

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

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GEORGE SASSOWER,

Petitioner,

-against-

THE JUSTICES OF THE THE SUPREME COURT,  
OF THE STATE OF NEW YORK: APPELLATE  
DIVISION, FIRST JUDICIAL DEPARTMENT, and  
COUNTY OF NEW YORK,

Respondents.

For a Writ of Prohibition.

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TO THE JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW  
YORK: FIRST JUDICIAL DEPARTMENT:

The petition of GEORGE SASSOWER, Esq.,  
respectfully shows this Court, and alleges:

1a. Petitioner respectfully requests that  
this proceeding be (1) transferred to another judicial  
department; (2) issuing a Writ of Prohibition against  
the respondents, which, except upon petitioner's  
expressed written consent, prohibits them from  
entertaining any contempt proceedings, criminal or  
civil, against petitioner, based on contentions or  
assertions, already contended, asserted, and adjudicated  
favorably to petitioner; (3) dismissing the appeals, as  
distinguished from the cross-appeal, presently pending  
before respondent, Appellate Division (#1720-1721), as  
prohibited by constitutional (federal and state) and  
statutory "double jeopardy"; (4) together with any  
other, further, and/or different relief as this Court

b. Most of the essential facts on which this proceeding is based, arose at a time subsequent to the making of the Record on the aforementioned appeal, presently pending to be heard on May 14, 1986.

2a. This Court, being a respondent in this matter, it is jurisdictionally powerless to issue a Writ of Prohibition against itself (Dr. Bonham's Case, 77 Eng. Rep. 646, 652 [1910]; Day v. Savadge, 80 Eng. Rep. 235, 237 [1614]; Judiciary Law §14), as contrary to jura sunt naturae immutabilia.

b. Furthermore, this Court, and some of its members are transactional actors, and indeed defendants and respondents in pending proceedings, making it inappropriate for this Court to become judicially involved in this matter, absent manifest necessity.

3a. The underlying proceeding is PUCCINI CLOTHES, LTD., ["Puccini"], involuntarily dissolved on June 4, 1980 -- soon entering its seventh year -- without any accounting ever having been rendered, final or intermediate.

b. Petitioner's "crime" is that he has given, having a personal and professional interest in Puccini, the helpless judicial eunuch, a "tongue"!

c. Puccini, the "judicial fortune cookie", as the uncontroverted documentary evidence reveals, was massively raped and ravished of all its assets by "felons with law degrees"!

d. In various ways, including criminal, the "felons with law degrees", were aided and abetted by members of the judiciary, including in particular, the "trio of judicial fixers"!

4a. The "felons with law degrees", the "trio of judicial fixers", and others interested in concealing such "crimes", believe "unrevealed crimes" are not "crimes"!

b. The "felons with law degrees", the "trio of judicial fixers", and other interested in concealing such "crimes", perceive petitioner as the only obstacle in the successful concealment of such criminal conduct!

c. The aforementioned have attempted to "bludgeon" petitioner into silence by various methods, including multiple, simultaneous and repeated, contempt proceedings.

d. Additionally, by these multitudinous contempt proceedings, the "felons with law degrees", the "trio of judicial fixers", and others, desire to transfer their own criminal and unethical conduct to petitioner by these repeated, but baseless, accusations of contempt.

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5a. It is factually, legally, and theoretically, impossible for petitioner to be simultaneously accused of "zealously" advancing his own and his client's rights, and accused of "civil" contempt!

b. Statutory civil contempt requires a finding, factually supported, that petitioner's conduct was (Judiciary Law §770):

"calculated to , or actually did, defeat, impair, impede, or prejudice the rights or remedies of [Puccini] ..."

c. Since both petitioner and his client have substantial judgments and other interests in Puccini, petitioner's is interested in advancing, not defeating, Puccini's interests!

6a. Petitioner is the respondent (as well as appellant, on a related appeal) in an appeal pending in this Court, wherein Hon. MARTIN EVANS confirmed a trialess Report by Referee DONALD DIAMOND [one of the "trio of judicial fixers"] holding petitioner herein in criminal and civil contempt, but wherein no punishment was imposed of any kind.

b. Renewal, by motion submitted December 19, 1985, was denied. Mr. Justice Evans holding (Exhibit "A"):

"[M]otion seeking to renew the motion for contempt against George Sassower, Esq., is denied. Movant has not set forth an adequate basis for altering this Court's prior Order."

7a. This Writ is made necessary because (1) the facts upon which it is based arose subsequent to the making of the Record therein; (2) the potential appeal process to the Court of Appeals is better postured.

b. This prohibition proceeding is without prejudice to petitioner's contention in his Brief.

c. This proceeding is also without prejudice to the vacatur of the Report of Referee Diamond Diamond based upon improprieties committed therein, subsequently learned.

8a. Eleven days after the motion was submitted to the Court for determination by Hon. MARTIN EVANS, and on December 30, 1985, in the same proceeding, the appellant submitted the same contentions, including the assertions that were made in the trialess Report of Referee Donald Diamond, and more, to Hon. LESTER EVENS.

b. Such submission resulted in the Order of January 15, 1986, also entered on January 27, 1986, which stated (Exhibit "B"):

"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]

c. Indeed there was a third proceeding, under a different title, but with the same factual assertions and contentions, submitted to Hon. SEYMOUR SCHWARTZ.

d. The law is clear that where a criminal proceeding is terminated for insufficiency, it triggers constitutional and statutory double jeopardy rights (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.]).

9a. It takes a vivid imagination that upon service of the aforementioned Order of Mr. Justice LESTER EVENS, with Notice of Entry, petitioner was served with four (4) more contempt proceedings, based on the same contentions and assertions!

b. Making the matter more egregious, based on still another, but "phantom", "non-existent" motion, Mr. Justice IRA GAMMERMAN, on March 11, 1986, held petitioner in criminal and civil contempt, sub silentio, based on the same facts and contentions that were before Mr. Justice Martin Evans and Mr. Justice Lester Evens, and imposed sanctions on your petitioner which were requested by appellants on the main pending appeal to this Court.

10a. The question presented is whether, petitioner, having been vindicated by Hon. LESTER EVENS, based on the same facts and assertions, compels the dismissal of the contempt conviction by Hon. MARTIN EVANS?

b. Eliminating statutory civil contempt, simplifies the issue, for it is clear, particularly in criminal contempt:

"If the judges disagree there can be no judgment of contempt" (California v. Molitor, 113 U.S. 609, 618).

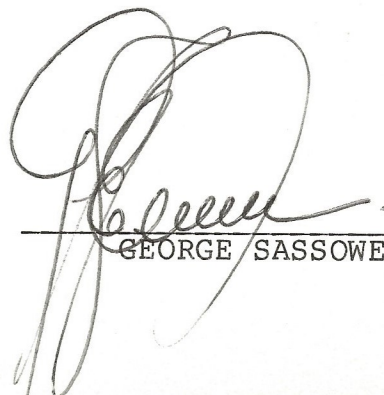
11a. Unless a Writ of Prohibition is granted, vindication becomes a curse, for it only brings, in geometric fashion, new contempt proceedings, based on the same assertions and contentions!

b. The "criminals with law degrees", the "trio of judicial fixers", and the others, can abandon the notion that multiple incarcerations, without trials, and herculian penalties, will cause petitioner to succumb!

c. No previous application has been made to this or any other court or judge for the relief sought herein based on the foregoing facts.

WHEREFORE, it is respectfully prayed that petitioner's motion be granted in all respects, with costs.

Dated: April 16, 1986

  
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GEORGE SASSOWER