

Noam Biale

Partner

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Education

New York University School of Law,
2011, magna cum laude; Root-Tilden-
Kern Scholar; Order of the Coif;
Executive Editor, *NYU Review of Law
and Social Change*

University of California, Berkeley,
2004, magna cum laude



Admissions

New York

U.S. Supreme Court

U.S. Court of Appeals for the Second
Circuit

U.S. District Courts for the Eastern,
Southern and Northern Districts of
New York

District of Columbia District Court

Clerkships

Hon. Gerard E. Lynch, U.S. Court of
Appeals for the Second Circuit

Hon. Allyn R. Ross, U.S. District
Court for the Eastern District of New
York

Noam represents individuals and entities in high-stakes criminal matters and complex civil litigation. He is a passionate advocate who fights tirelessly to advance the interests of clients facing potentially life-altering legal challenges.

Noam is an experienced trial lawyer and appellate practitioner who has briefed and argued more than a dozen appeals before the U.S. Court of Appeals for the Second Circuit. He primarily handles criminal defense matters, representing individuals accused of the full range of federal crimes, from insider trading and securities fraud to narcotics and firearms offenses, cybercrime (including matters related to cryptocurrency), money laundering, the Anti-Kickback Statute, the Travel Act, and RICO, among others. Noam has substantial experience engaging and, where necessary, crossing swords with the Department of Justice and state prosecutors' offices. A member of the Criminal Justice Act (CJA) Panels for both the Southern and Eastern Districts of New York, he also regularly represents indigent defendants by court appointment.

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Noam's success as a legal strategist stems from his deep intellectual engagement with complex legal issues as well as the strong client relationships he builds. He has honed a keen sense of judicial reasoning from his federal clerkships and of prosecutorial discretion from his experience as a criminal practitioner. These insights help his clients navigate the complex, often opaque process of a federal case and make the best judgment at each decision point. Noam treats his clients as true collaborators and forms connections that both empower them and allow Noam, through his advocacy, to demand that the judicial system sees them as full human beings.

Noam also maintains a robust pro bono practice focusing on First Amendment, prisoners' rights, and immigration matters. In his role as Sher Tremonte's Pro Bono Coordinator, he oversees the firm's commitment to litigating on behalf of clients in the public interest. His high-profile pro bono assignments have included representing: a key witness in the *E. Jean Carroll v. Trump* defamation and sexual assault trial; the House Committee investigating the January 6 Attack in challenges to its subpoena power (including resulting in the first judicial finding that President Trump's efforts to overturn the results of the 2020 election satisfied the crime-fraud exception); and the plaintiff in *Burns v. Maruscello* who brought a groundbreaking claim that established for the first time a First Amendment right of prisoners to refuse to become informants for corrections officers.

Following law school, Noam was a fellow at the Equal Justice Initiative (EJI) in Montgomery, Alabama, where he represented individuals on death row and successfully overturned several death sentences on appeal. He served on the legal team that won the landmark U.S. Supreme Court decision *Miller v. Alabama*, which abolished mandatory life-without-parole sentences for juveniles, and co-authored EJI's report, *Lynching in America: Confronting the Legacy of Racial Terror*. Noam brings his engagement with the history of racial hierarchy in America to bear on his understanding of the modern criminal legal system, a perspective that informs and features prominently in his work today.

Noam's legal scholarship has appeared in widely read law journals and he is a regular contributor to Scotusblog. In addition to his practice and writing, he teaches a seminar at NYU School of Law on emerging issues in federal criminal law.

Experience

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Convincing prosecutors they got it wrong: Noam has a track record of pushing back against federal charges and convincing prosecutors they've made a mistake. Notably, he represented a real estate executive in the Eastern District of New York who was charged with money laundering conspiracy based on her brokering real estate transactions for an individual engaged in credit card fraud. Noam presented evidence that his client had no knowledge of the source of her customer's funds, and the government agreed to drop the charges. Similarly, Noam persuaded the U.S. Attorney's Office to grant a rare, deferred prosecution to a client who was the lead defendant in an indicted securities fraud case alleging a pump-and-dump scheme. Convincing the government that his client's company had a real product and that no pump-and-dump was ever contemplated, Noam was able to secure an agreement to drop the charges after a probationary period. Finally, with Justine Harris, Noam represented a senior U.N. employee charged with visa fraud and forced labor violations in the Southern District of New York. In a series of meetings with the prosecutors, Justine and Noam presented evidence showing the government's main witness was lying, and the government dismissed the case.

Changing the narrative at trial: In a narcotics trial in the Eastern District of New York, Noam argued that drugs purportedly found in his client's possession were planted by the police. The jury deadlocked on whether Noam's client possessed cocaine base and acquitted him of possessing marijuana. Noam then persuaded the district judge that the police officers testified falsely about finding a gun on Noam's client, leading the court to conclude that the government had not met their burden to prove gun possession at sentencing. In the same case, Noam won a reversal of the district court's denial of his motion to reopen the suppression hearing. On remand, the court suppressed all the evidence, and the government dismissed the indictment against Noam's client. In a Southern District of New York case, Noam persuaded the jury that two witnesses the government presented as robbery victims were not credible, and the jury acquitted on a charge that depended on their testimony, which carried a mandatory minimum sentence. In the same case, Noam persuaded the judge to grant a new trial on another charge based on changes in the law that occurred after the jury's verdict. The government dropped that count rather than retry Noam's client on it.

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Mitigating conduct and achieving results at sentencing: Noam frequently persuades prosecutors to reduce – and in some cases drop – charges based on circumstances that mitigate his client’s culpability. In the Eastern District of New York, Noam persuaded prosecutors – on the eve of trial – that the combination of his client’s health issues, the persuasive innocent explanation for the charged conduct, and the track record of perjury by the government’s cooperator all in favor of a deferred prosecution, which will ultimately lead to a full dismissal of the charges. In a narcotics case in the Southern District of New York, Noam was able to get his young client into a diversion program, where the client was successful in obtaining his GED and full-time employment. Based on his success, Noam convinced the government to dismiss the case. Noam has also convinced the government to reduce his clients’ charges to misdemeanors in a variety of cases, including a computer programmer charged with theft of trade secrets, a client charged in a wide-ranging wire fraud scheme, and a client charged with gun possession in which Noam undermined the arresting officers’ allegations in a suppression hearing. In all these cases, Noam’s clients initially faced a felony conviction carrying significant jail time but were ultimately sentenced to short terms of probation. Finally, Noam’s advocacy at sentencing in felony cases regularly results in below-Guidelines and non-custodial sentences in both white collar and CJA matters, including obtaining probationary sentences in cases involving theft of government funds, healthcare fraud, wire fraud, interstate transport of stolen vehicles, and money laundering. Most recently, he obtained a sentence of time served for a client in a drug case who faced a ten-year mandatory minimum but ultimately served only six days in custody.

Winning on appeal: Noam often argues before the U.S. Court of Appeals for the Second Circuit and has achieved numerous successes there. Most recently, he won a reversal of his client’s sentence in a high-profile white-collar case in which he persuasively argued that the district judge should be recused from the case. His other victories at the Circuit have included winning a landmark ruling establishing the First Amendment right of prisoners not to provide information to prison guards; winning affirmance of summary judgment on behalf of a New York state public benefit corporation sued for retaliation and denial of public access to board meetings; winning the reversal of a district court ruling dismissing the client’s civil rights suit for failure to prosecute; winning reversal of a district court’s refusal to reopen a suppression hearing in a criminal case; and winning an ultra-rare petition for a writ of mandamus, in which the circuit court intervened and ordered a district judge to withdraw his ruling requiring Noam’s client to disclose sensitive financial data.

Recognitions

Super Lawyer in Criminal Defense, Thomson Reuters’ *Super Lawyers* (2023)

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Rising Star in Criminal Defense, Thomson Reuters' *Super Lawyers* (2017-2022)

Rising Star, New York Law Journal (2022)

Affiliations

Criminal Justice Act Panel for the Southern and Eastern Districts of New York

Second Circuit Pro Bono Panel

New York Council of Defense Lawyers

National Association of Criminal Defense Lawyers

Federal Bar Council

News and Publications

"Court Blocks Pathway for Federal Prisoners to Raise Legal Innocence Claims"
SCOTUSblog (2023)

"Conservative Majority Hollows Out Precedent on Ineffective-Counsel Claims in
Federal Court" *SCOTUSblog* (2022)

With Elizabeth Hinton and Elizabeth Ross, "The Discriminatory Purpose of the 1994
Crime Bill," *Harvard Law & Policy Review* (2021)

"Court Will Consider Whether Prisoners Can Develop Certain Evidence In Federal
Court To Challenge Their Convictions" *SCOTUSblog* (2021)

"In "odd" Clash of Statutory Text and Habeas Precedent, Three Conservative
Justices Seem Undecided" *SCOTUSblog* (2021)

"Beyond a Reasonable Disagreement: Judging Habeas Corpus," *University of
Cincinnati Law Review* (2015)