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U.S. DISTRICT COURT E.D.N.Y.
★ MAR 1 1978 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GEORGE SASSOWER,

Plaintiff,

-against-

ERNEST L. SIGMORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOSKI, and LEONARD
J. PUGATCH,

Defendants.

TIME A.M.....
P.M.....

File No.
78 C 124
(J.M.)

-----X

Upon reading and filing the annexed affidavit of
GEORGE SASSOWER, Esq., duly sworn to on the 6th day of
February, 1978, it is

ORDERED, that the defendants, ERNEST L. SIGMORELLI,
ANTHONY MASTROIANNI, VINCENT G. BERGER, JR., JOHN P. FINNERTY,
and also VIRGINIA D. MATHIAS, show cause before this Court
in Courtroom 5, at the United States Courthouse, 225 Cadman
Plaza East, in the Borough of Brooklyn, City and State of
New York, on the ^{March} 3rd day of February, 1978, at 11:30 o'clock
in the fore noon of that day or as soon thereafter as Counsel
may be heard why an Order should not be entered

a. restraining defendants, ANTHONY MASTROIANNI and
VINCENT G. BERGER, JR. from harassing plaintiff and those
with whom plaintiff has business, professional, and social
engagements pending the termination of this action.

b. restraining defendants, ERNEST L. SIGMORELLI,
ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR. from prosecuting
plaintiff for criminal contempt pending the determination of
the appeal of ERNEST L. SIGMORELLI from the Judgment and Order
which sustained plaintiff's Writ of Habeas Corpus.

c. restraining ERNEST L. SIGMORELLI from hearing or
adjudicating any matter wherein your deponent is a party or
an attorney.

(4)

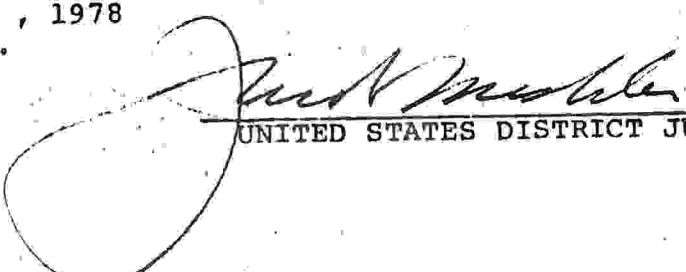
d. compelling ERNEST L. SIGMORELLI and VIRGINIA D. MATHIAS to place in the custody of this Court the original stenographic minutes of the Surrogate's Court: Suffolk County with respect to the Estate of EUGENE PAUL KELLY, deceased, of January 25, 26, and 27, 1978, after same has been transcribed.

e. compelling the defendant, JOHN P. FINNERTY, to properly and timely serve the legal documents of the plaintiff.

f. 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 therefore, let copies of this Order together with copies of the papers upon which it was based be served upon such defendants and VIRGINIA D. MATHIAS in the same manner as a summons may be served in this Court by anyone over the age of 18, including the plaintiff, on or before the *28th* day of February, 1978 *at or before 4:00 P.M.* be deemed good and sufficient service and additionally a copy of the Order to Show Cause dated January 27, 1978 and the affidavit upon which it was based be served at the same time on the defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR. be deemed good and sufficient service.

Dated: Brooklyn, New York
February *8*, 1978
at *10:05*.M.


UNITED STATES DISTRICT JUDGE.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
GEORGE SASSOWER,

Plaintiff,

-against-

Index No.
78 C 124

ERNEST L. SIGMORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOSKI, and
LEONARD J. PUGATCH,

Defendants.
-----x

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

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

That he is the plaintiff in the within action and
makes this affidavit in support of a motion to

- a. restrain defendants, ANTHONY MASTROIANNI and
VINCENT G. BERGER, JR. from harassing plaintiff and those
with whom plaintiff has business, professional, and social
engagements pending the termination of this action.
- b. restraining defendants, ERNEST L. SIGMORELLI,
ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR. from
prosecuting plaintiff for criminal contempt pending
determination of the appeal of ERNEST L. SIGMORELLI
from the Judgment and Order which sustained plaintiff's
Writ of Habeas Corpus.
- c. restraining ERNEST L. SIGMORELLI from hearing
or adjudicating any matter wherein your deponent is a party
or an attorney.
- d. compelling ERNEST L. SIGMORELLI to place in the
custody of this Court the original stenographic minutes of
the Surrogate's Court: Suffolk County with respect to the
Estate of EUGENE PAUL KELLY, deceased, of January 25, 26,
and 27, 1978, after same have been transcribed.

e. compelling the defendant, JOHN P. FINNERTY, to properly and timely serve the legal documents of the plaintiff.

f. permitting the service of this Order to Show Cause to be made by any person over the age of 18, including the plaintiff, in such manner as a Summons issued out of this Court.

g. together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

a. Application for this relief was made in an Order to Show Cause dated January 27, 1978 and immediately forwarded to the Sheriff of Suffolk County for service. Not unexpectedly, the Sheriff of Suffolk County failed to serve same.

That Attorney General was served and through the urging of the Court, the defendant, ERNEST L. SIGMORELLI, permitted the Attorney General to appear for him on this motion. Upon oral argument, this Court severed the Order to Show Cause as against the defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR., and as to such defendants plaintiff reinstates the relief previously requested.

b. Plaintiff's Writ of Habeas Corpus was sustained by Hon. GEORGE F.X. MCINERNEY without prejudice to the re-institution of same. The defendant, ERNEST L. SIGMORELLI, has filed a Notice of Appeal from such Judgment/Order.

Simultaneously such criminal contempt has been reinstated against the plaintiff based on exactly the same grounds as the contempt proceedings which was annulled (and subject to the appeal by defendant, ERNEST L. SIGMORELLI).

Theoretically if the Judgment/Order of Mr. Justice GEORGE F.X. McINERNEY is reversed then the present Contempt proceedings against plaintiff cannot be sustained since it would constitute "Double Jeopardy" and thereby violative of the Constitution of the United States.

Consequently so long as the possibility exists that a reversal may occur, these defendants, ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR., should be restrained from proceeding on the Contempt renewal against your deponent.

In this respect the provisions of CPLR § 5519[a][1] seems applicable.

Such Criminal Contempt proceedings were reinstated against plaintiff by Order to Show Cause dated January 25, 1978 and made returnable on February 7, 1978.

c. It is a travesty to any system of justice that the defendant, ERNEST L. SIGNORELLI, should sit in judgment in any action or proceeding involving the plaintiff.

Pending between the parties at the present time is an appeal by defendant, ERNEST L. SIGNORELLI, in the Appellate Division of the Supreme Court: Second Judicial Department; an appeal by plaintiff in the Circuit Court of Appeals for the Second Circuit and this present action in the District Court for the Eastern District of New York.

Plaintiff contends that he is constitutionally entitled to a fair and unbiased tribunal and also a tribunal which appears fair and unbiased.

As the prior actions of defendant, ERNEST L. SIGNORELLI, clearly reveal he does not seem disturbed by the fact that his actions are violative of the Constitution of the United States.

There does not seem to be a remedy against a Surrogate-tyrant appropriate for the occasion if the United States courts are not ready to invoke injunctive relief herein.

d. From the statements made by the Assistant Attorney General in this Court on February 3, 1978, it seems that the stenographic minutes have been or will be tampered with in Surrogate's Court: Suffolk County.

On January 30th, 1978 your deponent order a transcript of such minutes from VIRGINIA D. MATHIAS, the court stenographer in Surrogate's Court.

To insure that there will be no further tampering with such minutes your deponent prays that the original of same be delivered up to the custody of this Court.

e. Consistently the Sheriff of Suffolk County has refused and/or failed to properly and timely serve papers in matters involving your deponent and the defendant, ERNEST L. SIGNORELLI.

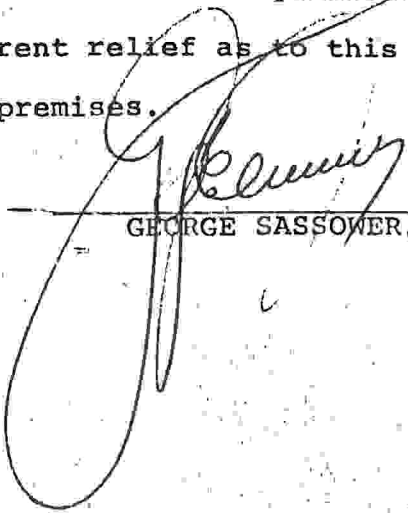
In this respect plaintiff is being denied effective access to the courts.

f. Pending any relief against the Sheriff of Suffolk County by this Court, deponent prays that service of this Order to Show Cause be made by any person over the age of 18, including the plaintiff, in such manner as is permitted for

the service of a summons in this Court.

That no previous application has been made to any Court or Judge for the relief prayed for herein except as set forth in this affidavit.

WHEREFORE plaintiff prays that relief be afforded to him in accordance with this affidavit together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.



GEORGE SASSOWER,

Sworn to before me this
6th day of February, 1978.



DUDLEY GAFFIN

Notary Public, State of New York
No. 31-462088

Qualified in New York County
Certificate filed in New York County
Commission Expires March 30 1979