

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 22-2379 & 22-2403

Caption [use short title]

Motion for: Permission to submit Amicus Curiae letter

In favor of Ivan Antonyuk, et al, Plaintiffs and in favor (in part) for Kathleen Hochul, et al, Defendants.

Set forth below precise, complete statement of relief sought:

My Amicus letter will assist the Court to make a more informed decision as the parties did not submit a full presentation that I can remedy by my letter containing facts and circumstances not previously presented depicting how Defendants now adversely affected my and others safety, business, interstate business, comerace and interstate commerce by restricting my traveling with a new more restrictive law then the Supreme court struck down that lacks clarity, fair application and equal diparity among defendants when charging and setencing licensed versus non-licensed and prior felony or career felony offenders.

Ivan Antonyuk, et al, Plaintiffs v. Kathleen Hochu

MOVING PARTY: KATHLEEN HOCHUL, New York State Governer, et al

OPPOSING PARTY: IVAN ANTONYUK; COREY JOHNSON; ALFRED TERRILLE, et al

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Gerard Gardner amicus curiae pro-se [name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: NONE

Gerard Gardner 377 Rector Place 10E New York, N.Y. 10280

(mobile) 516 729-6838 (email) JerryPI@aol.com

Court- Judge/ Agency appealed from: New York Northern Distirct Court - Hon. Glenn T. Suddaby

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? Has this relief been previously sought in this court? Requested return date and explanation of emergency:

Opposing counsel's position on motion: Unopposed Opposed Don't Know Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Has argument date of appeal been set?

Signature of Moving Attorney:

Gerard Gardner Date: 10/24/2022 Service by: CM/ECF Other [Attach proof of service]

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

DOCKET Nos.  
x 22-2379 & 22-2403

IVAN ANTONYUK; COREY JOHNSON; ALFRED TERRILLE;  
JOSEPH MANN; LESLIE LEMAN; and LAWRENCE SLOANE,

Plaintiffs,

Application to submit  
Amicus Curiae letter

v.

KATHLEEN HOCHUL, in her Official Capacity as Governor  
of the State of New York; KEVIN P. BRUEN, in his Official  
Capacity as Superintendent of the New York State Police;  
JUDGE MATTHEW J. DORAN, in His Official Capacity as  
Licensing-Official of Onondaga County; WILLIAM FITZPATRICK,  
in His Official Capacity as the Onondaga County District Attorney;  
EUGENE CONWAY, in his Official Capacity as the Sheriff of  
Onondaga County; JOSEPH CECILE, in his Official Capacity as  
the Chief of Police of Syracuse; P. DAVID SOARES, in his Official  
Capacity as the District Attorney of Albany County; GREGORY  
OAKES, in his Official Capacity as the District Attorney of Oswego  
County; DON HILTON, in his Official Capacity as the Sheriff of  
Oswego County; and JOSEPH STANZIONE, in his Official Capacity  
as the District Attorney of Greene County,

Defendants.

x

GERARD GARDNER being duly sworn submits and states the following:

1. I am *pro-se* working without the advice of counsel. I respectfully  
request permission to submit the attached Amicus Curiae letter that is in support of  
the Plaintiffs and also in support of the Defendants (in part). My letter will assist  
the Court in making a more informed decision as the parties did not submit a full  
presentation and I can remedy this by my letter that contains facts and  
circumstances not previously presented depicting how the Defendants affected


RECEIVED  
OCT 21 PM 12:01  
U.S. DISTRICT COURT  
EAST

my business and compromised my safety and the businesses and safety of persons similarly situated.

2. The submission is unsolicited and all parties were noticed of my intention to file an "Amicus Letter" supporting both the Plaintiffs and Defendants. I have not received any objection to my filing.

3. I am working *pro-se* and have never attended law school. My highest degree received is a high school diploma. As such, I most respectfully request that the Court liberally construed my submission.

Most respectfully yours,



---

Gerard Gardner

attachment

Sworn to me this 21 day  
of October 2022



---

NOTARY PUBLIC

**DENISE A. RUBIN**  
Notary Public, State of New York  
No. 02RU6233168  
Qualified in New York County  
Commission Expires December 27, 2022

## Gardner Investigative Services

377 Rector Place 10E  
New York, N.Y. 10280  
New York State Licensed - Bonded - Insured

Telephone: (212) 945-7223  
Fax: (212) 202-6429  
Mobile: (516) 729-6838  
Email: JerryPI@aol.com

United States Court of Appeals  
Second Circuit  
1 Foley Square  
New York, N.Y.

October 21, 2022

*RE: Gerard Gardner Amicus Curiae letter Dockets 22-2379 and 22-2403*

### I. Interests of the Amicus Curiae<sup>1</sup>

1. My name is Gerard Gardner I am a New York State licensed Private Investigator in good standing for the past 28 or so years using the trade name of Gardner Investigative Services. My main source of income is contracted work with the Federal Courts as a CJA appointed special investigator for indigent and capital defendants in the New York Eastern and Southern Districts. I have been appointed to approximately 200 or more cases. I am not an employee of the Courts and hold no status whatsoever with the government or US Courts. I am a per diem contractor. I also hold a New York City ("NYC") Unrestricted Business Concealed Carry handgun license ("BCC") that I have had in good standing for approximately two decades. I also held BCC licenses issued in other counties and states issued in relation to my business. I am not a member of any firearm related sports club and I am not a member of the NRA. I make this submission unsolicited and *pro-se* so the Court may have a better understanding on how the new NYS Concealed Carry Improvement Act, ("CCIA") has affected my ability and persons similarly situated to maintain their personal safety, safety of their businesses and conduct business.

### II. Arguments

- a). The CCIA prohibits business carry licensees from safely conducting their business and outright strips Private Investigators and Bail Enforcement Agents licensed under N.Y.S. General Business Law Article 7 the ability to protect themselves that was previously allowed.
2. Private investigators and as in my situation on CJA or private cases I

---

<sup>1</sup> This submission was not solicited nor was any compensation received. This submission is authored *pro-se*.

routinely conduct surveillance and travel from point to point in the normal course of duties. My duties as a private investigator and CJA investigator require me to undertake tasks including but not limited to: surveillance; travelling to crime scenes; taking photographs; videos and conducting interviews of persons that are witness to or involved in criminal activity. As my area of duty encompasses many public locations I use public transportation, the subway, my personal vehicle or whatever means to facilitate point-to-point travel in a time and cost efficient manner. When conducting fact witness interviews I am require to enter businesses such as retail establishment, bars, restaurants, offices, NYC apartment buildings, private residences and even city parks when canvassing crime scenes.

3. As I am licensed to carry a firearm, the CCIA new restrictions prohibits me from using public transportation to get to my interviews and crime scenes and prohibits me to enter business establishments or residence to conduct interviews or even to stop for food or drink while on assignment unless there is a gun welcome sign posted. In alternative to public transportation I can use my personal vehicle but I am prohibited to enter a parking garage as it is a "business location" unless a gun welcome sign posted. It is even unclear if I am allowed to stop for gas as the gas station is a business location. More disturbing is the fact that if I "take a wrong turn" and get trapped travelling down a one way street in the "Times Square Gun Free Zone" there is no way to turn back. Even Uber as they are a private corporation they prohibit passengers from carrying firearms. As such, the new CCIA restrictions on the "sensitive locations" threaten every CC holder and BCC license holder with a felony that will forever revoke their CC license, prohibit future firearm possession and likely loss of their personal professional business license if found in a "sensitive area."

4. Remarkably, the NYS CCIA only provides sensitive location and training "exemptions" for retired law enforcement and security guards licensed under the NYS General Business Law ("GBL") Article 7. However, the CCIA makes no exemptions for others licensed under NYS GBL Art. 7 who their area of duty encompasses NYC and NYS in its entirety such as private investigators, couriers, bail enforcement agents or other similarly situated businesspersons that have unrestricted BCC licenses.

5. However, NYS GBL Art. 7 states private investigators are also licensed as security guards and bail enforcement agents without need for additional licensing.

NYS General Business Law Article 7:

*"The department of state shall have the power to issue licenses to private investigators. Nothing in this article shall prevent a private investigator licensed hereunder*

*from performing the services of a watch, guard or patrol agency or bail enforcement agent as defined herein; however, a watch, guard or patrol agency or bail enforcement agent may not perform the services of a private investigator as defined herein.” (Emphasis added).*

- b). The Concealed Carry Improvement Act now elevates CC license violations from an administrative hearing or an “A” Misdemeanor to an “E” Felony that more than certainly will cause licensee violators to lose their associated professional business license.

6. Before the CCIA was enacted if a licensee violated a stipulation of their license such as carrying a CC licensed firearm on school grounds, or travelling into NYC with a county license the license would be suspended and a hearing would follow or the licensee would be charged with an “A” Misdemeanor under NYS PL Art. 400. Now the CCIA act elevates what was formally an administrative violation or “A” Misdemeanor to NYS PL 265.01 Criminal Possession of Firearm, Rifle or Shotgun in a Sensitive Location an “E” Felony.

7. BCC licensees are issued in relation to a business or professional license such as but not limited to: doctors, pharmacists, liquor, firearms dealers, and private investigators, bail enforcement agents. Now that the CCIA has mandated an E Felony for riding the subway or entering a business considered to be a “sensitive area” any professional license holder that is charged will certainly have their professional license suspended or revoked by NYS. Even if there is no criminal conviction a professional business license holder in NYS will more than likely suffer from the felony arrest, not mention the stigma that goes along with it and that is accessible in public records. Consider, if your child’s doctor was charged with carrying a concealed weapon in a hospital. Even if found not guilty and privileges restored one would always be suspect of their reputation. Remarkably, there is no enhancement for non-licensed criminal violators to the NYS PL. As such, the CCIA is unduly harsh to citizens, business owners and business professionals.

- c). What the CCIA mandates as “sensitive areas” are anything but.

8. During an average duty day I may travel on the subway to seek out fact witnesses and often visit the local court to search records relating to the witness sought. Accordingly, I am visiting 2 locations one that is unsecure and open to everyone and the other that has a security or law enforcement checkpoint, requirement to produce identification and metal detectors. By implementing the use of multi-level proactive security an area becomes sterile therefore it is a sensitive area. In such situations I identify myself at the checkpoint advise of my business and would be directed to an area where my firearm is secured in a locked compartment then proceed through the metal detectors. Only multi-level proactive

security measurers can sterilize a “sensitive area.” Reactive or passive measures such as security cameras, biometric face scanning and even passive security personal are reactive measurers and do not afford the area to be sterile from weapons, trespassers or illegal drugs therefore such an area is by no means a “sensitive area.”

- d). I support the Defendants demand for mental health background checks. However, the Defendants CCIA lack requirement of disclosure form “private” facilities.

9. The Defendants imposed “Red Flag” disclosure requirements from licensed mental health facilities and providers. However, just like a “ghost gun” there are “ghost facilities.” Such facilities masked as “spa vacations” or “wellness facilities” offer addicted and emotional challenged persons a private and non-disclosed alternative to a licensed professional. I know that such facilities are used by law enforcement and civilian individuals commonly known as “the farm” in order to defeat addiction and mental health issues by services of non-licensed “consolers” and other staff in order to circumvent a “Red Flag” disclosure. Here, the law falls short of protecting the population.

### III. CONCLUSION

10. I respectfully request the Court consider how the CCIA “sensitive area” zones restricts my and persons similarly situated ability to protect oneself when conducting business and further consider how the new “sensitive areas” such as subway, businesses and Times Square that were never previously off-limits now subject permit holders to felony prosecution if a license holder travels down the wrong street. As a friend and officer of the Court I am willing to be called upon at any time if additional information is needed.

Most respectfully yours,



Gerard Gardner

Sworn to me this 21 day  
of October 2022

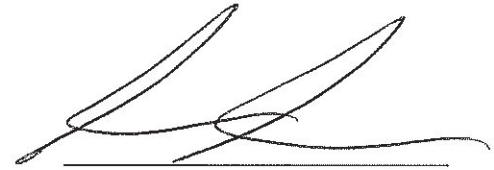


NOTARY PUBLIC

**DENISE A. RUBIN**  
Notary Public, State of New York  
No. 02RU6233168  
Qualified in New York County  
Commission Expires December 27, 2022

DOCUMENT SPECIFICATIONS AND WORD COUNT

The attached application to submit an Amicus Curiae letter and the attached letter contains 1894 words drafted in Century 12 point font with 1" borders. Footnote is in 10 point Century font.

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a cursive name.

---

Gerard Gardner



UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

DOCKET Nos.  
x 22-2379 & 22-2403

IVAN ANTONYUK; COREY JOHNSON; ALFRED TERRILLE;  
JOSEPH MANN; LESLIE LEMAN; and LAWRENCE SLOANE,

Plaintiffs,

Affidavit of Service

v.

KATHLEEN HOCHUL, in her Official Capacity as Governor  
of the State of New York; KEVIN P. BRUEN, in his Official  
Capacity as Superintendent of the New York State Police;  
JUDGE MATTHEW J. DORAN, in His Official Capacity as  
Licensing-Official of Onondaga County; WILLIAM FITZPATRICK,  
in His Official Capacity as the Onondaga County District Attorney;  
EUGENE CONWAY, in his Official Capacity as the Sheriff of  
Onondaga County; JOSEPH CECILE, in his Official Capacity as  
the Chief of Police of Syracuse; P. DAVID SOARES, in his Official  
Capacity as the District Attorney of Albany County; GREGORY  
OAKES, in his Official Capacity as the District Attorney of Oswego  
County; DON HILTON, in his Official Capacity as the Sheriff of  
Oswego County; and JOSEPH STANZIONE, in his Official Capacity  
as the District Attorney of Greene County,

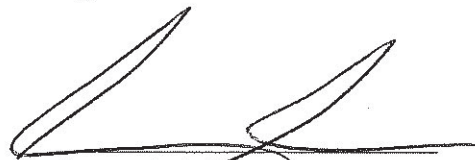
Defendants.

RECEIVED  
2022 OCT 21 PM 12:17  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT  
OF NEW YORK

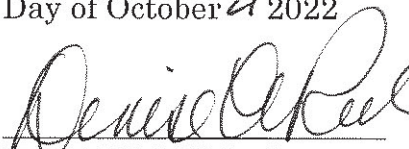
x

GERARD GARDNER being duly sworn submits and states the following:

1. I have served the above captioned Plaintiffs and Defendants with an intention to file an Amicus Curiae letter on October 18, 2022.
2. I have not received any objection to the filing.

  
Gerard Gardner

Sworn to me this  
Day of October 21 2022

  
NOTARY PUBLIC

DENISE A. RUBIN  
Notary Public, State of New York  
No. 02RU6233168  
Qualified in New York County  
Commission Expires December 27, 2022



**Gardner Investigative Services**  
The New York State Department of State  
Division of Licensing Services

[jerryPI@aol.com](mailto:jerryPI@aol.com)

**Gerard Gardner**  
*Call 516 229-6838*

377 Rector Place 10E  
New York, N.Y. 10280

Telephone: 212 945-7223  
Fax: 212 202-6429