

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION ; SECOND DEPARTMENT

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In the Matter of the application of

GEORGE SASSOWER,

Petitioner,

-against-

SUPREME COURT OF THE STATE OF NEW YORK,
APPELLATE DIVISION, SECOND JUDICIAL
DEPARTMENT; SUPREME COURT OF THE STATE OF
NEW YORK, COUNTY OF SUFFOLK; and JOHN P.
FINNERTY,

Respondents,

ERNEST L. SIGNORELLI, HARRY SEIDELL,
ANTHONY MASTROIANNI, ALAN CROCE, and
ANTHONY GRYMALSKI,

Defendants.

Pursuant to Article 78 CPLR,
including a Writ of Prohibition.

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Upon the annexed petition of GEORGE SASSOWER,
Esq., duly sworn to on the 30th day of January, 1984,
and all the pleadings and proceedings had heretofore
herein let respondents show cause before this Court at a
Stated Term of this Court held at the Appellate Division
of the Supreme Court of the State of New York, Second
Judicial Department, at the Courthouse thereof, 45

DEPT. OF LAW
STATE OF N.Y.

84 JAN 31 PM 12:46

RECEIVED

Monroe Place, Brooklyn, New York, 11201, on the ^{15th} day of February, 1984, at 9:30 o'clock in the forenoon of that day or as soon thereafter as Counsel may be heard why an Order should not be entered granting petitioner a Writ of Prohibition, directing the dismissal of the criminal contempt proceedings against him, and directing that the venue of this matter and related matters be in New York County, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Opposing papers, if any, are to be served at least five (5) days before the return date of this motion with five (5) days additional if service is by mail.

SUFFICIENT cause having been shown, let a copy of this Order together with the papers upon which it is based be served on the offices of the attorneys for the respondents personally and on the Supreme Court of the State of New York, County of Suffolk by certified mail or before the 31st day of January, 1984, be deemed good and sufficient service.

Dated: Brooklyn, New York
January 31, 1984

ENTER

12/

Isaac R. W.

Associate Justice
Appellate Division, Second
Judicial Department.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x

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Defendants.

Pursuant to Article 78 CPLR,
including a Writ of Prohibition.

-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed

petition of GEORGE SASSOWER, Esq., dated and sworn to on the 30th day of January, 1984, and upon all proceedings had herein, the undersigned will move this Court at a Stated Term of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, held at the Courthouse thereof, 25th Street & Madison Avenue, in the Borough of Manhattan, City and State of New York, on the day of February, 1984, at 9:30 o'clock in the forenoon of that day or as soon thereafter as defendant can be heard for an Order granting petitioner a Writ of Prohibition, directing the dismissal of criminal contempt proceedings against him, and directing that the venue of this matter and related matters be in New York County, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any are to be served at least five (5) days before the return date of this motion, with an additional five (5) days if service is by mail.

Dated: January 30, 1984

Yours, etc.

GEORGE SASSOWER, Esq.
Attorney for plaintiff
2125 Mill Avenue,
Brooklyn, New York, 11234
212-444-3403

To: Martin B. Ashare, Esq.
Robert Abrams, Esq.
Patterson, Belknap, Webb & Tyler, Esqs.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

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SUPREME COURT OF THE STATE OF NEW YORK,
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Defendants.

Pursuant to Article 78 CPLR,
including a Writ of Prohibition.

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To: THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE
STATE OF NEW YORK, FIRST JUDICIAL DEPARTMENT:

The petition of GEORGE SASSOWER, Esq.,
complaining of the respondents, sets forth and alleges:

AS AND FOR A FIRST CAUSE OF COMPLAINT

1. On June 22, 1977, petitioner without (a) any accusatory instrument, (b) any notification of a trial, (c) tried, (d) convicted, and (e) sentenced petitioner to be incarcerated for a period of thirty (30) days by the defendant, Ernest L. Signorelli, who terms the aforementioned constitutional requirements as "technicalities", but who had actual knowledge that they were jurisdictional predicates for any conviction and sentencing.

2. The alleged basis for said conviction [adjudicated and conceded to be false and contrived, at a full and fair judicial hearing], was the failure of petitioner to turn over various books and records.

3. The purported basis for the direction to turn over various books and records was petitioner's alleged removal about one year prior thereto, as an executor of an estate [which also at a full and fair hearing was adjudicated to be false and contrived].

4. The morning following the aforementioned "mock" trial, the Deputy Sheriffs of Suffolk County, transgressed their bailiwick, arrested him at his home in Westchester County and abducted him to the Surrogate's Courthouse, instead of the County Jail [as provided in the Warrant of Commitment] in Suffolk County, where he was kept incommunicado and not permitted to present his hastily prepared Writ of Habeas Corpus.

5. Finally when petitioner was presented to defendant, Ernest L. Signorelli, he clearly pleaded Amendment V of the Constitution of the United States, to defendant's Signorelli's interrogation, which defendant Signorelli terms a "refusal to comply" or "refusal to answer".

6. When it appeared that petitioner was not going to submit to Signorelli's patently unconstitutional, barbaric procedures, he and his appointee(s) affirmatively solicited a "stringer" for the New York News, gave the "stringer" a private interview, contriving an assortment of false charges and allegations against petitioner for publication, and Signorelli, employing the "clout" of his office, caused same to be published by the New York News.

7. Many of these false and defamatory assertions made by defendant Signorelli were published in the New York News, the morning of the day the habeas corpus hearings were to commence, and were also published by Signorelli to the "stringer" for republication in the New York News with the intent of depriving petitioner of a fair hearing, which it did.

8. Extended hearings on the validity of the aforementioned, plainly unconstitutional conviction in Supreme Court, Suffolk County were finally terminated by a verbal "gun to the head" edict of the federal court, and petitioner's writ was sustained.

9. Thereafter, as a result of continuous harassment by defendant, Signorelli, and his entourage, against petitioner, his family, friends, and business, petitioner was compelled to return to federal court for relief.

10. Interim injunctive relief was not pressed when defendant, Signorelli, through his attorney represented to the federal court that he, Signorelli, was recusing himself.

11. About three (3) weeks later, with nothing pending before the court involving petitioner, except possibly another contempt proceeding replacing the one heretofore dismissed, the defendant, Signorelli, sua sponte, contrived and caused to be extensively published and overpublished a disciplinary complaint against petitioner and his wife, also an attorney [hereinafter described as the "diatribe"].

12. This overpublished "diatribe" did not decide anything; was not intended to decide anything; and clearly violated the letter, spirit, and intent of Judiciary Law §90[10].

13. The sua sponte "diatribe" is a conglomeration of proven false, contrived, deceptively statement of facts, from beginning to end, with hardly a statement contained therein which can be called truthful.

Every charge contained therein was very extensively investigated, in what was to become the most expensive disciplinary undertakings of the Grievance Committee of that judicial district.

14. The defendant, Signorelli, has repeatedly refused to verify such "diatribe", nor will any one of his sycophants, including his attorneys even verify same on information and belief.

15. This overpublished "diatribe" was issued by Signorelli in such manner that it was published in the New York Law Journal; personally mailed to Hon. Milton Mollen, Presiding Justice of the Appellate Division; and to Hon. Harry Seidell, who was to succeed defendant Signorelli in the alleged criminal contempt proceedings against petitioner.

16. That defendant Signorelli overpublished his "diatribe" with an intent to defame, disparage, and libel petitioner and his wife, and deprive petitioner, inter alia, of a fair hearing before Hon. Harry Seidell, which it did.

17. The opinion of the respondent, Appellate Division, Second Department, published at 65 A.D.2d 756, 409 N.Y.S.2d 762 was taken wholesale from the sua sponte "diatribe", which was not part of the record on appeal, not supported by the record, and in fact is contrary to the record in many respects.

This appeal, which sustained petitioner's Writ of Habeas Corpus, was insisted upon by defendant, Signorelli, although both knew that it was patently meritless.

On information and belief, the defendant Signorelli knew, in taking such meritless appeal, he would be able to catapult his false and inadmissible "diatribe" into the opinion of the Appellate Division, Second Department.

18. The aforementioned "diatribe" was published by defendant Signorelli with full knowledge that it was prohibited by statute and its practice expressly condemned, in the strongest of terms, in Matter of Haas (33 A.D.2d 1, 304 N.Y.S.2d [4th Dept.]); see also Matter of Wilhelm, 88 A.D.2d 6, 14-15, 452 N.Y.S.2d 963 [4th Dept., per Simons, J.]).

19. The first time the renewed criminal contempt proceeding was scheduled to be tried, petitioner was actually engaged in the middle of a trial in Supreme Court, Bronx County, clearly confirmed by the records of that Court.

20. Nevertheless, despite the fact that Hon. Harry Seidell knew of petitioner's engagement when he signed his contempt conviction and issued his commitment order, he did so knowing that such trial, conviction and sentence, in absentia was plainly invalid.

21. Although, when informed of same, petitioner agreed to surrender himself at the convenience of the Suffolk County Sheriff at Special Term, Supreme Court, New York, Bronx, or Westchester Counties, defendants and respondent, Finnerty, refused such offer.

22. Although the federal court informed the Suffolk County Attorney that such conviction was clearly invalid, they, on information and belief, at the urging of defendant Signorelli, refused to withdraw same.

23. During the ensuing months, the Sheriff's Office of Suffolk County made numerous forays into New York and Westchester Counties in an attempt to "capture" petitioner when assistance was unavailable, including the planning of surrounding the federal courthouse at a time that petitioner planned to be there, and thus "capturing" him outside.

24. Eventually they succeeded in "capturing" petitioner when he was alone in Westchester County, abducted him to Suffolk County jail, physically assaulting him during such journey.

25. When petitioner's wife and daughter secured a Writ of Habeas Corpus directing his immediate release, she proceeded to the Suffolk County Jail where petitioner was being held.

26. After refusing to permit petitioner's wife and daughter to visit petitioner, and after petitioner's wife was refused the right to visit her client [the petitioner], she presented the Writ of Habeas Corpus, and both she and our daughter were incarcerated.

27. The excuse tendered by the Assistant Suffolk County Attorney to the Appellate Division, Second Department, for refusing to release petitioner, pursuant to the aforesaid Writ of Habeas Corpus and for incarcerating petitioner's wife and daughter was that the Supreme Court jurist who executed such Writ was "illiterate" (Exhibit "A").

28. Petitioner's appeal from the Order of defendant Signorelli's colleague who overruled such Writ, holding that petitioner's judicial engagement elsewhere in the midst of a trial in a higher court was a conscious and deliberate waiver of his right to be present, was argued in the Appellate Division, Second Department on June 24, 1982, and a decision rendered thirteen months later, on July 25, 1983 (96 A.D.2d 585, 465 N.Y.S.2d 543).

29. In the interim, the Appellate Division, First Department, confirm a report which resoundingly exonerated petitioner after very full and fair hearings, and confirmed finding which are totally inconsistent with any finding of contempt against petitioner.

On most of the charges against petitioner, the prosecutors "threw in the towel", and were ready to capitulate on all the charges, particularly when it became clear that Signorelli and/or his Court had deceived them by secreting or destroying numerous exculpatory documents, but were prevented from doing so by Signorelli's "tantrums", screamings, and threats.

The prosecutors only opposed a few of the dismissals recommended by the Referee also because of the aforementioned conduct by Signorelli. In fact, no one associated with the prosecutors office wanted to place his or her name on such opposition. Every one of them, right down the line, wished to "wash their hands" and disassociate themselves from the defendant Signorelli and his contrived disciplinary complaints, as published in his "diatribe" and elsewhere.

30. Also, in the interim, a related matter was transferred from Suffolk County to New York County, again full and fair opportunity was afforded to defendants and respondent, Finnerty.

31. Nevertheless, in remanding, the Appellate Division, Second Department, refused to acknowledge (on renewal) the existence or take judicial notice of the aforementioned interim events, including the sworn interim testimony by the "stringer", pursuant to an examination before trial, that the press interview was affirmatively solicited by Signorelli and his sycophantic appointees.

32. The Order of remand is thus violative of the double jeopardy clauses of the federal and state constitutions.

33. Nevertheless, petitioner waives the constitutional protection of double jeopardy if he is afforded a public hearing in New York County on all issues involving this alleged criminal contempt, including the statements contained in the "diatribe".

34. The primary, if not the only, reason that petitioner is constrained to waive his constitutional right not to be placed twice in jeopardy is that the respondent, Appellate Division, Second Department, has in effect held and followed the practice of permitting its attorney, the Attorney General, who also is the attorney for the defendant Signorelli, to extensively reprint and republish the Signorelli "diatribe" without in any way indicating that its contents have been found to be false, fabricated, and deceptively misleading. A practice also followed by the Suffolk County Attorney, who also has actual knowledge of the factual falsity of the "diatribe" and the Appellate Division decision, which incorporated same.

Contrariwise, when petitioner sought to publish the truth or portions of testimony at such confidential hearings, a sua sponte disciplinary action was commenced against petitioner, the agents of respondent, Appellate Division, Second Department, being that such vindication or vindicating material may not be disclosed. The legal representative of this agency of respondent, Appellate Division, is also the attorney for defendant Signorelli.

Thus, public vindication is only feasible if petitioner waives his "double jeopardy" objection.

AS AND FOR A SECOND CAUSE OF ACTION

35. Petitioner repeats, reiterates, and realleges, each and every allegation of the petition marked "1" through "34" inclusive with the same force and effect as though more fully set forth at length herein, and further alleges.

36. In intentionally failing to have an expeditious hearing on the remand, petitioner has been denied his constitutional and statutory right to a speedy trial and hearing.

37. Once again petitioner waives such constitutional and statutory right, under the same conditions, and reasons hereinabove set forth.

AS AND FOR A THIRD CAUSE OF ACTION

38. Petitioner repeats, reiterates, and realleges, each and every allegation of the petition marked "1" through "37" inclusive with the same force and effect as though more fully set forth at length herein, and further alleges.

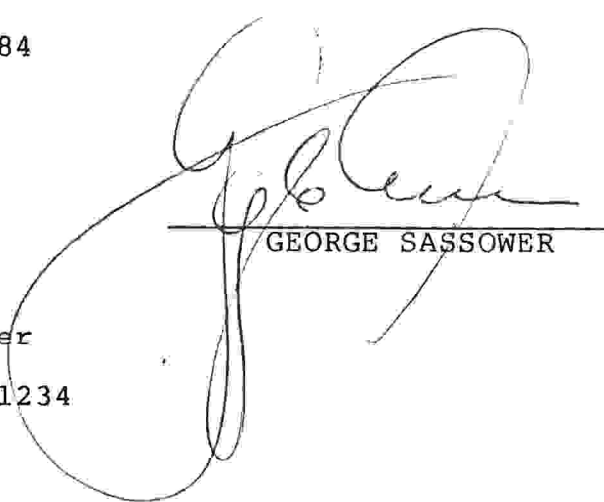
39. The Order of February 3, 1983, transferring the matter from Suffolk to New York County was based on the assertion that petitioner could not receive a constitutional and fundamentally fair adjudication in Suffolk County, and a full and fair opportunity was afforded to all parties to controvert such allegations and assertions.

40. The Order of February 3, 1983 has thus become a subject of issue preclusion and the remand to Suffolk County by respondent Appellate Division, Second Department was bound by same.

41. Consequently, the aforementioned remand, should have been for a hearing in New York County, rather than Suffolk County, wherein a constitutional and fundamentally fair trial or hearing cannot take place in this matter.

WHEREFORE, it is respectfully prayed that this petition be and the same be granted in all respects, that a Writ of Prohibition be issued against respondents, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Dated: January 30, 1984



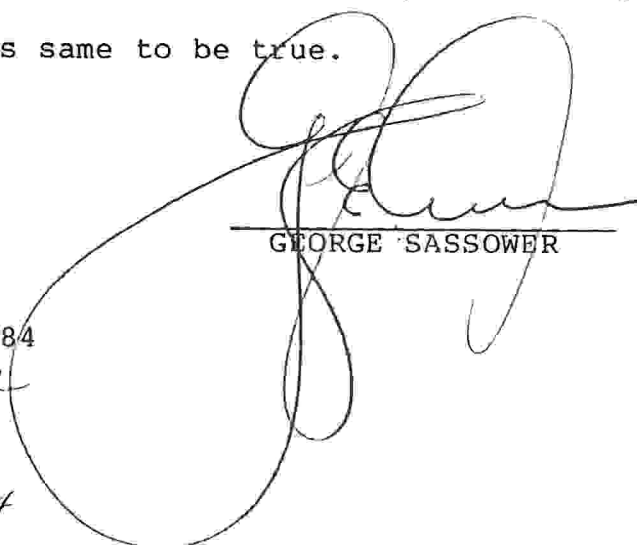
A large, stylized handwritten signature in black ink, appearing to read 'George Sassower', is written over a horizontal line. Below the line, the name 'GEORGE SASSOWER' is printed in a serif font.

GEORGE SASSOWER, Esq.
Attorney for petitioner
2125 Mill Avenue,
Brooklyn, New York, 11234
(212) 444-3403

STATE OF NEW YORK)
CITY OF NEW YORK)ss.:
COUNTY OF KINGS)

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

I am one of the plaintiffs in the above
entitled action and have read the foregoing petition and
the same is true of my own knowledge except as to
matters stated on information and belief, and as to
those matter he believes same to be true.



GEORGE SASSOWER

Sworn to before me this
30th day of January, 1984



BARBARA TATURES
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1984

ACT
WRIT OF HABEAS CORPUS
against

SHERIFF OF THE COUNTY OF SUFFOLK,

WRIT OF HABEAS CORPUS

Respondent

The People of the State of New York

upon the relation of
GEORGE SASSOWER
TO
SHERIFF OF THE COUNTY OF SUFFOLK

Greeting

WE COMMAND YOU, That you have and produce the body of
GEORGE SASSOWER

by you imprisoned and detained, as it is said, together with your full return to this writ and the time and cause
of such imprisonment and detention, by whatsoever name the said person shall be called or charged before
Hon. ~~Anthony J. Ferraro~~ Justice Presiding, Special Term, A.I.
one of the Justices of the Supreme Court of the State of New York
county of Westchester at 111 Grove Street, White Plains, N.Y.
in the courthouse thereof on the 12th day of June 1978
to do and receive what shall then and there be considered concerning the said person under this writ and
there this writ.

WITNESS, Hon. Anthony J. Ferraro one of the Justices of said Court
the day of 19

Pending final determination of the habeas corpus in this case, the respondent is bound to recognize the writ of habeas corpus.
Anthony J. Ferraro
J.S.C.

GEORGE SASSOWER, ERH
Attorney for Petitioner
Office and Post Office Address
75 Wykagyl Station
New Rochelle, New York, 10

The within writ is hereby allowed this day of

Judge executed June 10 1978

Exhibit "A" EFL