

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

U.S. Court of Appeals for the Second
Circuit

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 numerous 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, 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 U.S. District Court for the Eastern District of New York's Criminal Justice Act (CJA) Panel, 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 see 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. He is a member of the firm's team representing the House Committee investigating the January 6 Attack and is also a member of the Second Circuit's pro bono panel, representing clients who cannot afford lawyers on appeal. In 2018, he argued and won *Burns v. Martuscello*, a groundbreaking case establishing, for the first time, the First Amendment right of prisoners to refuse to become informants for corrections officers. His work challenging the Trump Administration's travel ban was profiled in *The Washington Post* and *AM New York*.

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.

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, combined with other mitigating factors, 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. Finally, 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.

Winning on appeal: Noam often argues before the U.S. Court of Appeals for the Second Circuit and has achieved numerous successes there, including 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

Selected to the Rising Stars in Criminal Defense list, Thomson Reuters’ *Super Lawyers* (2017-present)

Selected as New York Law Journal 2022 Rising Star

Affiliations

Criminal Justice Act Panel for the Eastern District of New York

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Member, Public Service Committee, Federal Bar Council

Second Circuit Pro Bono Panel

Member, National Association of Criminal Defense Lawyers

News and Publications

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

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

"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)

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