



Second Circuit Decision in *Floyd v. City of New York* **Frequently Asked Questions (FAQ)**

Updated 11/1/13

On October 31, 2013 a three-judge panel of the Second Circuit Court of Appeals granted the City's motion to stay the District Court's remedial decision pending appeal, and ordered a new District Court judge to oversee the case. To read the [Second Circuit's decision click here](#).

To read our Frequently Asked Questions regarding the *Floyd* case and the August 12, 2013 decisions of the District Court, [click here](#).

What did the Second Circuit's October 31, 2013 decision do?

The Second Circuit's decision ordered several things:

1. The Second Circuit put the remedy processes ordered by the District Court on August 12, 2013 and overseen by the Monitor on hold. Unless the City withdraws the appeal, these remedy processes will not proceed until the Second Circuit makes a final decision on the City's appeal sometime after March 2014. (*See below for more information*)
2. The Second Circuit removed the District Court judge who had heard the trial from *Floyd*. This means that any further proceedings in *Floyd* at the District Court level will not be in front of Judge Shira Scheindlin, and will instead be in front of Judge Analisa Torres.
3. The Second Circuit changed the deadline for the City to file appellate briefs addressing the correctness of the District Court's rulings about the City's liability for unconstitutional stop-and-frisk practices. The City's briefs are due on January 24, 2014, Plaintiffs' briefs are due on February 28, 2014, and there will be oral argument at some point after March 14, 2014.
4. The Second Circuit decided the same three-judge panel that decided to stay the *Floyd* decisions will also hear the whether the decisions should be reversed.

Who is the Second Circuit and how can they reassess the case?

The Second Circuit is a federal appeals court with judges who have the authority to change District Court Judge Scheindlin's decision on the NYPD's stop-and-frisk practices. A panel of three judges from the Second Circuit heard arguments on the City's motion for a stay on October 29, 2013 and issued their decision on October 31, 2013.

Did the Second Circuit overturn the District Court's decision?

No. District Court Judge Shira Scheindlin's August 12, 2013 decisions in *Floyd* are currently still the law and will continue to be unless the Second Circuit reverses them later. The District Court's ruling finding that the City of New York has engaged in a widespread practice of unconstitutional and racially discriminatory stops-and-frisks is still valid. The only change is that the processes ordered in the remedy decision have been put on hold.

The Second Circuit is currently scheduled to hear arguments on the validity of the District Court's ruling in March 2014.

Why did the Second Circuit order a new judge in the case?

The Second Circuit cited several newspaper interviews Judge Scheindlin gave earlier this year and part of a transcript from the a hearing in the case preceding *Floyd, Daniels v. City of New York*, which Judge Scheindlin also presided over, and concluded that Judge Scheindlin "ran afoul of the Code of Conduct for United States Judges." This was shocking to Plaintiffs since the issue of judicial bias as well as the examples cited by the Second Circuit in their decision were not part of the City's motion to stay the *Floyd* remedy decision, and those examples do not come anywhere close to establishing judicial misconduct.

What can this new judge do?

Judge Torres will oversee the remedial processes when, and if, the Second Circuit affirms the August 12, 2013 decisions on appeal. She will also have jurisdiction to decide the pending motions of the New York City police unions to intervene in both the *Floyd* appeal and remedy processes.

Can the next mayor of New York City drop the appeal?

Yes. We do not know what the next mayor of New York City will do in regards to the *Floyd* case. However, he will have the ability to drop the appeal. We urge people to sign onto our petition to the incoming mayor to drop the appeal and start the reforms at: <http://bit.ly/16T0NUy>

What is the "stay motion" that the Second Circuit granted?

The purpose of the City's "stay motion" was to halt the remedy processes ordered by the District Court from taking effect until the Second Circuit has a chance to decide whether the August 12, 2013 decisions should be reversed. To show a stay should be granted, the City had the burden to prove an "imminent" and "irreparable" harm. We argued that the motion was premature because the only action the City has had to take so far is meeting with the Court appointed Monitor and Plaintiffs lawyers. As part of our opposition to the City's motion, we included [over 30 powerful declarations](#) from community groups, City Council members, law enforcement associations, unions, religious groups and others, about the importance of the remedy process ordered by the District Court and why a delay would be against the public interest. You can read excerpts from all the declarations here:

<http://www.ccrjustice.org/files/Floyd-Stay%20Declaration%20Excerpts.pdf>

How can I find out more about the Floyd case?

You can view filings and updates in the case on our website at: <http://ccrjustice.org/floyd>. You can also sign up here to receive emails from CCR: <http://bit.ly/1gqS3yx>.

You can view a detailed summary of the remedy processes ordered by the District Court last August here: <http://www.ccrjustice.org/files/Remedy%20Decision%20Summary%20-%20Final.pdf>

And you can follow CCR on [Facebook](#) or [Twitter](#) at [@theCCR](#).