

8-1-2003

Letter to Clerk of Court re: Benjamin Hunter

Roger J. Miner '56

Follow this and additional works at: https://digitalcommons.nyls.edu/law_clerks_memos



Part of the [Courts Commons](#), and the [Judges Commons](#)

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CHAMBERS OF
ROGER J. MINER
CIRCUIT JUDGE
UNITED STATES COURTHOUSE
445 BROADWAY, SUITE 414
ALBANY, NY 12207

August 1, 2003

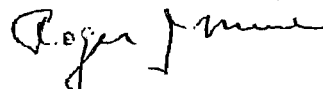
Hon. Lawrence Baerman
Clerk of Court
United States District Court
Northern District of New York
James Hanley Federal Building
P.O. Box 7367
100 So. Clinton Street
Syracuse, NY 13261-7367

Re: Benjamin Hunter

Dear Mr. Baerman:

Since I am unable to respond to the inquiry of the above-named individual or to provide him any assistance, I am forwarding the papers he sent me to you for your consideration and reference to the appropriate authority.

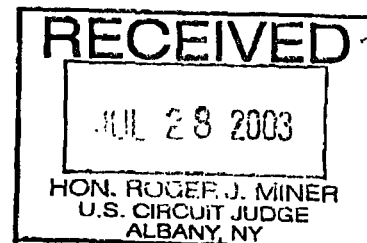
Yours very truly,


Roger J. Miner

RJM/sjh
Encs.

cc: Mr. Benjamin Hunter #01R0043
Hudson Correctional Facility
PO Box 576
Hudson, NY 12534-0576

Benjamin Hunter #01R0043
PO BOX 576
Hudson, NY 12534



July 19, 2003

Hon. Roger J. Miner
Senior Circuit Court Judge
United States Court of Appeals
Second Circuit
445 Broadway
Albany, NY 12207-2928

Re: Enclosures concerning Habeas Petition in Northern
District Court, [Hunter v. Goord, 03-CV-176 (LBK/GJD)]

Dear Honorable Judge Miner:

I am writing you and sending you a copy of the letters and paper I submitted in the action pending before the Northern District Court, to inform you of the problem I may be encountering with having a reply accepted by the Magistrate in this case. As pointed out in the letter, the statute, 28 U.S.C. § 2248, states that the answer shall be accepted as true if I don't file a traverse or reply.

Thank you for any attention you can give my dilemma.

Very truly yours,


Benjamin Hunter

Benjamin Hunter #01R0043
Hudson Correctional Facility
PO BOX 576
Hudson, NY 12534-0576

July 15, 2003

Hon. Lawrence E. Kahn
District Court Judge
Northern District Federal Court
US Courthouse, Room 424
445 Broadway
Albany, NY 12207-2974

Re: Reply to Answer (28 USCA § 2248) denial

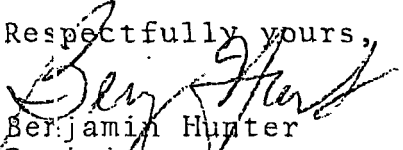
Dear Hon. Kahn:

I was transferred to a new prison during the pendency of my case, [Hunter v. Goord 03-CV-176 (LEK/GJD)] yet the respondents sent it to my former location. When I finally recieved it and wrote the Court, thinking that permission was required to send a reply, my request was denied by the Magistrate. (see enclosure).

Upon reading the rules concerning habeas corpus petition's, I find that under § 2248, the answer "shall be accepted as true . . . " if I don't file a reply or traverse. I am confused as to why my request was denied when the statute clearly authorizes a traverse or reply to an Answer.

Please accept, and file the within Reply so that it can be considered, if it is possible. Thank you very much for your help and assistance.

Respectfully yours,


Benjamin Hunter
Petitioner, pro se

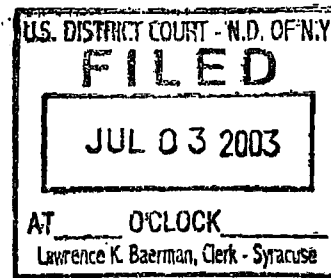
Enclosure

bh/

cc: Atty. General of NYS - by AGA Gerald Rock, Esq.
The Capitol
Albany, NY 12224

Hon. Roger J. Miner
Senior Circuit Court Judge
United States Court of Appeals
Second Circuit
414 James T. Foley Square US Courthouse
445 Broadway
Albany, NY 12207-2928

Benjamin Hunter #01R0043
Hudson Correctional Facility
PO BOX 576
Hudson, NY 12534-0576



June 20, 2003

Permission to file a reply
is DENIED. Plaintiff's
change of address was filed
on June 16, 2003
so Ordered as per direction
of Magistrate Judge DiBanco
Dated: July 3, 2003
Carolyn Dunphey Brown, Esq.
Pro Se Attorney

Hon. Lawrence K. Baerman
Clerk of the Court
United States District Court
Northern District of New York
100 S. Clinton Street
Syracuse, NY 13261

Attn: Magistrate Hon. Gustave J. DiBainco

Re: Hunter v. Hollins, et al., 03-CV-176 (LEK)(GJD) - Reply & Rules

Dear Magistrate DiBanco:

I recently (6/17/03) recieved a copy of the respondent's answer in the above action. I am requesting a copy of this Court's rules so that I can find out how much time is available to me to file a reply, or unless permission is required. The Court rules on file in the law library is from 1994, and I am uncertain whether they still are effective.

Also, I work on an outside gang and my time is sparse in the law library, and therefore, I need to know these procedures because the law library is closed on the weekends.

Last but not least, I am again, notifying the Court and the Attorney General's Office of my changed address, since all mail is taking a few extra days to reach me since it is not properly addressed. It should be forwarded to:

Benjamin Hunter #01R0043
c/o HUDSON CORRECTIONAL FACILITY
PO BOX 576
Hudson, NY 12534

Thank you for your cooperation. Please send me the rules of this Court so that I am aware of the above procedures.

COPIES SENT

By

Date

Hon. Lawrence E. Kahn
July 15, 2003
Page 2

(cont'd)

cc: Chief Judge, Northern District Court
Hon. Fredrick J. Scullin, Jr.
100 S. Clinton Street
PO BOX 7367
Syracuse, NY 13261-7367
files/2

HASER Pre Extracted Civil Docket as of July 24, 2003 10:31 pm

U.S. District Court

Northern District of New York (Prisoner)
 CIVIL DOCKET FOR CASE #: 9:03cv00176-

Hunter v. Goord, et al

Filed: 02/10/03

Assigned to: Judge Lawrence E. Kahn

Referred to: Magistrate Judge Gustave J. DiBianco

Demand: \$0,000

Nature of Suit: 530

Lead Docket: None

Jurisdiction: Federal Question

Dkt# in other court: None




Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

* Parties *	* Attorneys *
BENJAMIN HUNTER petitioner	Benjamin Hunter 01-R-0043 [COR LD NTC] [PRO SE] Hudson Correctional Facility P.O. Box 576 Hudson, NY 12534-0576 518-828-4311
v.	
M. HOLLINS, Superintendent respondent	Gerald J. Rock FTS 402-2223 Fax 518-473-1572 [COR LD NTC] Office of Attorney General State of New York The Capitol Litigation Bureau Albany, NY 12224-0341 518-474-8370 (Main)

Docket Proceedings

Click on Image icon to view the document.

Date	Doc #	Image	Docket Entry
02/10/03	1		PETITION for writ of habeas corpus by Benjamin Hunter; (tac) [Entry date 02/18/03]
02/10/03	2		In Forma Pauperis Application filed by Benjamin Hunter (tac) [Entry date 02/18/03]
02/26/03	3		Order Directing Compliance as to Benjamin Hunter; petitioner to file a

			completed ifp application or pay the \$5.00 filing fee w/in 30 days of the order or this action to be dismissed w/o further order of the court; if Hunter pays the filing fee, the Clerk is to serve copies of this order and petition upon respondents and Attorney General; if petitioner submits IFP application, the Clerk to return the file to the Court for review. Date Served: 2/26/03 Date Entered: 2/26/03 Notice of Compliance deadline 3/28/03, Clerk's Action Deadline 4/27/03 (Signed by Judge Lawrence E. Kahn) (tac)
03/10/03	4		In Forma Pauperis Application filed by Benjamin Hunter (tac)
04/02/03	5		Order Directing Compliance as to Benjamin Hunter; petitioner to pay the \$5.00 filing fee w/in 30 days or his petition will be deemed abandoned and DISMISSED w/o further order of the Court; petitioner's renewed request to proceed w/o pre-payment of fees is DENYED; if petitioner pays the filing fee, the Clerk to to serve the petition upon the respondents and AAG. Date Served: 4/2/03 Date Entered: 4/2/03 Notice of Compliance deadline 5/2/03, Clerk's Action Deadline 6/1/03 (Signed by Judge Lawrence E. Kahn) (tac)
04/16/03	--		Filing Fee Paid; FILING FEE \$ 5.00 RECEIPT # 68878 (jt)
04/30/03	6		Return Receipt Received as to Superintendent, Oneida Corr. Facility, Service Date: 4/18/03 re: [1-1] petition , Response due 6/18/03 (tac)
04/30/03	7		Return Receipt Received for Office of the Attorney General, Service Date: 4/21/03 re: [1-1] petition (tac)
06/12/03	8		RESPONSE by M. Hollins (Attorney Gerald J. Rock) to [1-1] petition (tac)
06/12/03	9		AFFIDAVIT of GERALD J. Rock, AAG Re: [8-1] petition response (tac)
06/12/03	10		MEMORANDUM by M. Hollins in support of [8-1] petition response (tac)
06/12/03	11		Appendix of unreported decisions by respondent (AAG Rock) in support of [8-1] response to the petition. (tac)
06/12/03	--		Received State Court Record (tac)
06/16/03	12		Change of Address received. Effective date: 6/13/03 from/for petitioner Benjamin Hunter New Address: Hudson Corr. Facility Old Address: Oneida Corr. Facility (tac)
07/03/03	13		REQUEST by Hunter to file a reply and ORDER denying his request. (signed by CDB per direction of Magistrate Judge Gustave J. DiBianco) (rjb)
07/24/03	14		REQUEST by Hunter for permission to file a traverse and ORDER GRANTING request. (signed by Magistrate Judge Gustave J. DiBianco) (tac)
07/24/03	14		Traverse Filed by Benjamin Hunter (tac)

[END OF DOCKET:
9:03cv176]