

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST JUDICIAL DEPT.

-----x
GEORGE SASSOWER,

Petitioner,

-against-

Hon. ALDO A. NASTASI,

Respondent.

For a Writ of Prohibition.
-----x

Upon the annexed petition of GEORGE SASSOWER, Esq., duly sworn to on the 6th day of March, 1985, and all the pleadings and proceedings had heretofore herein let respondent and/or intervenors 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 Monroe Place, Brooklyn, New York, 11201, on the day of March, 1985, 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 renewing restraining respondent from adjudicating petitioner in contempt of court, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

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 respondent and intervenors or before the day of March, 1986, be deemed good and sufficient service, and it is further

ORDERED, pending the hearing and determination of this petition, the respondent is restrained from determining affirmatively that petitioner is in contempt of court, unless waived by petitioner, and it is further,

ORDERED, that opposing papers, if any, are to be served upon respondent, on or before the day of March, 1986, with additional days beforehand, if service is by mail.

Dated: Brooklyn, New York
March, , 1986

E N T E R

~~_____
Associate Justice
Appellate Division, Second
Judicial Department.~~

*3/6/86
Application for Order
to show Cause
DENIED*

*Assoc. Justice
M. J. 3/19/86*

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST JUDICIAL DEPT.

-----X
GEORGE SASSOWER,

Petitioner,

-against-

Hon. ALDO A. NASTASI,

Respondent.

For a Writ of Prohibition.

-----X
TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE
STATE OF NEW YORK: SECOND JUDICIAL DEPARTMENT:

Petitioner, in support of his petition
for a Writ of Prohibition against the respondent,
respectfully sets forth and alleges:

1a. Substantially simultaneously,
petitioners' adversaries served him with three (3)
motions to hold him in contempt of court, all based on
the same allegations and assertions, to wit., that he
was violating "out-of-orbit odyssey" of Mr. Justice IRA
GAMMERMAN, dated January 23, 1985.

The aforementioned Order must be
distinguished from Mr. Justice Gammerman's Order of the
same date, sometimes described as the "sewer odyssey".

b. Both of the aforementioned orders lack subject matter and/or personal jurisdiction, but included in the "out-of-orbit" order was the provision that no motion could be made to vacate or modify same or any other order, except with the permission and consent of Mr. Justice Gammerman or Administrator Xavier C. Riccobono, which permission and consent is always unavailable.

Indeed when your petitioner requested leave to make a motion to increase the assets of Puccini Clothes, Ltd., a judicial trust, by a minimum of \$300,000, within 45 days, at no risk or costs, petitioner's adversary was "directed" to submit an affidavit so that a judgment could be entered against petitioner and his client for \$197,000!

c. Both orders of Mr. Justice Gammerman were secured by "extrinsic fraud" in every legal sense of the term, and null, void, and of no legal effect by every controlling decision on the subject (United States v. Throckmorton, 98 U.S. 61; Shaw v. Shaw, 97 A.D.2d 403, 467 N.Y.S.2d 231 [2d Dept.]; Tamimi v. Tamimi, 38 A.D.2d 197, 328 N.Y.S.2d 477 [2d Dept.]; Feinberg v. Feinberg, 96 Misc.2d 443, 409 N.Y.S.2d 365 [Sup. Nassau, per Gibbons, J.]; Overmyer v. Eliot, 83 Misc.2d 694, 371 N.Y.S.2d 258 [Sup. Westchester, per Gagliardi, J.]!)

2a. Within two (2) business days after petitioner served a copy of the first of the aforementioned three (3) orders with notice of entry, which completely vindicated him, he was pulverized with four (4) more similar motions, all with the same allegations, including one which was subsequently assigned to respondent, the Honorable ALDO A. NASTASI.

b. The first of the aforementioned orders that reached the County Clerk in New York County, was that of Hon. LESTER EVENS (Exhibit "A"), which stated:

"The motion to hold GEORGE SASSOWER in contempt is denied. With regard to charges of contempt related to Mr. Sassower's motion numbered 145 on the calendar of 12-30-85, that motion has been dismissed and contempt charges are now moot. Those charges

relating to Mr. Sassower's purported conduct in matters other than motion #145 are insufficient to support a finding of contempt." [emphasis supplied]

Even if such Order were appealable, the time to serve and file a notice of appeal has expired.

Significantly, by supplemental affidavit, Mr. Justice Evens, as were the other two jurists, advised of the legal action taken by petitioner in Westchester County, a matter which petitioner's adversaries never advised respondent.

b. The second of the aforementioned orders that reached the County Clerk in New York County, was that of Hon. MARTIN EVANS, which stated:

"Upon the foregoing papers this motion seeking to renew the motion for contempt against GEORGE SASSOWER, Esq., is denied. Movant has not set forth as adequate basis for altering this Court's prior Order." [emphasis supplied].

Petitioner's adversary has served his Record and Brief from the aforementioned Order.

c. As far as petitioner is aware, no order has been rendered by Hon. SEYMOUR SCHWARTZ with respect to the third motion.

d. Thus, as a systematic course of conduct, petitioner's adversaries make multiple application to various judges and courts for the same relief, based on the same facts and allegations, and never advise the other courts or judges of the other pending applications, or of any adverse decision or order rendered!

3a. Unquestionably, constitutional and statutory prohibition against "double jeopardy" forbids a second prosecution when the evidence on the first has terminated for insufficiency (Burks v. United States, 437 U.S. 1; Greene v. Massey, 437 U.S. 19; People v. Brown, 40 N.Y.2d 381, 386 N.Y.S.2d 848, cert. den. 433 U.S. 913; People v. Davis, 91 A.D.2d 948, 458 N.Y.S.2d 563 [1st Dept.]; People v. Dann, 100 A.D.2d 909, 474 N.Y.S.2d 566 [2d Dept.]; Rafferty v. Owens, 82 A.D.2d 582, 442 N.Y.S.2d 571 [2d Dept.]; People v. Warren, 80 A.D.2d 905, 437 N.Y.S.2d 19 [2d Dept.]).

b. In criminal law, including criminal contempt, collateral estoppel has been elevated to a constitutional "double jeopardy" orbit (Ashe v. Swenson, 397 U.S. 436), although, at times, imperfectly applied (People v. Sailor, 65 N.Y.2d 224, 228, 491 N.Y.S.2d 112, 116).

c. In People v. Farson (244 N.Y. 413), the Court stated (at p. 419):

"The principle is well settled that an acquittal or a conviction upon a charge that a continuing offense has been committed during a specified period of time will be a bar to another prosecution for a like offense for another specified time which includes any part of the time named in the first charge."

d. An accused may not be placed in jeopardy more than once, by reason of federal, as well as the state, constitutional restrictions (Benton v. Maryland, 395 U.S. 784; New York State Constitution, Article 1, §6), absent his intentional waiver or consent.

e. In total disregard to "double jeopardy", constitutional and statutory, vindication of affirmant, only prompts new proceedings, geometrically multiplied, based on the same or similar allegations by petitioner's adversaries (see North Carolina v. Pearce, 395 U.S. 711. 717)!

Thus, following the aforementioned Orders, the movants brought new contempt proceedings, not only in this Court, but in New York County, and as an original proceeding, in the Appellate Division, First Department, based on the same legal contentions and facts!

f. Vindication is only a curse, since it brings forth several applications for each one dismissed!

g. The aforementioned constitutional contention, does not mean that affirmant is not willing to waive his constitutional right prohibiting him from being placed in jeopardy more than once!

On the contrary, petitioner has repeatedly stated that he is willing to waive such right provided he he is given a full, plenary, and constitutional trial, according to law, particularly with the right to cross-examine, so that the fictitious and contrived assertions made by his adversaries can be totally demolished!

4a. With private adversarial attorneys, with inexhaustable funds, caught "cold" in their larceny of judicial trust funds, perjury, and corruption, they can exhaust anyone, particularly a single practitioner with little funds!

b. Petitioner's adversaries are nothing less than "criminals with law degrees", who having been caught, reached out and obtained the assistance of influential officials and jurists, including Administrator XAVIER C. RICCOBONO and Mr. Justice IRA GAMMERMAN, who have also been caught "cold" by your petitioner.

c. Contempt cannot be employed to interfere with First Amendment rights, including the right to petition, based on uncontrovertable, documented evidence of massive larceny of judicial trust assets!

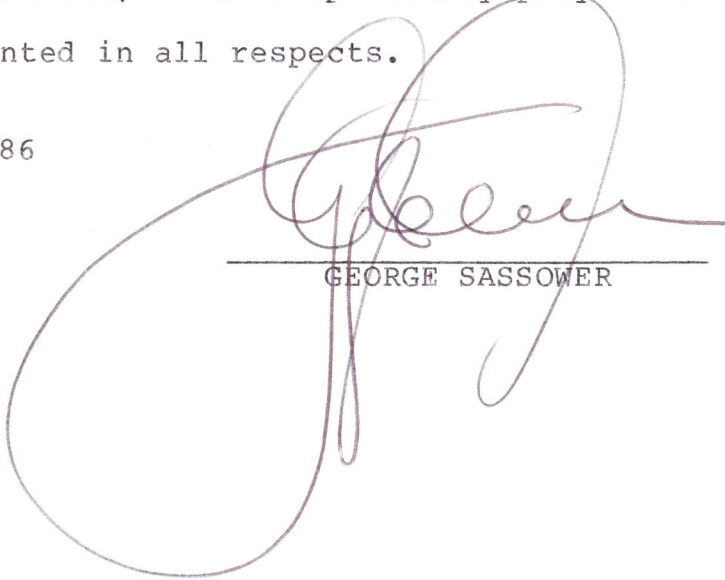
5a. A prior application was made to Hon. ISAAC RUBIN, who according to His Honor's secretary desired the name of the jurist assigned to be specifically named as respondent, which was not possible until the return date when a computer assignment was made.

b. His Honor also desired that the portion which sought to prohibit jurists in the First Department, including the Appellate Division, First Department, to be presented to that Court first, so that it could refer same to this Court, if it were so advised. Such application is being separately made to be presented to the First Department.

c. Except for the aforementioned, no prior application has been made to any court or judge.

WHEREFORE, it is respectfully prayed that this motion be granted in all respects.

Dated: March 6, 1986

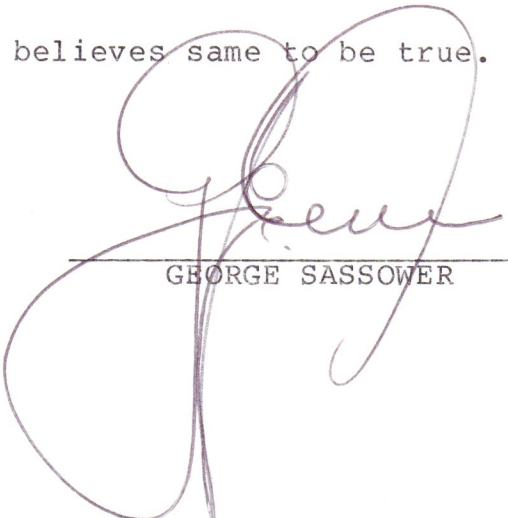


GEORGE SASSOWER

GEORGE SASSOWER, Esq., an attorney, admitted to practice law in the courts of the State of New York, does hereby affirm the following statement to be true under penalty of perjury:

I am the petitioner in the above named proceeding, have read the foregoing petition, and the same is true to affirmant's own knowledge, except as to matters stated therein to be on information and belief, and as to those matters he believes same to be true.

Dated: March 6, 1986



GEORGE SASSOWER

SUPREME COURT OF THE STATE OF NEW YORK, SPECIAL TERM PART I, NEW YORK COUNTY
 at the Courthouse thereof, 60 Centre Street, New York, New York, 10007.

Present: **LESTER EVENS**
 Hon. _____

Justice.

CITY CLERK TO FROM JUSTICE RECEIVED
 JAN 17 1988
 BOOK DISP
 SPECIAL TERM PART I
 N.Y. LAW JOURNAL

Jerome H. Barr
 against
Distribution of Puccini Clothes

The following papers numbered 1 to 6 read on this motion, **SUBMITTED**

No. 194 on Calendar of DEC 30 1985

PAPERS NUMBERED

Notice of Motion - ~~Order to Show Cause~~ - and Affidavits Annexed

1-2

Answering Affidavit + CROSS MOTION

3-6

Replying Affidavit

_____ Affidavit

_____ Affidavit

Pleadings - Exhibit

Stipulation - Petitioner's Report - Minutes

FILED
 JAN 27 1986
 COUNTY

Cesp B
2/10/86

Upon the foregoing papers this

SEE COMPARISON MOTION # 145 DATED 12/30/85.
The motion to hold George Sassover in Contempt is denied. With regard to charges contemplated to Mr. Sassover's motion numbered 145 on the calendar of 12-30-85, that motion has been dismissed and contempt charges are now moot. Those charges relating to Mr. Sassover's purported actions in matters other than motion # 145 are insufficient to support a finding of contempt.

Dated Jan. 15, 1986

J.S.C.

Briefs: Plaintiff's _____ Defendant's _____ Petitioner's _____ Respondent's _____ Relator's _____

Briefs _____

County Clerk's No. 7876, 19 80
 Sec I Libr. 1985
 Exhibit "A"

APPELLATE DIVISION : SECOND DEPARTMENT

GEORGE SASSOWER,

Petitioner,

-against-

Hon. ALDO A. NASTASI

Respondent.

Notice of Petition and Petition

GEORGE SASSOWER

Attorney for petitioner.

Office and Post Office Address, Telephone

2125 MILL AVENUE

BROOKLYN, NEW YORK 11234

718-444-3400

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....
Attorney(s) for

Sir:—Please take notice

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a

duly entered in the office of the clerk of the within named court on

19

NOTICE OF SETTLEMENT

that an order

of which the within is a true copy will be presented for

settlement to the HON.

one of the judges

of the within named court, at

on

19

at

M.

Dated,

Yours, etc.

GEORGE SASSOWER

Attorney for

To

Office and Post Office Address

2125 MILL AVENUE

Attorney(s) for

BROOKLYN, NEW YORK 11234