so that this Court could consider the impact of the *Bruen* decision. The Court directed Plaintiff to file a fifth amended complaint, which would “ensure that all of the parties have a clear sense of the claims that Plaintiff believes should be revisited in light of *Bruen*.” ECF No. 93 at 2. Plaintiff filed a fifth amended complaint, ECF No. 100, as well as a motion for a preliminary injunction. ECF No. 96.

In his fifth amended complaint, Plaintiff raises seven claims, four of which may be resolved without extended discussion. Plaintiff’s second claim, alleging due-process violations against Judge Watches, is dismissed with prejudice for the reasons set forth in the Court’s prior order. *Sibley v. Watches*, 460 F. Supp. 3d 302, 320 (W.D.N.Y. 2020). Plaintiff’s third, fourth, and fifth claims have been abandoned and are therefore dismissed with prejudice. See ECF No. 166 at 1 n.1.

That leaves Plaintiff’s first, sixth, and seventh claims. In his first claim, Plaintiff alleges that Judge Watches violated his Second Amendment rights by relying on the pre-CCIA “good moral character requirement” to deny him a concealed-carry permit. See ECF No. 100 at 15. Pursuant to 42 U.S.C. § 1983, Plaintiff sues Judge Watches in his official capacity, seeking a declaratory judgment that the “good moral character requirement was unconstitutional as applied to [him].” *Id.* at 1 (internal quotation marks omitted). Plaintiff also requests an

injunction ordering Judge Watches to issue him a pistol license. *Id.* at 16.

In his sixth and seventh claims, Plaintiff challenges the manner in which the justices and judges adjudicated his Article 78 proceedings. He sues these judicial officers in their individual and official capacities pursuant to Section 1983, seeking declaratory judgments, injunctive relief, and damages. See *id.* at 4-5. In his sixth claim against the Appellate Division justices, Plaintiff seeks a declaration that the justices “violated [his] Constitutional rights by refusing to decide the issues brought before them,” *id.* at 2, and an injunction prohibiting them from “refusing to address legal issues brought before them.” *Id.* at 24. In the seventh claim against the judges of the Court of Appeals, Plaintiff requests a declaration that they “violated [his] Constitutional rights by improperly limiting the scope of their subject matter jurisdiction,” *id.* at 2, and an injunction of similar effect. *Id.* at 26.

In their motion to dismiss, Defendants argue, *inter alia*, that the first, sixth, and seventh claims must be dismissed because Plaintiff is barred from obtaining any of the requested relief. See ECF No. 162 at 19-28. The Court agrees.

Plaintiff cannot obtain the requested declaratory relief against Defendants, whether in their official or individual capacities. With respect to any official-capacity relief, “[t]he Eleventh Amendment bars federal courts from issuing retrospective declaratory relief against state officials for past violations of federal law.” *Szymonik v. Connecticut*, 807 F. App’x 97, 101 (2d Cir. 2020) (summary order). The declaratory relief that Plaintiff requests — in effect, that Defendants erred in several respects in the prior state proceedings — is retrospective and, therefore, barred.

See Treistman v. McGinty, 804 F. App'x 98, 99 (2d Cir. 2020) (summary order) (noting that “a declaration dealing with court proceedings that have already occurred would be retrospective”).

As for individual-capacity declaratory relief, Plaintiff only challenges actions taken in Defendants’ judicial capacity,⁹ for which they are entitled to absolute immunity. *See Bliven v. Hunt*, 579 F.3d 204, 209 (2d Cir. 2009). Where, as here, a “public official” is shielded by absolute immunity, “purely retrospective declaratory relief is inappropriate.” *Franza v. Stanford*, No. 18-CV-10892, 2019 WL 6729258, at *9 (S.D.N.Y. Dec. 11, 2019); accord *Treistman*, 804 F. App'x at 99 (“[J]udicial immunity bars any claim for retrospective declaratory relief.”).

Neither can Plaintiff obtain the requested injunctive relief. Section 1983 provides that “in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983; see also *Hahn v. New York*, 825 F. App'x 53, 54-55 (2d Cir. 2020) (summary order) (claim for injunctive relief against New York Supreme Court justice barred by Section 1983). Plaintiff does not allege that any declaratory decree was violated. Although he suggests that declaratory relief was unavailable because Defendants “conducted their judicial business” in an unconstitutional or improper manner, ECF No. 166 at 22, that does not constitute “unavailability” for purposes of the statute. The relevant question is whether “there is a remedy for review or a right to appeal,” even if “a

⁹ Contrary to Plaintiff’s argument, ECF No. 166 at 15, Judge Watches acted in a judicial capacity when he denied Plaintiff’s pistol application. *See Libertarian Party of Erie Cnty. v. Cuomo*, 970 F.3d 106, 145 (2d Cir. 2020), abrogated on other grounds by *Bruen*, 597 U.S. at 19 & n.4.

plaintiff is unsuccessful in [his] pursuit of it.” *Point Conversions, LLC v. Lopane*, No. 20-CV-61549, 2021 WL 328533, at *12 (S.D. Fla. Jan. 8, 2021). Plaintiff does not allege that declaratory relief was unavailable in this sense. As a result, Section 1983 bars his requests for injunctive relief. Finally, because the justices on the Appellate Division and the judges on the Court of Appeals are entitled to absolute immunity, Plaintiff cannot recovery money damages in connection with his sixth and seventh claims. *See Caroselli v. Curci*, 371 F. App’x 199, 202 (2d Cir. 2010) (summary order).

In sum, Plaintiff cannot obtain any of the relief he requests in connection with his first, sixth, and seventh claims. Therefore, those claims must be dismissed.

Because the claims in the fifth amended complaint are either meritless or abandoned, Defendants’ motion to dismiss (ECF No. 161) is GRANTED. Given the ample opportunities that Plaintiff has had to amend his complaint, the Court declines to grant leave to amend. Plaintiff’s fifth amended complaint is DISMISSED WITH PREJUDICE. Plaintiff’s motion for a preliminary injunction (ECF No. 96) is DENIED AS MOOT. The Clerk of Court is directed to enter judgment against Plaintiff and close the case.

IT IS SO ORDERED.

Dated: March 18, 2024	HON. FRANK P. GERACI, JR.
Rochester, New York	United States District Judge
	Western District of New York

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

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 26th day of August, two thousand twenty-five.

PRESENT:

REENA RAGGI,
GERARD E. LYNCH,
BETH ROBINSON,
Circuit Judges.

Montgomery Blair Sibley,

Plaintiff/Appellant,

vs.

24-855

Chauncey J. Watches, Erin M.
Peradotto, John V. Centra,
John M. Curran, Brian F.

DeJoseph, Jenny Rivera,
Michael J. Garcia, Anthony
Cannataro, Madeline
Singas, Shirley Troutman,

Defendants-Appellees,

His Excellency Andrew Mark Cuomo,
solely in his official capacity as the Chief
Administrative Officer of the State of New
York, Kathleen Hochul, Letitia James,
James L. Allard, solely in his official
capacity as Sheriff of Steuben County,
New York, Brooks Baker, solely in his
official capacity as District Attorney of
Steuben County, Keith M. Corlett, solely
in his official capacity as Superintendent
of the New York State Police, Janet
DiFiore, Steven Nigrelli, Rowan D.
Wilson, Steven G. James, Acting as
Superintendent of the State Police,

Defendants.*

UPON DUE CONSIDERATION, IT IS HEREBY
ORDERED, ADJUDGED, AND DECREED that the
judgment is AFFIRMED.

In 2019, Plaintiff-Appellant Montgomery Sibley,
representing himself, sued Defendant-Appellee Chauncey
Watches (“Judge Watches”), a Steuben County (New York)
judge, alleging that Watches wrongly denied Sibley’s
application for a firearms license. In 2022, this Court
remanded Sibley’s appeal of the dismissal of his fourth

* The Clerk’s office is directed to amend the caption as directed above.

amended complaint for the district court to consider the impact, if any, of *New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. 1 (2022), on Sibley’s claims.

After remand, Sibley filed a Fifth Amended Complaint against Judge Watches as well as Defendants-Appellees Erin M. Peradotto, John V. Centra, John M. Curran, Brian F. DeJoseph, Jenny Rivera, Michael J. Garcia, Anthony Cannataro, Madeline Singas, and Shirley Troutman (the “Judges”), all of whom are or were judges or justices of New York state courts.¹⁰ Sibley alleges that Judge Watches violated his constitutional rights by denying his handgun license and that the other Judges did so by ruling against him in subsequent Article 78 proceedings and appeals. He sought declaratory and injunctive relief against each defendant, and requested money damages from all the defendants except for Judge Watches.

The district court granted the defendants’ motion to dismiss, concluding, among other things, that Sibley’s claims were barred by the Eleventh Amendment and absolute judicial immunity. *Sibley v. Watches*, 19-CV-6517 (FPG), 2024 WL 1157047, at *4 (W.D.N.Y. Mar. 18, 2024). Sibley appealed.

We review a district court’s dismissal pursuant to Rule 12(b)(6) without deference to the district court’s reasoning, “construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff’s favor.” *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002); *see*

¹⁰ The Fifth Amended Complaint also included claims against Defendants Kathleen Hochul, Janet DiFiore, Kevin P. Bruen (who was later substituted by Defendant Steven Nigrelli, who in turn was substituted by Defendant Steven G. James), Letitia James, and Rowan D. Wilson, but Sibley voluntarily dropped his claims against those defendants.

also *Butcher v. Wendt*, 975 F.3d 236, 241 (2d Cir. 2020) (reviewing district court’s dismissal on basis of judicial immunity).

We agree with the district court that Sibley’s claims were barred by the doctrine of judicial immunity. As to Sibley’s claims for money damages, “Judges are granted absolute immunity from liability for acts taken pursuant to their judicial power and authority.” *Oliva v. Heller*, 839 F.2d 37, 39 (2d Cir. 1988); see also *Bliven v. Hunt*, 579 F.3d 204, 209 (2d Cir. 2009) (“It is well settled that judges generally have absolute immunity from suits for money damages for their judicial actions.”). Absolute immunity ensures that judicial officers, in exercising their judicial authority, “shall be free to act upon [their] own convictions, without apprehension of personal consequences.” *Id.* (quoting *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 347 (1871)) (internal quotation marks omitted).

“In determining whether an act by a judge is ‘judicial,’ thereby warranting absolute immunity, we . . . take a functional approach, for such ‘immunity is justified and defined by the functions it protects and serves, not by the person to whom it attaches.’” *Bliven*, 579 F.3d at 209–10 (quoting *Forrester v. White*, 484 U.S. 219, 227 (1988)).

Here, Sibley alleges he was entitled to money damages from the Judges other than Judge Watches because these Judges erred by declining to address issues he raised in his Article 78 action and appeals. These claims stemming directly from the Judges’ rulings in a civil action under Article 78 or appeal present a “paradigmatic” case for judicial immunity. *Forrester*, 484 U.S. at 227 (“When applied to the paradigmatic judicial acts involved in resolving disputes between parties who have invoked the jurisdiction of a court, the doctrine of absolute judicial

immunity has not been particularly controversial.”). Indeed, we have said as much in summary orders. *See McCray v. Patrolman N.A. Caparco*, 761 F. App'x 27, 32 (2d Cir. 2019) (“Based on these allegations [about conduct in Article 78 proceeding], both judges were engaged in judicial actions for which absolute judicial immunity attaches.”); *Brodsky v. New York City Campaign Finance Board by Weisman*, 796 F. App'x 1, 5 n.1 (2d Cir. 2019) (noting that judicial immunity applied when a judge “presided over [plaintiff’s] Article 78 lawsuit”).

As for Sibley’s claims for injunctive relief against the Judges, such relief is available against judicial officers only when “a declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983. Sibley did not identify a declaratory decree that the defendants violated, nor did he establish that declaratory relief was unavailable. *See Montero v. Travis*, 171 F.3d 757, 761 (2d Cir. 1999) (concluding that a judge was entitled to immunity from a claim for injunctive relief because the plaintiff “allege[d] neither the violation of a declaratory decree, nor the unavailability of declaratory relief”).

We also agree with the district court that Sibley’s requests for retrospective declaratory and injunctive relief against Judge Watches and the other Judges—in particular, an order declaring that the defendants violated Sibley’s rights in the past and directing Judge Watches to issue Sibley a pistol permit—is barred by the Eleventh Amendment. *See, e.g., T.W. v. New York State Board of Law Examiners*, 110 F.4th 71, 92 (2d Cir. 2024) (explaining that to the extent plaintiff sought a declaration that the Board “violated Title II,” “in the past tense,” the claim was “facially retrospective” and thus barred); see also *Puerto Rico Aqueduct & Sewer Authority v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993) (noting that the *Ex parte*

Young exception to Eleventh Amendment immunity “does not permit judgments against state officers declaring that they violated federal law in the past”).

Finally, the district court correctly held that Sibley’s Article 78 proceedings provided procedural due process to appeal the denial of his gun license permit. “An Article 78 proceeding . . . constitutes a wholly adequate post-deprivation hearing for due process purposes.” *Locurto v. Safir*, 264 F.3d 154, 175 (2d Cir. 2001); *see also Gudema v. Nassau County*, 163 F.3d 717, 724–25 (2d Cir. 1998) (concluding that the availability of an Article 78 proceeding after a deprivation of rights provides a plaintiff with due process, even if the plaintiff fails to take advantage of that proceeding).

We have considered Sibley’s remaining arguments and found them to be without merit. Accordingly, we AFFIRM the judgment of the district court.

Sibley’s pending motion—asking us to certify to the Supreme Court the question whether the Civil Rights Act of 1871 preempts the doctrine of judicial immunity— is DENIED.

FOR THE COURT:
Catherine O’Hagan Wolfe
Clerk of Court

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 30th day of September, two thousand twenty-five.

Montgomery Blair Sibley,

Plaintiff - Appellant,

v.

Chauncey J. Watches, *et al.*,

ORDER

Docket No: 24-855

Defendants - Appellees,

His Excellency Andrew Mark Cuomo,
et al.,

Defendants.

Appellant, Montgomery Blair Sibley, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe
Clerk of Court