

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

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In the Matter of the Application of  
GEORGE SASSOWER, Esq.

Petitioner,

-against-

Hon. MILTON MOLLEN, individually and as  
Presiding Justice of the APPELLATE DIVISION  
OF THE SUPREME COURT, SECOND JUDICIAL DEPT.;  
JUSTICES OF THE APPELLATE DIVISION, SECOND  
JUDICIAL DEPARTMENT; and Hon. "JOHN JUDGE",  
Justice or Acting Justice of the Supreme  
Court of the State of New York,

Respondents.

For a Writ of Prohibition.

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Upon the annexed petition of GEORGE  
SASSOWER, Esq., dated May 1, 1986, and all the pleadings  
and proceedings had heretofore herein let petitioner  
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 May,  
1986, at 9:30 o'clock in the forenoon of that day or as  
soon thereafter as Counsel may be heard for an Order (1)  
transferring this application to another judicial  
department for determination; (2) prohibiting the  
respondents, Hon. MILTON MOLLEN and APPELLATE DIVISION,  
from having any part in the designation of a Justice or

Acting Justice of the Supreme Court in the underlying litigation; (3) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises, and it is

ORDERED, that cause having been shown, and notice of same having been given, pending the hearing and determination of this proceeding, the underlying litigation is hereby stayed.

ORDERED, that a copy of this Order upon the the Attorney General, and the interested parties and/or their attorneys, on or before the            day of May, 1986 be deemed good and sufficient service.

Dated: May 1, 1986

E N T E R

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Associate Justice  
Appellate Division, Second  
Judicial Department

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE  
STATE OF NEW YORK, APPELLATE DIVISION, SECOND JUDICIAL  
DEPARTMENT:

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

1a. The title of this proceeding reflects the  
lack of petitioner's knowledge, at this time, as to  
whether Hon. BURTON S. JOSEPH, has been designated an  
Acting Justice of the Supreme Court, in addition to His  
Honor's designation as Acting Surrogate.

b. Since your petitioner has been advised  
that the "sometimes" policy of this Court under CPLR  
§506[b] has been abandoned, jurisdiction over Mr.  
Justice JOSEPH exists only if such designation has been  
made.

c. Thus, while petitioner objects to the appointment of Mr. Justice BURTON S. JOSEPH, and the manner by which such designation was made, this Court only has jurisdiction over His Honor's appointment as an Acting Supreme Court Justice, if it is made, or any other such assignment made in substantially the same manner.

2a. This proceeding seeks a Writ of Prohibition against respondents, Hon. MILTON MOLLEN and The APPELLATE DIVISION, insofar as administrative or non-judicial activities are involved relating to your petitioner in the Estate of Eugene Paul Kelly, and the disposition of this application.

b. Excepted from the aforementioned, based on necessity, is the present interim relief request.

3a. In petitioner's view, in contempt proceedings, mandated disqualification has as its criteria "the appearance of justice", not Judiciary Law §14, which as a due process constitutional proposition has been extended in some instances to common civil proceedings (Aetna v. Lavoie, U.S. , 46 CCH S.Ct. Bull p. B1943 [4/22/86]).

b. This Court, in Sassower v. Finnerty, 96 A.D.2d 585, 465 N.Y.S.2d 543 [2d Dept.], remanded a habeas corpus proceeding, based on non-summary criminal contempt, for a hearing to determine whether petitioner's absence constituted a constitutional waiver of his right of confrontation.

c. Since such determination, eons ago, the County Attorney has not moved for a hearing as he actually knows, as did this Court, that petitioner was actually engaged in the middle of trial in Supreme Court Bronx County.

d. Petitioner has permitted such issue to lie dormant, in favor of his Brady v. Maryland (373 U.S. 83) motion, since vacatur under the decision of this Court might only cause a fourth meritless proceeding to be instituted.

e. Everyone having knowledge of the facts, irresistibly comes to a bad faith disposition by this Court, on such issue!

BACKGROUND:

4a. Without (1) notice; (2) warning; or (3) accusation, petitioner was (4) tried; (5) convicted; and (6) sentenced to be incarcerated for 30 days based on non-summary criminal contempt.

b. The confirmed finding by Hon. ALOYSIUS J. MELIA, based exclusively on the testimony and confessions of petitioner's adversaries, at full and fair hearings, support petitioner's contention that the charges made were false and contrived (Exhibit "A").

c. The following morning, petitioner unaware of the aforementioned events of the previous day, was arrested by Deputy Sheriffs of Suffolk County in Westchester County, denied any and all civil rights, including the right to present his hastily prepared petition for a Writ of Habeas Corpus, and abducted to Surrogate ERNEST L. SIGNORELLI in Suffolk County.

c. After being kept incommunicado, and repeatedly denied the right to present his Writ of Habeas Corpus or given a trial, petitioner asserted his constitutional right to remain silent, with respect to the questions asked of him, resulting in petitioner's incarceration

d. A colleague, in New York City, who became aware of petitioner's predicament, presented to this Court, as an original application, a writ of habeas corpus.

e. Substantially simultaneously, petitioner, while incarcerated, through The Legal Aid Society obtained a Writ of Habeas Corpus from a Justice of the Supreme Court.

f. Each application for a Writ was made in total ignorance of the activities of the other.

g. The Supreme Court Justice released petitioner on nominal bail, and set the matter down for a hearing for the following Monday.

h. This Court, after conversing with Surrogate Signorelli, denied bail, and set the matter down for a hearing for the following day.

i. Obviously, under the aforementioned conceded circumstances, the Writ should have been immediately sustained. Nevertheless, it took a "gun to the head" edict by a federal court to terminate such hearings, and the Writ was sustained.

5a. Surrogate Signorelli pressured the Attorney General to take a clearly meritless appeal from this disposition, although admittedly that entire office knew that it lacked merit and was intended to harass.

b. The only [absurd] contention by Surrogate Signorelli on appeal was that petitioner's sole remedy was to request the Surrogate's Court to vacate his "no-notice default", and that habeas corpus relief was not available.

c. While this Court affirmed the nisi prius disposition, it incorporated as part thereof, a sua sponte diatribe, which Surrogate Signorelli had published in the interim (Sassower v. Signorelli, 65 A.D.2d 756, 409 N.Y.S.2d 762 [2d Dept.]).

d. Such sua sponte diatribe, which determined nothing, nor did it intend to determine anything, has been conclusively shown to be false and contrived in every respect.

6. Pending the appeal process, a second criminal contempt proceeding was subsequently thrown out for constitutional and statutory violations.

7a. A third criminal contempt proceeding was then instituted, and in another "gun to the head" edict by the federal court, Surrogate Signorelli was, "french gun style" compelled to recuse himself.



b. As part of his act of recusal he published his infamous "diatribe"!, which he labelled a "decision and order", although it decided and ordered nothing!

8a. On the return date of such third criminal contempt proceeding, there was a snowstorm which closed all the courthouses on Long Island, and in parts of New York City, and the Court rescheduled same for March 7, 1977.

b. Unexpectedly, a case that petitioner was trying before Mr. Justice JOSEPH DiFEDE did not finish on March 6, 1977, and it was continued by the Court to March 7, 1977 (Green v. Green).

c. Additionally, petitioner had another case marked "peremptorily against both sides" in Kings County for March 7, 1977.

d. By affidavit, the Surrogate's Court, was advised of petitioner's engagements.

e. Signorelli, although recused, and his sycophants, insisted that petitioner be convicted again in absentia, and Mr. Justice HARRY SEIDELL complied.

NUTSI

9a. Once again petitioner returned to federal court and everyone agreed that this latest conviction was clearly unconstitutional, although the federal court refused to intervene at that stage.

b. The Signorelli entourage refused to vacate same and demanded that petitioner surrender himself in Suffolk County.

c. Petitioner said and wrote "Nuts", but agreed to surrender at a time chosen by the Suffolk County officialdom in Supreme Court, Westchester, Bronx, or New York Counties, so that he could obtain an immediate writ of habeas corpus.

d. Instead the Sheriff of Suffolk County made numerous forays into Westchester, New York, and Kings County, harassing and embarrassing petitioner's family by making inquiries about "Sassower, Fugitive From Justice."

e. After some time it became obvious that the intent was not to arrest petitioner, but to harass him and his family.

"THE SATURDAY NITE MASSACRE"!

10a. Petitioner brought a proceeding to prevent the Sheriff of Suffolk County from transgressing his jurisdictional bailiwick, since he was a "local officer".

b. While petitioner was alone and such proceeding was pending, petitioner was arrested by the Sheriff of Suffolk County in Westchester County, and a altercation occurred when petitioner attempted to gain the attention of the local police.

c. Thereafter it was claimed that petitioner, who was handcuffed at the time, caused the hospitalization of Deputy Sheriff "Schwarzenegger" Grzymalski, and the loss of eleven days work. This caused felonious assault charges to be placed against petitioner, which were under the circumstances ludicrous and contrived.

It was obvious that it was the handcuffed petitioner, not the Deputy Sheriff, who was beaten.

d. Again petitioner was dragooned to Suffolk County and incarcerated therein.

e. Petitioner's wife, learning of such abduction, obtained a Writ of Habeas Corpus from a Supreme Court Justice in Westchester County, releasing petitioner on his own recognizance!

f. Petitioner's wife and daughter travelled to the Suffolk County Jail, presented the Writ of Habeas Corpus, demanded petitioner's release, and they themselves were incarcerated, without food, water, or toilet facilities!

g. Asked why, by this Court, in open Court, why such Writ was not obeyed, why petitioner was not released, and why petitioner's wife and child were incarcerated, the Assistant County Attorney stated that the Supreme Court Justice who signed such Writ was illiterate!

h. In fact, affirmant learned the Suffolk entourage was attempting to have such Writ modified, which included having Mr. Justice Mollen intercede with the jurist who signed such writ. Correctly, the jurist stood his ground.!

THE MOLLEN BLUNDER:

11a. The complaint made against your petitioner to the Grievance Committee by Mr. Berger, was awaiting a decent burial, since petitioner had fully, completely, and satisfactorily responded to the charges made.

b. In his published "diatribe", Surrogate Signorelli forwarded his complaint, not to the Grievance Committee, but to Presiding Justice Mollen!

c. Mr. Justice Mollen, instead of returning same to Surrogate Signorelli with a message that he was not Surrogate Signorelli's "messenger boy", sent the Surrogate a gracious letter, forwarding a copy of same to the Grievance Committee, with such "diatribe"!

d. To the members of the Grievance Committee such letter from the Presiding Justice became a mandate to prosecute and persecute, without limit as to time or money.

e. Thirty-two (32) charges, against petitioner and his wife, all were resoundingly rebuffed, and Surrogate Signorelli, Mr. Berger, and Mr. Mastroianni all went down "like the Titanic".

f. The point is there was no reason for Mr. Justice Mollen to become involved in the administrative decision as to who was to become the Acting Surrogate and Supreme Court or Acting Supreme Court jurist in this matter.

g. The Office of Court Administration can make their selection after hearing from the parties, without involving Mr. Justice Mollen or this Court in the process.

h. This Court in petitioner's opinion should adjudicate and only adjudicate -- without undertaking needless and possibly conflicting functions.

12. No previous application has been made to this Court or any judge thereof for this or similar relief.

WHEREFORE, it is respectfully prayed that the within application be granted in all respects, with costs.

Dated: May 1, 1986

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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 matter and have read the foregoing petition. That the same is true of his own knowledge, except as to matters stated therein to be on information and belief, and as to those matters, affirmant believes same to be true.

Dated: May 1, 1986

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GEORGE SASSOWER