New York Supreme Court

Appellate Division—First Department

Appellate Division Case No. 2025-06122
New York County Clerk's Index No. 452962/2024

JARRETT ALLEN, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED,

Plaintiffs-Appellants,

v.

THE CITY OF NEW YORK; JESSICA TISCH, COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY; AND JUDITH R. HARRISON, ASSISTANT CHIEF IN THE CRIMINAL JUSTICE SECTION OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY,

Defendants-Respondents.

MOTION FOR LEAVE TO FILE BRIEF OF THE CENTER ON RACE, INEQUALITY, AND THE LAW AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS-APPELLANTS

VINCENT M. SOUTHERLAND
(N.Y. Bar No. 4579413)
DJUNA SCHAMUS
Center on Race, Inequality, and the Law
139 MacDougal Street, 4th Floor
New York, NY 10012
Telephone: (212) 992-8111

Counsel for Amicus Curiae

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION – FIRST DEPARTMENT

JARRETT ALLEN, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, *Plaintiffs-Appellants*, v. THE CITY OF NEW YORK; JESSICA TISCH, COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY; AND JUDITH R. HARRISON, ASSISTANT CHIEF IN THE CRIMINAL JUSTICE SECTION OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY, *Defendant-Respondents.*	New York County Clerk's Index No. No. 452962/2024 Appellate Division Case No. 2025-06122

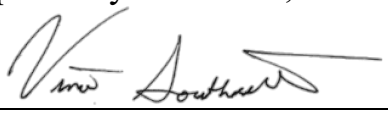
NOTICE OF MOTION BY THE CENTER ON RACE, INEQUALITY, AND THE LAW FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

PLEASE TAKE NOTICE, that upon the annexed affirmation of Vincent M. Southerland, Esq., dated April 23, 2026, and the accompanying proposed brief of *amicus curiae*, the undersigned will move this Court at the Courthouse located at 27 Madison Avenue, New York, New York on the 11th day of May 2026, at 10:00 a.m., or as soon thereafter as counsel can be heard, for an order granting leave to the Center on Race, Inequality, and the Law to file with this Court a brief

as *amicus curiae* pursuant to 22 N.Y.C.R.R. § 1250.4(f) in the above-captioned case. A copy of the proposed amicus brief is attached at Exhibit A. Plaintiffs-Appellants have consented to the proposed submission and Defendants-Respondents do not oppose the proposed submission.

Dated: April 23, 2026

Respectfully submitted,

/s/ 

VINCENT M. SOUTHERLAND
(N.Y. Bar No. 4579413)
Center on Race, Inequality, and the Law
139 MacDougal Street, 4th Floor
New York, NY 10012
Telephone: (212) 992-8111
vincent.southerland@nyu.edu
Attorney for Amicus Curiae
Center on Race, Inequality, and the Law

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION – FIRST DEPARTMENT

JARRETT ALLEN, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, *Plaintiffs-Appellants*, v. THE CITY OF NEW YORK; JESSICA TISCH, COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY; AND JUDITH R. HARRISON, ASSISTANT CHIEF IN THE CRIMINAL JUSTICE SECTION OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY, *Defendant-Respondents.*	New York County Clerk's Index No. 452962/2024 Appellate Division Case No. 2025-06122 **ATTORNEY AFFIRMATION OF VINCENT SOUTHERLAND IN SUPPORT OF MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE***

VINCENT SOUTHERLAND, an attorney duly admitted to practice before the courts of the State of New York, and not a party in the above-captioned action, hereby affirms the following is true and correct under penalty of perjury pursuant to Rule 2106 of the New York Civil Practice Law and Rules:

1. I am a member of the bar of the State of New York and the faculty director of the Center for Race, Inequality, and the Law ("The Center"), the proposed *amicus curiae* in this matter. I submit this affirmation in support of the Center's motion for leave to file a brief as *amicus curiae* in the above-captioned matter.

Non-Participation of the Parties

2. No party or counsel for any party participated in or contributed any money intended for the preparation of this brief. No other person or entity, apart from counsel for *amicus curiae*, contributed money intended for the preparation or submission of this brief.

Identity and Interest of Proposed Amicus Curiae

3. The Center on Race, Inequality, and the Law at New York University School of Law was created to confront and challenge laws, policies, and practices that lead to racial oppression and injustice. The Center fulfills its mission through public education, research, advocacy, and litigation aimed at eliminating systemic drivers of racial injustice and inequitable outcomes in the criminal legal system. That work includes supporting efforts to ensure that criminal proceedings are conducted in a manner consistent with the requirements of due process and do not perpetuate racial inequality. The Center does not, in this brief or otherwise, represent the official views of New York University or New York University School of Law.

4. Amicus has a demonstrated interest in this appeal. The Center works to eliminate court policies and police practices that disproportionately harm communities of color and regularly participates as counsel and appears as

amicus curiae in cases challenging practices that perpetuate racial justice in New York and nationwide.

Basis for Amicus Curiae Relief

5. The Center has a unique understanding of the historical and contemporary significance of, and harms caused by, the indiscriminate handcuffing of Black and Brown New Yorkers in court.
6. The proposed brief presents several issues not addressed by the parties that are relevant to the Court's resolution of the appeal.
7. More specifically, the proposed brief details the significant stakes of arraignment proceedings and explains how the NYPD's policy of handcuffing all individuals at arraignment undermines the dignity of judicial proceedings. It further examines the consequences of determinations made at arraignment and how the presence of visible restraints may bias those determinations. Additionally, the brief provides historical context and draws on social science research demonstrating that indiscriminate handcuffing at arraignment risks exacerbating racial disparities in the criminal legal system.
8. In the event the Court grants this motion, counsel for proposed *amicus curiae* shall promptly provide any additional copies of the brief as directed by the Court.

WHEREFORE, I respectfully request that the Court enter an order (i) granting the Center on Race, Inequality, and the Law leave to submit the proposed brief as *amicus curiae* in support of Appellant Jarrett Allen and the proposed class; and (ii) accepting the proposed brief that has been filed and served along with this motion.

Dated: April 23, 2026
New York, NY

Respectfully Submitted,

/s/ Vincent Southerland

VINCENT M. SOUTHERLAND
Center on Race, Inequality, and the Law
139 MacDougal Street, 4th Floor
New York, NY 10012
Telephone: (212) 992-8111
vincent.southerland@nyu.edu
Attorney for Amicus Curiae
Center on Race, Inequality, and the Law

EXHBIT A

New York Supreme Court

Appellate Division—First Department

Appellate Division Case No. 2025-06122
New York County Clerk's Index No. 452962/2024

JARRETT ALLEN, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED,

Plaintiffs-Appellants,

v.

THE CITY OF NEW YORK; JESSICA TISCH, COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY; AND JUDITH R. HARRISON, ASSISTANT CHIEF IN THE CRIMINAL JUSTICE SECTION OF THE NEW YORK CITY POLICE DEPARTMENT, IN HER OFFICIAL CAPACITY,

Defendants-Respondents.

BRIEF OF *AMICUS CURIAE* THE CENTER ON RACE, INEQUALITY, AND THE LAW, IN SUPPORT OF PLAINTIFFS-APPELLANTS

VINCENT M. SOUTHERLAND
(N.Y. Bar No. 4579413)
DJUNA SCHAMUS
Center on Race, Inequality, and the Law
139 MacDougal Street, 4th Floor
New York, NY 10012
Telephone: (212) 992-8111

Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

Other Authorities

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 500.1(f) of the Rules of Practice of the Court of Appeals of the State of New York, the Center on Race, Inequality, and the Law ("The Center") hereby discloses that it is a 501(c)(3) organization and an academic center within New York University School of Law. The Center has no parent, subsidiaries, or affiliates.

INTEREST OF AMICUS CURIAE

The Center on Race, Inequality, and the Law at New York University School of Law was created to confront and challenge the laws, policies, and practices that lead to racial oppression and injustice. The Center fulfills its mission through public education, research, advocacy, and litigation aimed at eliminating systemic drivers of racial injustice and inequitable outcomes in the criminal legal system. That work includes supporting efforts to ensure that criminal proceedings are conducted in a manner consistent with the requirements of due process and do not perpetuate racial inequality. Neither this brief nor the Center on Race, Inequality, and the Law purports to represent the views of New York University School of Law or New York University.

SUMMARY OF ARGUMENT

New York's criminal legal system is marked by persistent and profound racial disparities at every stage. Black and Brown New Yorkers are disproportionately subjected to police stops, arrests, pretrial detention, and incarceration.[1] Arraignment proceedings—a pivotal moment in the course of an individual's criminal case—occur within this unequal system. Arraignment is not a perfunctory proceeding, but a consequential moment where judges must make rapid, individualized factual determinations about the person appearing before them. It is at arraignment that a judge determines whether to incarcerate a legally innocent person pending trial or whether and what conditions of release will govern that person's liberty.[2] In the span of these brief proceedings, judges must often also assess probable cause,[3] evaluate motions to dismiss,[4] consider orders of protection,[5] and, in some cases, determine whether a guilty plea is knowing and

[1] *See infra* notes 61–69 (outlining statistics on racial disparities at various stages of the criminal legal system).
[2] NY Crim Proc L §§ 170.10, 180.10.
[3] *See* Gerstein v Pugh, 420 US 103, 114 [1975] (holding that the Constitution requires a judge to determine probable cause in order to hold an individual in jail pretrial).
[4] *Cf.* United States v Alabama, 368 US 52, 54 [1961] (noting how arraignments are a "critical stage in a criminal proceeding," where what occurs may "affect the whole trial," and available defenses "may be irretrievably lost").
[5] *See, e.g.*, People v Koertge, 182 Misc 2d 183, 184, 701 NYS2d 588, 590 [Nassau Cnty Dist Ct 1998]; People v Gurnett, 58 Misc 3d 701, 705, 68 NYS3d 322, 325 [Monroe Cnty Just Ct 2017].

voluntary,[6] among other significant statutory obligations at this stage.[7] These determinations carry immediate and long-lasting consequences for a person's case trajectory, family stability, housing security, and freedom.

In *People v. Best*, the Court of Appeals recognized that the routine use of visible restraints undermines three foundational principles: the presumption of innocence, meaningful participation in one's defense, and the dignity of judicial proceedings.[8] The principle of dignity that the court sought to protect reflects the constitutional obligation to ensure that courtroom practices preserve neutrality, integrity, and fairness. This commitment is particularly vital at arraignment, where judges exercise broad discretion over immediate and consequential liberty decisions.

The New York Police Department's general practice of handcuffing every accused person throughout their arraignment proceedings undermines the dignity of the judicial system at this moment of critical importance.[9] Visible restraints signal risk, unreliability, and dangerousness, shaping perception and judgment even among thoughtful and well-intentioned decision-makers. More specifically, the use of restraints at arraignment can distort judicial judgment by influencing

---

[6] *See, e.g.*, People v Ambroise, 161 AD3d 584 [1st Dept 2018]; People v. Conceicao, 26 NY3d 375, 382 [2015].
[7] *See* NY Crim Proc L §§ 170.10, 180.10 (discussing the reading of defendant's rights and providing him a copy of the complaint at his arraignment).
[8] 19 NY3d 739, 743–44, 979 NE2d 1187, 1189 [2012].
[9] *See* complaint in Allen v City of N.Y., Index No. 452962/2024, 1 [NY Sup Ct Aug. 3, 2025].

perceptions of a person's credibility, trustworthiness, likelihood of compliance, and risk of flight. Shackles and restraints also carry powerful symbolic meaning given their long history as instruments of racial control and subjugation.[10] In a system characterized by racial disparities and entrenched racialized perceptions of criminality, constitutional safeguards must ensure that courtroom practices do not amplify these inequalities. The dignity and integrity of the judicial process depend on ensuring that courtroom procedures do not distort individualized liberty determinations through racially charged signals of dangerousness, unreliability, and risk.[11] Absent an individualized judicial finding of necessity, the use of handcuffs at arraignment is violative of the guarantees of due process.

ARGUMENT

I. Due Process Protects the Dignity of Judicial Proceedings

In *People v. Best*, the Court of Appeals articulated three fundamental principles that are implicated by the routine use of visible restraints. The Court found that such restraints do violence to (1) the presumption of innocence to which every person accused of a crime is entitled, (2) a person's ability to meaningfully participate in their own defense, and (3) dignity in the judicial process.[12] The Court

[10] *See infra* notes 83–89 & accompanying text (discussing historical use of shackles in racial subjugation).
[11] *See infra* Section III.A (discussing dignitary interests of the judicial system and how racial bias distorts this).
[12] *Best*, 19 NY3d at 743–44.

emphasized that each of these principles is an "essential pillar[] of a fair and civilized criminal justice system."[13] The Court's recognition that this practice "does violence" to "the dignity of the judicial process" reflects an understanding that certain courtroom practices threaten the institutional integrity, dignity, and legitimacy of the court system itself.[14] Under New York law, the practices and procedures of a courtroom must reflect the constitutional obligation to safeguard the foundational constitutional values of neutrality, dignity, and equal justice under the law.

The Court of Appeals' articulation of judicial dignity in *Best* aligns with broader due process jurisprudence recognizing that courtroom practices must be structured in a manner that protects the integrity of the decision-making process. For instance, in the Supreme Court case of *Illinois v. Allen,* Justice Hugo Black explained that placing a person in "shackles and gags" while on trial is "an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold."[15] As in *Best*, the Supreme Court in *Deck v. Missouri* articulated that shackling implicates not only the presumption of innocence and a person's right to a meaningful defense, but also the dignity and institutional integrity of the judicial

[13] *Id.* at 744.
[14] *Id.*
[15] 397 US 337, 344 [1970].

process itself.[16] The Supreme Court cautioned that visible shackling risks undermining the seriousness with which courts must approach decisions affecting a person's liberty:

> Judges must seek to maintain a judicial process that is a dignified process. The courtroom's formal dignity, which includes the respectful treatment of defendants, reflects the importance of the matter at issue, guilt or innocence, and the gravity with which Americans consider any deprivation of an individual's liberty through criminal punishment. And it reflects a seriousness of purpose that helps to explain the judicial system's power to inspire the confidence and to affect the behavior of a general public whose demands for justice our courts seek to serve. The routine use of shackles in the presence of juries would undermine these symbolic yet concrete objectives.[17]

While the precise contours of "dignity" in the judicial process have not been exhaustively defined, this line of cases reflects that the principle of judicial dignity is closely linked to the concepts of neutrality, integrity, and fairness. The Supreme Court's emphasis on "formal dignity" further reflects the broader principle that judicial authority depends in part on the public perception that proceedings are conducted in a fair and respectful manner. Empirical research on procedural justice confirms that courtroom practices conveying respect and neutrality enhance public confidence in the judicial system.[18]

---

[16] 544 US 622, 631 [2007].
[17] *Id.*
[18] Hon. Victoria Pratt, *Why Dignity and Respect Matter in Our Courts*, 48 Litigation 27, 29 [2022] (discussing how treating people with dignity and respect is part of procedural justice, and noting how studies show that such treatment enhances perceptions of fairness, regardless if a defendant is convicted or not).

New York law reinforces the understanding that the concept of "dignity" encompasses principles of integrity, fairness, and impartiality. The Rules Governing Judicial Conduct in New York provides additional support for the proposition that judicial dignity is directly tied to impartiality and institutional integrity. The Rules require that judges "maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary."[19]

Importantly, the principles animating these concerns are neither limited to jury trials nor confined to the trial phase of criminal proceedings in New York. *People v. Best* itself concerned a bench trial, and New York courts have since extended the application of these protections to other stages of criminal proceedings, including in pre-trial and post-conviction settings.[20] The principles that these cases safeguard are no less implicated at arraignment, where the court is

[19] 22 NYCRR § 100.5[A][4][a].

[20] People v Best, 19 N.Y.3d 739, 979 NE2d 1187 [2012]; People v Ashline, 124 AD3d 1258, 1259, 3 NYS3d 469, 472 [App Ct 4th Div 2015] (applying *Best* to a suppression hearing); People v Cain, 209 AD3d 124, 126, 175 N.Y.S.3d 142, 145 [2022] (applying *Best* to grand jury proceedings); Vega v State, 140 AD3d 1608 [4th Dept 2016] (discussing due process implications of shackling in an administrative hearing, but ultimately finding shackling there a harmless error); People v Hoebich, 42 Misc 3d 128[A], *1, 2013 NY Slip Op 52151[U] [App Term, 2d Dept 2013] (noting that shackling is generally prohibited absent case-specific findings of necessity in criminal trials, probation revocation proceedings and probation hearings).

making immediate and consequential determinations, including decisions about pretrial liberty, conditions of release, and the trajectory of a person's case.[21]

II. Arraignment Involves Core Liberty Determinations with Profound Immediate and Long-term Consequences for People

Arraignment requires judges to make factual determinations, often under considerable time constraints and with scant factual evidence, about serious matters of liberty, property, and family unity. The decisions that are being made at arraignment are not merely preliminary formalities, but pivotal liberty determinations that can significantly shape the trajectory of a person's case and the shape of a person's life.

For bail-eligible cases, it is at arraignment that the court determines whether to incarcerate a legally innocent person pending trial. In making this determination, the central inquiry concerns the accused person's "risk of flight to avoid prosecution,"[22] and the kind and degree of control necessary to reasonably assure the person's return to court.[23] Accordingly, judges are tasked with ascertaining

[21] In addition to these consequential determinations, arraignment is also the stage at which courts inform the accused of the charges and their rights, assess probable cause, evaluate motions to dismiss, consider and decide requests for orders of protection, and in some cases, determine whether a guilty plea is knowing and voluntary, among numerous other critical functions and determinations.

[22] NYCPL § 510.10[1].

[23] In making this individualized determination, the court must consider a number of factors about the person, including the charges against them, their criminal record, their record with respect to flight to avoid criminal prosecution, their financial circumstances, their history with respect to

whether someone is likely to act reliably, including by complying with court orders, returning to court, and abiding by conditions of release. Importantly, under New York law, a judge is prohibited from detaining a person based on perceived dangerousness to public safety,[24] but in practice, concepts such as dangerousness, risk of flight, trustworthiness, and reliability can often become deeply entangled. As one New York court recently observed, although New York's bail statute is explicitly focused on "the sole purpose of ensuring a defendant's return to court," the factors that judges are instructed to consider often still "go to dangerousness."[25] Courts should therefore take care to avoid practices that may further infuse bail proceedings with impermissible considerations, including perceived dangerousness and risk, and should be cognizant of how easily these considerations can become intertwined.[26] As the following sections detail, the consequences of a judge's determinations at arraignment are both immediate and enduring.

---

abiding by past orders of protection, their history of use or possession of a firearm, and whether the person is alleged to have caused serious harm to other people. *Id.*

[24] *See* People ex rel. Lobell v McDonnell, 296 NY 109, 111, 71 NE2d 423, 425 [1947] (outlining the factors judges should consider); *see also* Preventive Detention in New York: From Mainstream to Margin and Back 3, Ctr on Admin Of Crim L (Feb. 2017) (noting how today, "New York is now just one of four states that prevent judges from considering dangerousness in making bail decisions.").

[25] People v Santiago, 2023 NY Slip Op 50770[U], *5 [Sup Ct Bronx Cnty July 24, 2023].

[26] Additionally, it should be noted that dangerousness-related considerations are explicitly relevant during arraignment proceedings when courts determine whether to issue orders of protection and what the conditions those orders should contain, again underscoring how the specter of "dangerousness" is already present at arraignment, and why visual cues that heighten its salience are particularly concerning.

A. Arraignment Decisions Can Immediately Subject Individuals to Dangerous and Unconstitutional Conditions of Confinement

Should the judge decide to remand a person or set bail at an amount the person cannot afford, they will be confined in a jail facility pending trial. Even short periods of confinement expose individuals to physical danger and significant psychological harm, with both acute short-term and lasting effects.[27] The constitutional significance of arraignment does not rise or fall based on the characteristics of a particular jail facility; the deprivation of liberty itself demands careful procedural safeguards. In New York City, where most individuals detained pretrial are confined at Rikers Island, the gravity of these determinations is particularly well-documented.

The conditions at Rikers Island have been the subject of extensive litigation, federal oversight,[28] and repeated findings of unconstitutional conditions,[29] systemic

[27] Brian Nam-Sonestein, *Research roundup: Evidence that a single day in jail causes immediate and long-lasting harms*, Prison Pol'y Initiative [Aug. 6, 2024], available at https://www.prisonpolicy.org/blog/2024/08/06/short_jail_stays/ (reviewing research that shows just one to two days can destabilize people's health, housing, employment and more for years).
[28] *See* Nunez v New York City Dep't of Correction, 782 F Supp 3d 146, 150 [SDNY 2025], *reconsideration denied*, 2025 WL 2939046 [SDNY Oct 16, 2025, No. 11-CV-5845-LTS-RWL], *and objections overruled*, 2025 WL 3678122 [SDNY Dec 18, 2025, No. 11-CV-5845-LTS-RWL] (appointing a federal receivership to take over Rikers Jail after nearly a decade of non-compliance with a settlement regarding conditions inside the facility).
[29] *See* Steve J. Martin, *Status Report by the Nunez Independent Monitor* [Jan. 13, 2026] (concluding the efforts taken by the prison administrators have the effect of further embedding the problematic culture *Nunez* was created to address).

staff brutality,[30] pervasive violence, dangerously deteriorating facilities,[31] and wholly inadequate mental and medical health care.[32] Federal monitoring reports have described the pervasive use of excessive force by staff, as well as frequent assaults, stabbings, and slashings.[33] Despite the longstanding federal oversight that has been in place, reports of unconstitutional conditions continue to emerge, showing the dangerous realities that those detained at Rikers Island navigate on a daily basis. The gravity of these conditions is underscored by the number of in-custody deaths in recent years. Twelve individuals died in custody at Rikers Island between January and September of 2025 alone.[34] These figures underscore that the decision to detain someone is not just a temporary deprivation of liberty—which alone requires constitutional safeguards—but a state-imposed exposure to environments likely to subject that person to grave and potentially irreversible harm.

---

[30] *Id.* at 51–53.

[31] *See* Jacob Kaye, *Vermin, dirt and mold: New report shows continued deterioration on Rikers*, Queens Daily Eagle [July 7, 2023], available at https://queenseagle.com/all/2023/7/7/vermin-dirt-and-mold-new-report-shows-continued-deterioration-on-rikers.

[32] *See* Steve J. Martin*, Status Report by the Nunez Independent Monitor* 33-34 [July 10, 2026] (describing concerns about the department's ability and commitment to provide timely medical care).

[33] Steve J. Martin, *Status Report by the Nunez Independent Monitor* 38 [Jan. 13, 2026] (finding the rate of slashings and stabbings 114% higher, rate of fights 84% higher, and rate of assaults on staff with UOF 50% higher than in 2016).

[34] Reuvan Blau, *Twelfth Death on Rikers Raises Heat on Federal Judge Set to Assing Manager,* The City [Sep. 4, 2025], available at https://www.thecity.nyc/2025/09/04/rikers-deaths-judge-remediation-manager/, cached at https://perma.cc/Q7NE-CSQX.

B. Even When Someone is Not Detained Awaiting Trial, Release Conditions Made at Arraignment Can Severely Hinder Someone's Liberty, Property, Employment, and Family Relationships

Even when detention is not imposed—whether in bail-eligible or non-bail-eligible cases—the court can impose conditions that significantly restrict an individual's liberty and core aspects of a person's daily life.[35] For example, judges may impose supervised release with conditions including mandatory reporting requirements, curfews, travel restrictions, and electronic monitoring, all of which can severely limit a person's freedom of movement.[36] Courts may also mandate participation in counseling or treatment programs, or require individuals to undergo assessments or psychiatric evaluations that can significantly intrude upon a person's privacy interests and bodily autonomy.[37]

Judges also routinely issue temporary orders of protection at arraignment,[38] which can have immediate and far-reaching consequences, including immediately excluding someone from their own home or preventing someone from contacting intimate partners or family members.[39] These significant restrictions can be imposed irrespective of whether the affected parties seek this separation, and can

[35] *See* CPL §§ 510.10, 500.10, 510.40
[36] CPL § 500.10.
[37] *See* Mental Hygiene Law § 9.60.
[38] Jennie Suk Gerson, *Criminal Law Comes Home*, 116 Yale LJ 1, 51 [2006].
[39] *See* CPL § 530.13.

have substantial disruptive effects on property interests and private family relationships.[40] As noted above, these decisions necessarily require courts to consider the possibility of future harm or risk to others, further underscoring why courtroom cues that amplify perceptions of "dangerousness," such as handcuffing, are especially troubling.[41]

These examples are not exhaustive of the range of important determinations and conditions that can be made at arraignment, but they illustrate the high stakes that are at play during these proceedings. Courts can impose immediate and meaningful restraints on a person's core liberty interests, dramatically influencing the contours of someone's freedom, home life, and intimate relationships. Accordingly, the manner in which arraignment proceedings are conducted is highly significant, both constitutionally and institutionally.

C. The Enduring Effects of Pretrial Detention on a Person's Case Outcomes Underscore the Constitutional Stakes of Arraignment

The preceding examples detail the immediate stakes of arraignment, whether through detention or conditional release, but for those who are detained, the consequences can be far-reaching and enduring. A substantial body of empirical evidence shows that pretrial incarceration has lasting effects across multiple

[40] Isabella Leipziger, Note, *The Collateral Effects of Criminal Orders of Protection on Parent Defendants in Cases of Intimate Partner Violence*, 91 Fordham L Rev 273, 283 [2022].
[41] *See supra* note 26.

domains, including case outcomes, familial relationships, long-term economic stability, and employment.

Critically, pretrial detention can materially influence the trajectory of a criminal case, increasing both the likelihood of conviction and the likelihood of post-conviction incarceration. Studies conducted by New York City Criminal Justice Agency ("CJA") have found that—in both felony[42] and nonfelony cases[43]—pretrial detention increases the likelihood of conviction and incarceration. These findings were consistent even after controlling for the severity of the arrest charges, the type of arraignment charge, the accused person's criminal history, demographic characteristics, borough, and length of case processing.[44] In other

[42] In felony cases, the CJA found that the likelihood of being convicted "rose dramatically" for people who were held in pre-trial detention for more than a week, even after accounting for other legally relevant factors. Specifically, after controlling for other factors, detention length accounted for a 10% increase in the likelihood of conviction. Similarly, pre-trial detention outcomes accounted for an additional 6% increase in post-conviction incarceration. Mary T. Phillips, Ph.D., *Bail, Detention, & Felony Case Outcomes*, [Sept. 2008], https://www.nycja.org/assets/ResearchBrief18.pdf.

[43] In non-felony cases the CJA found that cases in which an accused person "was released to disposition had a conviction rate of 50%, compared to 92% for cases with a defendant detained to disposition." After controlling for legally relevant factors, pre-trial detention accounted for a 6% increase in the likelihood of conviction. With regard to post-conviction incarceration, the study found that the highest incarceration rate was found in cases with a person who had been detained throughout case processing through to the disposition (84%), finding specifically that pre-trial detention accounted for a 3% increase in the likelihood of post-conviction incarceration when controlling for other factors. Mary T. Phillips, Ph.D., *Bail, Detention, & Nonfelony Case Outcomes*, [May 2007], available at https://www.nycja.org/assets/ResearchBrief14.pdf.

[44] *See* Mary T. Phillips, Ph.D., *Bail, Detention, & Felony Case Outcomes*, https://www.nycja.org/assets/ResearchBrief18.pdf (Sept. 2008), *and* Mary T. Phillips, Ph.D., *Bail, Detention, & Nonfelony Case Outcomes*, https://www.nycja.org/assets/ResearchBrief14.pdf (May 2007).

words, pretrial detention does not just correlate with worse outcomes; it plays a meaningful role in *producing* them.

D. Pretrial Detention Produces Significant Collateral Consequences Beyond Case Outcomes, Reinforcing the Importance of Arraignment Proceedings

The consequences of pretrial detention extend far beyond the courtroom itself. In a recent study examining the collateral consequences of pretrial detention, CJA conducted interviews with over 1,500 individuals who had been arrested for both felonies and non-felonies between July 2019 and March 2021.[45] Among those interviewed, the average length of pretrial detention was nine days, and participants were interviewed approximately fifteen days after their release.[46] The impact that pretrial detention had on various facets of a person's life—including employment, housing, and family relationships—were staggering.[47] Individuals who were detained pretrial were 34% more likely to report experiencing job-related issues than those who were released pretrial.[48] They were also 74% more likely to become unemployed than non-detained subjects.[49] With respect to housing, pretrial detention was associated with a 420% increase in the likelihood of

[45] Tiffany Bergin, Rene Ropac, Imani Randolph, and Hannah Joseph, *The Initial Collateral Consequences of Pretrial Detention: Employment, Residential Stability, and Family Relationships* 3 (2022).
[46] *Id.*
[47] *Id.*
[48] *Id.* at 7
[49] *Id.* at 8

becoming homeless.[50] These destabilizing effects extended to family life as well; people who were detained pretrial were 41% more likely to report that their justice involvement negatively affected their ability to provide for their children.[51]

These findings demonstrate that the determinations made at arraignment carry far-reaching and enduring consequences that can shape a person's liberty, livelihood, housing stability, and family life. It follows that the integrity of the decision-making process at arraignment is of paramount importance and must be scrupulously safeguarded.

E. Even Brief Pretrial Detention Increases Likelihood of Future Criminal Legal System Involvement

In addition to the destabilizing effects described above, these consequences of pretrial detention increase the risk of future involvement in the criminal legal system. Empirical research from across the United States demonstrates that even very short periods of detention—such as two or three days—can have significant criminogenic effects.[52] In New York City specifically, researchers have found that

---

[50] *Id.* at 11

[51] *Id.* at 12

[52] *See* Christopher T. Lowenkamp, Ph.D., Marie VanNostrand, Ph.D., and Alexander Holsinger, Ph.D., *The Hidden Costs of Pretrial Detention* at 20 [https://perma.cc/E45Y-XK8Z] (2013) (study using data from Kentucky finding that being detained pretrial for two days or more significantly increased the likelihood of "new criminal activity" both 12 months and 24 months after the disposition of the original case); *see also* Will Dobbie, Jacob Goldin, And Crystal S. Yang, *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, 108 American Economic Review, 201, 227 (2018) (examining data from Philadelphia County and Miami-Dade County and finding that "pretrial

pretrial detention increases the likelihood of rearrest within two years by 7.5 percentage points for defendants facing felony charges, and 11.8 percentage points for those facing misdemeanor charges.[53] The fact that even brief pretrial detention can increase the probability of future criminal legal system involvement further underscores the gravity of arraignment determinations, reinforcing the constitutional imperative that they be made in accordance with the requirements of due process.

III. The Use of Restraints at Arraignment Distorts Judicial Discretion and Undermines the Integrity of the Judicial Process

The routine use of handcuffs at arraignment threatens the integrity of these proceedings as it risks distorting the statutory determinations that judges are required to make. A substantial body of empirical evidence shows that visual markers such as handcuffs can alter perceptions of threat, credibility, and risk. Even when viewers intend to be fair and impartial, salient visual cues can unconsciously alter perception in significant ways. Moreover, the presence of visible restraints risks exacerbating well-documented racialized associations between Black and Brown individuals and concepts of dangerousness or inherent

---

detention increases new crime after case disposition through a medium-run criminogenic effect").

[53] Emily Leslie and Nolan G. Pope, *The Unintended Impact of Pretrial Detention on Case Outcomes: Evidence from New York City Arraignments*, 60 Journal of Law and Economics 385, 550 (Aug. 2017).

"criminality." By introducing the specter of dangerousness into a proceeding in which the law requires careful, individualized assessments grounded in specific statutory criteria, this practice threatens to skew judicial perception and exacerbate the impact of implicit racial bias.

A. Social Science Research Demonstrates that Visible Restraints and Other Courtroom Cues Can Influence Perception and Judgment

Empirical studies examining the effect of handcuffing on judgment and decision-making confirm that visible restraints introduce powerful cues of dangerousness that alter how individuals are perceived in court, the very kind of distortion of the courtroom's character that *Best* identified as incompatible with due process. For example, a 2022 study examined whether the use of handcuffs on interrogation suspects negatively affected observers' ability to accurately make judgments about veracity.[54] The researchers explained that "handcuffs are associated with criminality," which can heighten suspiciousness and produce a "stronger lie bias."[55] Consistent with their hypothesis, the researchers found that overall, research participants "performed worse at discriminating veracity when viewing handcuffed suspects."[56] These findings support the conclusion that

[54] Mircea Zloteanu, Nadine L. Salman, Eva G. Krumhuber and Daniel C. Richardson, Looking guilty: Handcuffing suspects influences judgments of deception, 19 J. Investig Psychol. Offender Profil 231 (Sep. 2022)
[55] *Id.* at 236.
[56] *Id.* at 241.

situational factors and visual cues—such as handcuffs—can impair an individuals' ability to accurately judge truthfulness.[57]

Research examining other visual cues further illustrates how these kinds of variables can bias judgment. For example, a study evaluating courtroom design—specifically, the placement of the accused—found that where a person is positioned greatly influenced how mock jurors perceived the individual.[58] In the study, the accused was placed in various different positions within a photograph of a courtroom—an open dock, an open dock guarded by a correctional officer, a dock surrounded by glass, or seated at the bar table—allowing researchers to investigate how these different locations influenced how viewers judged the accused. Those who were portrayed in either an open dock, glass dock, or in the presence of a correctional officer were described more negatively than those who were positioned at the counsel table.[59] Although a person's placement in the courtroom is distinct from the issue of visible handcuffing, the findings from this study again demonstrate that visual cues in criminal proceedings have the power to significantly impact adjudicative judgment by communicating implicit signals about danger, credibility, and other markers of apparent guilt. Courts should

[57] *Id.* at 241-42.
[58] Hadie Artiel, *Evidence Handcuffs and Guilt*, Medium (Mar. 7 2021), https://aaartiel.medium.com/evidence-handcuffs-and-guilt-a0f3d1fcc9e7
[59] *Id.*

therefore not overlook the corrosive effect that courtroom imagery can have on the fairness and dignity of the adjudicative process.

B. Judgment-Distorting Visual Cues are Especially Pernicious in a System Already Marked by Racial Disparities and Shaped by Racialized Threat Perception

The significance of the judgment-distorting effect of handcuffs must be understood in light of two interrelated but distinct realities: first, every stage of New York's criminal legal system is marked by pronounced racial disparities in which Black and Brown New Yorkers are overrepresented[60]; and second, extensive social science research shows that people of color—particularly Black individuals—are frequently automatically and unconsciously associated with threat and criminality.[61] In a criminal legal system rife with racial disparities and within a society that links Blackness with criminality, the dangers posed by courtroom visual cues that signify dangerousness, unreliability, and risk carry heightened

---

[60] *See, e.g., NYCLU A Closer Look at Stop-and- Frisk in NYC* (https://www.nyclu.org/data/closer-look-stop-and-frisk-nyc) (May 27, 2025, accessed March 1 2026); *NYCLU Stop-and-Frisk Data*, https://www.nyclu.org/data/stop-and-frisk-data (May 27, 2025, accessed February 26, 2026); Stephen Koppel and Michael Rempel*, Assessing Progress in Reducing Racial Disparities in New York City Law Enforcement, 2013-2022*, https://datacollaborativeforjustice.org/work/policing/assessing-progress-in-reducing-racial-disparities-in-new-york-city-law-enforcement-2013-2022/. (Accessed February 26, 2026).

[61] *See, e.g.,* Keith Payne, Joshua Correll, *Race, Weapons and the Perception of Threat,* 62 Advances in Experimental Soc. Psych. 1,6 (2020); Kimberly Barsamian Kahn & Emma E. L. Money, *(Un)making threat: Racial minorities experience race-based social identity threat wearing face masks during COVID-19,* 35 Group Processes & Intergroup Relations 871 (2022); Ashby Plant & B. Michelle Peruche, *The Consequences of Race for Police Officers' Responses to Criminal Suspects,* 16 Psychol. Sci. 180, 181-82 (2005).

constitutional risk and due process concerns. Specifically, the existence of visual restraints risks interacting with systemic racism, increasing the danger that judicial decision-making will be influenced in ways that undermine the neutrality and integrity of the judicial process and further entrench already stark racial disparities.

C. Racial Disparities Permeate Every Stage of the Criminal Legal System in New York

Arraignment proceedings take place within a criminal legal system marked by longstanding and persistent racial disparities at every stage. From initial police stops through arrest, prosecution, and incarceration, Black and Brown New Yorkers are disproportionately represented at every juncture. Between 2003 and 2024, 90% of all stops made by the New York Police Department ("NYPD") were of people of color.[62] Over the course of those 21 years, Black individuals made up 52% of all stops, despite comprising only 23% of the population in New York City.[63] By contrast, white New Yorkers, who make up one third of the population, accounted for only 10% of all NYPD stops.

Although the total number of stops being made have significantly decreased over the past few decades, the racial disparities appear to be *increasing* over time; in 2024, 60% of all NYPD stops involved Black individuals, compared to just 6%

[62] *See NYCLU A Closer Look at Stop-and- Frisk in NYC* (https://www.nyclu.org/data/closer-look-stop-and-frisk-nyc) (May 27, 2025, accessed March 1 2026).
[63] *Id.*

involving white individuals.[64] While Black people were stopped at a rate 7.5 times higher than white individuals in 2013, that disparity increased to 11.8 times higher by 2022.[65]

Racial disparities remain pronounced at the arrest and prosecution stages as well. In 2022, Black individuals were 6.1 times more likely than white individuals to be arrested for a misdemeanor, and Latinx individuals were 3.9 times more likely.[66] For felony arrests, the racial disparities have widened over the course of the last decade; in 2013, Black individuals were 6.8 times more likely than white people to be arrested for a felony, and in 2022, they were 8.9 times more likely.[67] The likelihood of felony arrests for Latinx individuals in New York as compared to white individuals similarly increased—from 3.9 to 4.8—in those nine years.[68]

Racial disparities remain pronounced at the pretrial stage of the criminal process, including at arraignment. In 2021, Black individuals comprised 58% of those admitted to New York City jail on bail, and 55% of those admitted pursuant

---

[64] *See NYCLU Stop-and-Frisk Data*, https://www.nyclu.org/data/stop-and-frisk-data (May 27, 2025, accessed February 26, 2026).
[65] *See* Stephen Koppel and Michael Rempel*, Assessing Progress in Reducing Racial Disparities in New York City Law Enforcement, 2013-2022*, https://datacollaborativeforjustice.org/work/policing/assessing-progress-in-reducing-racial-disparities-in-new-york-city-law-enforcement-2013-2022/. (Accessed February 26, 2026). at 12. (The disparity was even more pronounced in Manhattan specifically, where in 2022, Black individuals were 25 times more likely than white people to be stopped by police.)
[66] *See* Koppel.
[67] *See Id. at 31.*
[68] *See Id. at 31.*

to a remand order.[69] By contrast, white individuals accounted for only 6% and 9% of those jail admissions, respectively.[70] The rate of admission to NYC jails was 11.6 times higher for Black individuals as compared to white individuals.[71] Data from 2021 show that people of color make up roughly 90% of the jail population at Rikers Island.[72]

These numbers provide critical context through which to evaluate courtroom practices during arraignment, a moment in which crucial decisions are being made. The integrity of the judicial system cannot be assessed in isolation from these structural racial disparities. Black and Brown New Yorkers are already vastly overrepresented in the criminal legal system, and in particular, in New York City's jail population. Practices that could exacerbate these already stark discrepancies by amplifying racialized threat perception warrant careful scrutiny.

D. It Is Well Documented That Many Individuals Automatically and Unconsciously Associate Black People with Dangerousness and "Criminality"

---

[69] *See* Connor Concannon & Chongmin Na, *Examining Racial and Ethnic Disparity in Prosecutor's Bail Requests and Downstream Decision-Making*, Race & Soc. Probs. (2023), https://doi.org/10.1007/s12552-022-09385-0 ("Existing research on bail practices (distinct from pre-trial detention) has consistently found that Black and Latino defendants are subject to higher bail amounts than White defendants, even after controlling for offense severity and prior criminal history"). *See also* Sarah Monaghan et al. *Racial Disparities in the Use of Jail Across New York City, 2016-2021*, Data Collaborative for Justice at John Jay College, 1, 16 (Feb. 2023) at https://datacollaborativeforjustice.org/wp-content/uploads/2023/02/DisparitiesReport-27.pdf.

[70] *See* Monaghan.

[71] *See* Monaghan. (In Manhattan, the difference was even more stark. By 2021, Black people were jailed at a rate 29.5 times higher than their white counterparts in 2021, an increase from 23 times higher in 2016.);

[72] *See* Monaghan.

An overwhelming body of empirical research demonstrates that many individuals automatically associate Black people with threat and criminality, even when they consciously reject racism and intend to be fair in their judgments.[73] Social science research spanning decades has documented that stereotypes linking Black people with violence and crime operate through automatic cognitive processes that function outside of conscious awareness.[74] Importantly, researchers have found that these associations do not only influence abstract attitudes, but can actually powerfully shape an individual's cognitive perception and attention. In a number of controlled experiments, researchers found that people exposed to photographs of Black faces more quickly detected visually obscured images of crime-relevant objects, such as guns and knives, than after they had been exposed to photos of white faces.[75] Researchers have also found that these associations are bi-directional; Blackness can activate thoughts of crime, *and* crime can activate thoughts of Black people.[76] Similarly, harmless items (such as tools) are mistaken for guns more frequently when participants are first "primed" with images of Black

---

[73] *See* Keith Payne & Joshua Correll*, Race, Weapons, and the perception of threat,* 62 Advances in Experimental Social Psychology, 1, 3 (2000). ("Implicit measures of racial attitudes showed that many people automatically associate Black people with threat and other negative evaluations, even when they intend to be fair").
[74] *See* Eberhardt et al. *Seeing Black: Race, Crime, and Visual Processing*, 87 Journal of Personality and Social Psychology 876 (2004).
[75] *See Id.*
[76] *See Id.*

individuals' faces.[77] Researchers have thus concluded that the association that people have between Blackness and crime can function as a "visual tuning device," shaping how and what individuals see and how threat is perceived.[78]

Importantly, research indicates that judges are not immune from these implicit racial biases.[79] As the Court recognized in *People v. Best*, "judges are human," and therefore are susceptible to unconscious influences that can affect perception and judgment. In one study where researchers administered the Implicit Association Test[80] to trial judges, they found that approximately 87% of white judges demonstrated an implicit preference for white over Black individuals.[81] Put simply, this meant that a significant percentage of white judges were quicker to associate white faces with positive words and Black faces with negative words than to make the opposite associations. The significance of these findings is underscored by well-documented racial disparities in a number of judge-made determinations such as bail amounts and sentencing outcomes.[82] While implicit

---

[77] *See* Payne.
[78] *See* Eberhardt.
[79] *See* Rachlinski et al. *Does Unconscious Racial Bias Affect Trial Judges?* 84 Notre Dame Law Rev. 1195 (2009).
[80] *See About the IAT,* Project Implicit, https://implicit.harvard.edu/implicit/iatdetails.html (Feb. 27, 2026), (The IAT is a test designed to measure the strength of associations between concepts and evaluations/stereotypes such as black or white individuals and goodness or badness. Participants are asked to quickly sort words into categories over a series of five rounds. The IAT score is based on how long it takes a person on average to sort words in the different parts of the test.)
[81] *See* Rachlinski.
[82] *See* Besiki Luka Kutateladze & Nancy R. Andiloro, *Prosecution and Racial Justice in New York County – Technical Report*, Prosecution and Racial Justice Program Vera Institute of

bias is not the sole explanatory factor for these discrepancies, the presence of automatic racial associations among judicial decision-makers reinforces the importance of procedural safeguards that minimize the risk that unconscious perceptions will sway judicial determinations.

In a system already shaped by racial inequality, the routine use of handcuffs at arraignment risks distorting the individualized liberty determinations that the law requires. Due process demands courtroom practices that minimize—not magnify—the risks of further entrenched biases.

IV. Given Their History as Instruments of Racial Control and Violence, the Routine Use of Visible Restraints at Arraignment Raises Profound Concerns for Judicial Integrity and Legitimacy

As the social science above demonstrates, handcuffs and shackles communicate dangerousness and shape perception, in a society that already associates Blackness with criminality.[83] Furthermore, those signals carry particular force because physical restraints such as irons, collars, hackles, and chains have long functioned as visible instruments of subjugation, deployed to punish, shame,

---

Justice (2014) ("The empirical evidence suggests that despite policies to curtail judicial discretion, racial and ethnic disparities persist."). *See also* Stephen Demuth & Darrell Steffensmeier, *The Impact of Gender and Race-Ethnicity in the Pretrial Release Process,* 51 Soc. Probs. 222 (2004) (Black and Hispanic defendants are much less likely than comparable white defendants to obtain pretrial release.); *See also* Connor Concannon & Chongmin Na, *Examining Racial and Ethnic Disparity in Prosecutor's Bail Requests and Downstream Decision-making*, 2023 Race Soc. Probl. 1 (online ahead of print) doi:10.1007/s12552-022-09385-0. ("Table 2 shows that Black defendants were subject to significantly higher bail requests compared with White defendants.")

[83] *See* Rachlinski; Eberhardt; Payne.

and control Black Americans.[84] The Constitutional concerns raised by the universal use of restraints at arraignment must be evaluated against this historical backdrop and its legacy.

Enslaved people were routinely forced to wear iron handcuffs,[85] leg-irons,[86] collars,[87] and bilboes[88] while being forcibly relocated and as punishment.[89] Historical accounts describe such restraints as "engines of confinement for public exposure," reflecting their role in publicly marking and degrading the people placed in them.[90] In the wake of the formal abolition of slavery, physical restraints remained central to systems of racial control and forced labor through "convict

---

[84] *See Instruments of Slavery*, Countway Library of Medicine, Harvard Univ. (last visited Apr. 9, 2026), https://collections.countway.harvard.edu/onview/exhibits/show/this-abominable-traffic/instruments-of-slavery

[85] *See Wrist Shackles Used on Enslaved People,* Encyclopedia Virginia (Feb. 27, 2026), https://encyclopediavirginia.org/600hpr-c7dd96ab9a86b85/

[86] *See Leg Irons*, Royal Museums Greenwich (Feb. 27, 2026), https://www.rmg.co.uk/collections/objects/rmgc-object-254405

[87] *See Wrought iron collar,* National Museum of African American History and Culture (Feb. 27, 2026), https://nmaahc.si.edu/object/nmaahc_2014.63.2

[88] *See Curious Punishments of Bygone Days*, Project Gutenberg (Feb. 27, 2026), https://www.gutenberg.org/cache/epub/34005/pg34005-images.html

[89] *See* Alice Morse Earle, *Curious Punishments of Bygone Days*, 4-5 (Mark C. Orton and the Online Distributed Proofreading Team, 1896). *See also* Tessa Gorman, *Back on the Chain Gang: Why the Eighth Amendment and the History of Slavery Proscribes the Resurgence of Chain Gangs*, 85:441 Cal. Law. Rev. 441, 446 (1997)("[T]he women were tied together with a rope about their necks, like a halter, while the men wore iron collars, fastened to a chain about one hundred feet long, and were also handcuffed. The men in double file went ahead and the women followed in the same order. The drivers rode wherever they could best watch and direct the coffle. At the end of the day all, without being relieved of their collars, handcuffs, chains or ropes, lay down on the bare floor, the men on one side of the room and the women on the other.")

[90] *See* Earle.

leasing"[91] and "chain gangs."[92] Chain gangs have been described as an "instrument with which to terrorize, torture, and exploit" newly "freed" Black Americans "back into bondage."[93] An account of chain gangs from 1927 described the use of chains on individuals as degrading and stigmatizing, noting that the practice of chaining people in public was "unduly humiliating to the prisoners as well as degrading to those who are forced to witness such a spectacle."[94] These accounts highlight how restraints have historically served three overlapping functions: physical control, public humiliation, and racial oppression. As visible markers of racial hierarchy and control, they were experienced as deeply humiliating and degrading by those subjected to them.[95]

The historical meaning and expressive dimension of shackling cannot be ignored when assessing the harm that routine handcuffing at arraignment inflicts on the dignity of the judicial process. In the modern courtroom, the unnecessary and universal use of visible restraints carries with it centuries of associations with

---

[91] *See* Equal Justice Institute *Convict Leasing* (November 01, 2013)("Convict leasing [is] a system in which Southern states [after the civil war] leased prisoners to private railways, mines, and large plantations. While states profited, prisoners earned no pay and faced inhumane, dangerous, and often deadly work conditions.")
[92] *See* EBSCO Knowledge Advantage, *Chain Gangs*, https://www.ebsco.com/research-starters/social-sciences-and-humanities/chain-gangs (Feb. 27, 2026)("Chain gangs are a historical correctional practice involving the chaining together of prisoners for manual labor, typically outside of prison walls. This practice originated in the Southern United States shortly after the Civil War, as a response to the economic challenges following the loss of slave labor.")
[93] *See* Gorman at 442-444.
[94] *See* Gorman at 452.
[95] *Id.*

punishment, racial control, and public humiliation. Courts must take seriously the symbolic messages this practice communicates, and guard against perpetuating traditions rooted in racialized punishment and exclusion. The expressive and historical dimensions of these practices bear directly on the integrity of the judicial process and on public confidence in the fairness of these proceedings.

CONCLUSION

For the foregoing reasons, we respectfully request that this Court vacate the lower court's decision and order dismissing Mr. Allen's case, convert Defendants-Respondents' motion to dismiss into a motion for summary judgment, enter summary judgment in favor of Mr. Allen, and reinstate his motion for class certification.

DATED: April 23, 2026

Respectfully submitted,

/s/ Vincent Southerland

VINCENT M. SOUTHERLAND
(N.Y. Bar No. 4579413)
DJUNA SCHAMUS
Center on Race, Inequality and the Law
139 MacDougal Street, 4th Floor
New York, NY 10012
vincent.southerland@nyu.edu

Counsel for Amici Curiae

PRINTING SPECIFICATIONS STATEMENT
PURSUANT TO 22 NYCRR 1250.8 (j)

The foregoing brief was prepared on a computer as follows:

Typeface: Times New Roman

Point size: 14

Line spacing: Double

The total number of words in the brief, inclusive of point headings and footnotes and exclusive of signature blocks and pages including the table of contents, table of citations, proof of service, certificate of compliance, or any addendum authorized pursuant to 22 NYCRR 1250.8 (k), is 7080, as calculated by the word processing system used to prepare the brief.

Dated: April 23, 2026
New York, NY

/s/ Vincent Southerland
VINCENT M. SOUTHERLAND

Counsel for Amicus Curiae

CERTIFCATE OF SERVICE

I hereby certify that on April 23, 2026, I electronically served the foregoing amicus curiae brief via NYSCEF, which sends notifications to counsel of record who have entered appearances.

Dated: April 23, 2026
New York, NY

/s/ Vincent Southerland
VINCENT M. SOUTHERLAND

Counsel for Amicus Curiae