

SA205
Complaint v. App. Div.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER (SA205-SA213)

-----x
GEORGE SASSOWER,

Plaintiff,

-against-

APPELLATE DIVISION OF THE SUPREME COURT,
SECOND JUDICIAL DEPARTMENT,

Defendant.
-----x

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APR 7 1980

DEPARTMENT OF LAW
CLAIMS & LITIGATION
POUGHKEEPSIE DISTRICT

Plaintiff complaining of the defendant respectfully
sets forth and alleges:

AS AND FOR A FIRST CAUSE OF ACTION

1. At all the times hereinafter mentioned, plaintiff
was and still is a resident and citizen of the United States.

2. At all of the times hereinafter mentioned the
defendant was and still is an intermediate appellate tribunal
in the judicial system of the State of New York.

D 3. On the 22nd day of June, 1977, plaintiff was
tried, adjudicated, and sentenced to be incarcerated for
criminal contempt, all *in absentia* by ERNEST L. SIGNORELLI
(hereinafter called "SIGNORELLI"), Surrogate of Suffolk
County and in violation of established and unequivocal
fundamental constitutional principles.

D 4. As a result thereof, plaintiff was unlawfully
arrested and incarcerated.

D 5. The Contempt Order and Warrant of Commitment under
which plaintiff was arrested and incarcerated contained

false and contrived recitations therein by "SIGNORELLI", and was in other ways defective.

6. Plaintiff's writ of habeas corpus challenging the legality of the aforementioned incarceration was thereafter sustained by Special Term of the State Supreme Court.

7. The said "SIGNORELLI", by his attorney, appealed to the defendant from the aforementioned eminently correct Order of the State Supreme Court.

8. While such appeal was pending, the said "SIGNORELLI", recused himself from presiding over any further litigation involving the plaintiff.

9. After "SIGNORELLI" recused himself, and while his appeal was pending before the defendant, "SIGNORELLI", improperly circumvented his attorney, wrote to defendant, stating, *inter alia*, that:

" On ... (June 23, 1977), he (plaintiff) procured a writ of habeas corpus from a Justice of the Appellate Division, Second Department, who scheduled a hearing on the following day, June 24th, 1977, in Suffolk County Supreme Court. The said Appellate Division Justice denied his application for bail. Later, that same day, he applied for and received another writ of habeas corpus from a Suffolk Supreme Court Justice which contained a provision for bail. In both habeas corpus applications, he alleged that no previous application had been made for the relief requested." (emphasis supplied).

10. The aforementioned factual assertion by "SIGNORELLI" was made albeit his personal lack of knowledge, the absence

of all jurisdiction by "SIGNORELLI" to hear such issue, and the absence of any hearing by said "SIGNORELLI" on such issue.

11. Both "SIGNORELLI" and defendant knew that any complaint that "SIGNORELLI" or any other person had against plaintiff should properly have been directed to the Joint Bar Association Grievance Committee of the Ninth Judicial District and that such complaints are by statute "private and confidential".

12. Such communication by "SIGNORELLI" was made to defendant for the purpose of inflaming and prejudicing defendant against plaintiff in "SIGNORELLI's" pending appeal and for other improper purposes.

13. The *only* relevant issues to the determination of "SIGNORELLI's" appeal before the defendant were whether jurisdiction existed for the incarceration of plaintiff and the appropriateness of habeas corpus relief.

14. Despite such limited issues, in affirming the Order which sustained plaintiff's writ of habeas corpus, the defendant adopted the false, clearly irrelevant factual extra-judicial statements of "SIGNORELLI", stating:

" He (plaintiff) then petitioned this court for a writ of habeas corpus and asked for bail pending the hearing. A hearing on the writ was directed for the following day (June 24, 1977), but bail was denied.

Within a few hours of that determination, petitioner (plaintiff) made application

for a writ of habeas corpus to a Justice of the Supreme Court in Suffolk County, without mentioning the prior application to this court. This was in violation of the statute that the ... date, and the court or judge to whom made, of every previous application for the writ, (and) the disposition of each such application'..." (emphasis added/deleted).

15. The aforementioned irrelevant and factually erroneous remarks of the defendant were wholly *dehors* the Briefs or Appendices of the parties submitted to defendant.

16. Since the matter was submitted to defendant without oral argument, the aforementioned false and irrelevant remarks could not have been orally conveyed in Court by the attorneys for the parties.

17. Because plaintiff was not legally "aggrieved" by virtue of the successful outcome on the appeal of "SIGNORELLI", he was not entitled to seek redress from any higher state court in that proceeding.

18. There was other material by defendant which likewise was irrelevant, gratuitous, and denigrating to plaintiff.

19. Thereafter, plaintiff moved defendant

" (1) to recall (defendant's) decision ... and to expunge therefrom all verbiage after the third paragraph and (2) to direct the respondent to produce before (defendant) all records that it may have which would indicate the time a Legal Aid attorney visited (plaintiff) on June 23, 1977, the time his office was presented with the writ of habeas corpus, and the time that (plaintiff) was released."

20. Notwithstanding the lack of opposition, defendant disposed of plaintiff's motion with a "denied with \$20 costs."

21. Plaintiff contended on his aforesaid motion, and still contends that he never executed nor presented two writs, that the writ presented to Special Term in Suffolk County preceded that issued by defendant or was issued concurrently therewith.

The documentary records reveal that the writ presented to defendant was executed and tendered by a third person, not plaintiff, who became aware of plaintiff's predicament.

Defendant issued its writ no earlier than 4:33 p.m. Prior thereto, plaintiff's writ was given to a Legal Aid attorney so that it could be presented to Special Term of the Supreme Court, Suffolk County.

Plainly since plaintiff was incarcerated in Suffolk County he could not have presented any application to the defendant in Kings County, nor was he aware that it was done.

Obviously, had the third person who presented the writ of habeas corpus to defendant, known that plaintiff had already been able to forward his writ to Special Term he would not have fruitlessly presented his own prepared writ to defendant.

Unquestionably, keeping plaintiff unlawfully

incommunicado for substantial periods of time on June 23, 1977, caused or contributed the situation complained of by the defendant.

22. There were other irrelevant, gratuitous, improper, egregious, and denigrating remarks made in the aforesaid writing of the defendant, on which matters plaintiff has never been afforded a hearing.

23. Such defamatory and denigrating material appeared in the advance sheets published by Lawyers Co-operative Publishing Co. and West Publishing Co. and thereafter in bound permanent volumes and made the subject of repetition.

24. Plaintiff is a practicing attorney, with his earnings and employment opportunities directly dependent upon his reputation. The aforementioned writing by defendant, adversely reflects upon his integrity and good faith, causing tangible consequences to him.

D 25. Furthermore, the publication of plaintiff's name by defendant in connection with a censurable act or event, signifies to the legal profession a change of status, since by statute and custom the breach of confidentiality by defendant signifies that an attorney has been disbarred or suspended from the practice of law.

D 26. That under extant state law, judicial immunity does not protect material which, as here, is not possibly pertinent to the issues.

27. Moreover, the statutory law of this State is that

any complaint to defendant of misconduct on the part of attorneys and any investigation or papers relating thereto is confidential prior to adjudication adverse to said attorney.

28. The aforementioned writing of the defendant which contains material completely devoid of relevancy, is derogatory to plaintiff, affects his liberty and property interests, chills the constitutional right to access to the courts.

29. As to such irrelevant matters plaintiff has never had a trial or hearing so that he could dispute, rebut, and negate defendant's infamous charge.

30. Defendant's conduct is inexplicable except as an attempt to divert attention from the egregious misconduct of members of the judiciary, who usurped basic constitutional, legal, and moral principles, and/or for other reasons legally untenable.

AS AND FOR A SECOND CAUSE OF ACTION

31. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs numbered "1" through "30" inclusive of this complaint, and further sets forth and alleges.

32. By reason of the aforementioned libel plaintiff, a private person has been damaged in his profession, has had his reputation tarnished, exposed him the hatred, contempt, and disgrace, causing him a loss of earnings and other damages.

AS AND FOR A THIRD CAUSE OF ACTION

33. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs numbered "1" through "30" inclusive of this complaint, and further sets forth and alleges.

34. As a result of the foregoing plaintiff's right of privacy has been invaded causing him special and general damages.

WHEREFORE, plaintiff demands judgment directing the holding of a hearing with respect to the material contained in the First Cause of Action, one hundred thousand dollars (\$100,000) general and special damages, together with interest, costs, and disbursements.

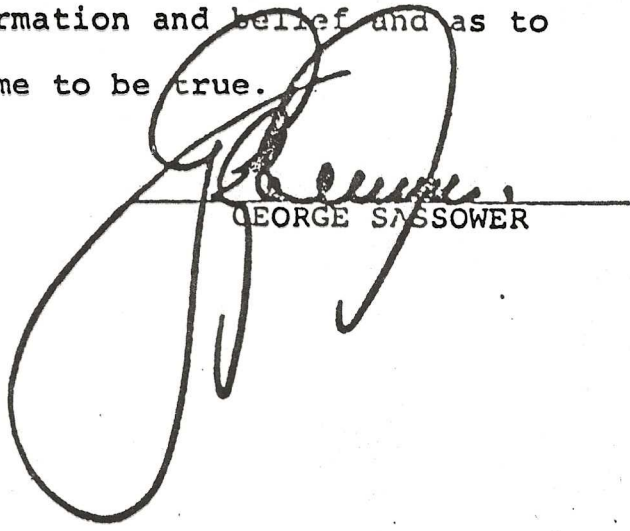
GEORGE SASSOWER, Esq.
Attorney for plaintiff-pro se
75 Wykagyl Station,
New Rochelle, New York, 10804
(914) 636-4050

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

GEORGE SASSOWER, first being duly sworn, deposes,
and says:


That he is the plaintiff in the within action.

That the same is true to his own knowledge except
as to matters stated on information and belief and as to
those matters he believes same to be true.



GEORGE SASSOWER

Sworn to before me this
31st day of March, 1980



DORIS L. SASSOWER
Notary Public, State of New York
No. 60-345772
Qualified in Westchester County
Term Expires March 30, 1981