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# Hughes Hubbard & Reed

## Appeals Court Upholds Victory for New York City and Two Former Police Officers

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Representing New York City and two former police officers in the New York Appellate Division's Second Department, Hughes Hubbard obtained affirmance of the Supreme Court's summary judgment decision dismissing the plaintiff's civil rights action seeking \$10 million in alleged damages.

Plaintiff Mitchel Braxton claimed that the defendants unlawfully arrested and maliciously prosecuted him. In May 2009, Braxton visited his cousin, known as "Nuke," at Brookdale Hospital in Brooklyn. At that time, the NYC Police Department intercepted telephone calls indicating that Nuke had a gun in his hospital room. The police dispatched the officer defendants to investigate. When the officers arrived, they recovered a loaded gun from an individual who had been visiting Nuke at the same time as Braxton. The officers arrested that individual, Braxton, and two other individuals, all of whom had been with Nuke in his hospital room. Braxton claimed that he did not know about the gun and never possessed it.

Following the close of discovery, HHR achieved summary judgment in favor of the defendants. Braxton appealed that decision. In September 2019, Ken Katz argued the appeal in the Second Department. The panel actively challenged the lower court's decision, but Katz directed the panel to the undisputed facts that established the basis for Braxton's arrest and prosecution.

On Dec. 24, 2019, the Second Department unanimously affirmed the Supreme Court's decision. Despite Braxton's claim that he did not possess the gun, the Second Department held, based on the undisputed facts that HHR presented, that the defendants had probable cause for Braxton's arrest and prosecution.

In addition to Katz, Dan Weiner, Carl Mills, Clinton Agresti, and firm alums Justin Ben-Asher and Angela Lelo worked on the appeal.

## Related People



**Kenneth M. Katz**



**Daniel H. Weiner**



**Carl W. Mills**