

Proskauer Obtains Vacatur of Summary Judgment Entered Against Incarcerated Pro Bono Client

Proskauer For Good on **February 27, 2024**

Proskauer recently prevailed at the Second Circuit on behalf of our incarcerated pro bono client, James Thomas, in an appeal that determined that Mr. Thomas was not provided adequate notice before the district court entered summary judgment against him. Proceeding *pro se*, Mr. Thomas brought claims for civil rights violations under the Fourth, Eighth, and Fourteenth Amendments against prison officials related to multiple searches. Defendants moved for summary judgment and provided Mr. Thomas with a short and plain statement providing an overview of summary judgment procedure. Under the district court's local rules, however, represented parties moving for summary judgment against *pro se* litigants must also provide the full text of the applicable rules governing summary judgment procedure to ensure adequate understanding of the complicated nature and serious consequences of the motion. Despite this requirement, the district court excused defendants' failure to provide documentation of the rules because, in its view, the plain statement they provided sufficiently advised Mr. Thomas of his obligation to submit evidence in opposition to summary judgment. The district court then entered summary judgment against Mr. Thomas, in part because he failed to adduce evidence specifically controverting defendants' factual assertions, as the rules require.

The Second Circuit vacated the entry of summary judgment against Mr. Thomas and remanded the case for further proceedings. Emphasizing that “proper notice” requires both a plain statement of summary-judgment procedure and copies of the rules, the Court held that the district court erred in deeming the inadequate notice harmless. The Court explained that, even in cases where copies of the rules have been omitted from the required notice, the error is harmless only if the *pro se* litigant has demonstrated an independent, “clear understanding” of how summary judgment works. The Court found it undisputed that Mr. Thomas lacked such an understanding, given his failure to file any evidence in opposition. The case will now return to the district court, where Mr. Thomas will have a second chance at offering evidence sufficient to withstand summary judgment.

The Second Circuit decision can be found [here](#).

The Proskauer team, which was led by associate Shiloh Rainwater, included partners Mark Harris and John Roberts, and associate Henrique Carneiro.

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- **Shiloh Rainwater**
Senior Counsel