

At a Special Term Part I
of the Supreme Court of the
State of New York, County of
Suffolk, held at the Courthouse
thereof, Griffith Avenue,
Riverhead, Long Island, New
York, on the ~~27th~~ day of June,
1977.

P R E S E N T:

VICTOR J. ORGERA

Hon.

Justice.

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In the Matter of the Application of
GEORGE SASSOWER,

Petitioner,

-against-

HON. ERNEST L. SIGNORIELLI,

Respondent.

For an Order Pursuant to Article 78 CPLR.

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Upon reading and filing the annexed petition of
GEORGE SASSOWER, Esq., sworn to on the 27th day of June, 1977,
and due deliberation having been had thereon,

Let respondent or his attorney show cause at a Special
Term Part I of this Court held at the Courthouse thereof, Supreme
Court Building, Griffith Avenue, Riverhead, Long Island, New
York, on the 7th day of July, 1977, at ~~9:30~~^{10:00} o'clock in the
forenoon of that day why an Order should not be made and
entered nullifying the Contempt Order and Warrant of Commitment

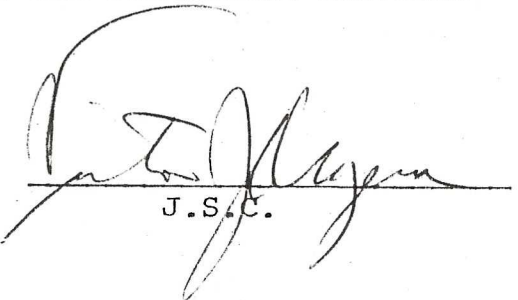
against the petitioner dated the 22nd day of June, 1977, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises, and it further appearing that the petitioner has posted \$300 cash bail to secure his release in a related Habeas Corpus proceeding, it is further

~~ORDERED, that pending the return date of this motion, the petitioner is admitted to parole conditioned on a further deposit of \$ _____ cash bail, and it is further~~

ORDERED, that responsive papers, if any, are to be served at least 2 days before the return date of this motion, and it is further

ORDERED, that service of a copy of this Order and papers upon which it was granted be made upon the Attorney General of the State of New York on or before the 28th day of June, 1977 be deemed good and sufficient service.

Dated: Riverhead, New York
June 27, 1977.


J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT
OF THE STATE OF NEW YORK: SUFFOLK COUNTY.

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

1. By virtue of an Order of the Respondent dated June 22,
1977, petitioner was found criminally in contempt of court
purportedly "in the immediate presence of the court" and was
immediately thereupon sentenced to be "imprisoned in close
custody in jail of the County of Suffolk for a period of 30
days".

2. Respondent immediately issued a Warrant of Commitment
against the petitioner.

3. That the aforementioned Contempt Order and Warrant
of Commitment were issued all without the presence of the
petitioner or any representative of the petitioner and without
any notice to him that the respondent was undertaking such

proceeding at the aforesaid time and place.

4. That it appears and it is the position of the petitioner that on the face of the Contempt Order that all the essential acts necessary to find the petitioner in criminal contempt did not occur in the presence of the court notwithstanding any assertion to the contrary in the aforesaid Contempt Order as witnessed by the ex parte hearing held by the court on June 22, 1977 as set forth in the said Contempt Order.

5. If such be the fact then it is patently clear that the aforesaid Contempt Order is unconstitutional, illegal, and void (Johnson v. Mississippi, 403 U.S. 212, 215; Douglas v. Adel, 269 N.Y. 144, 146-147; 751 of the Judiciary Law; Special Rules Concerning Exercise of the Judicial Contempt Power of the Second Judicial Department, 22 NYCRR § 701.1 et seq.).

6. That in the event the court concludes that such fact is not evident from the face of the Contempt Order then the petitioner requests a hearing in order to establish such fact through competent legal evidence.

7. That it further appears and it is the position of the petitioner that on the face of the Contempt Order that sentence was imposed on the petitioner without prior notice to the petitioner or any representative on his behalf (People ex rel Miller v. Martin, 1 N.Y.2d 406; Criminal Procedure Law §§ 380.10, 380.30, 380.40).

8. That in the event the court concludes that such fact is not evident from the face of the Contempt Order then the petitioner requests a hearing in order to establish such fact through competent legal evidence.

9. That petitioner further asserts that the statements and findings of the respondent in the aforementioned Contempt Order are contrary to fact and that the respondent was without jurisdiction to direct petitioner to perform the acts required of him as set forth in the Contempt Order, including but not limited to the direction of the petitioner to transmit various papers and documents, that the petitioner was given an opportunity to be heard, that petitioner failed to offer any excuse, that the warnings given by the respondent were as set forth or that they were legally adequate, that petitioner was defiant or contemptuous, or that it was "committed in the immediate presence of the court", that petitioner failed "to comply with the order of (the) court dated April 28, 1977, and that petitioner impaired and prejudiced the rights of the parties.

10. Furthermore it is the position of the petitioner that even if the aforesaid are not established then the respondent still did not have the power or authority to find the petitioner in criminal contempt and that the respondent was disqualified from making such finding herein.

11. That it is the position of the petitioner that the respondent did not have the authority to confine the petitioner

or bring him before the respondent and cause him to be the subject of interrogation as may be legally prohibited as was done by the respondent.

12. Petitioner further asserts that his conduct was not wilfull, contemptuous, or that the record could support such finding with the quantum of certainty required by law.

13. Petitioner also asserts that the actions of the respondent were arbitrary, capricious, contrary to law, and the sentence imposed was excessive.

14. That there is presently pending a Habeas Corpus proceeding in this matter and that this Article 78 proceeding be entertained by this Court in the event that this Court does not treat the Habeas Corpus proceeding as to include an Article 78 proceeding. Furthermore your petitioner desires that this proceeding be construed to include the Writ of Error Corum Nobis.

15. That in the Habeas Corpus proceeding, the petitioner has posted \$300 cash bail and pending final disposition, it is respectfully requested that the petitioner be paroled or admit him to reasonable bail.

16. That failure to parole petitioner or admit him to reasonable bail would at this/^{time}seriously prejudice innocent clients of the petitioner whose matters are presently pending.

17. That furthermore the failure to admit petitioner to parole or reasonable bail would interfere with the workings of other judicial tribunals in this State, including the Court of Appeals, wherein petitioner has matters pending.

