

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GEORGE SASSOWER, individually, and on
behalf of all others similarly situated,

File No.
78 Civ. 124

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES
BROWN, LEONARD J. PUGATCH, HARRY E. SEIDELL,
and THE COUNTY OF SUFFOLK,

Defendants.

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E. D. N. Y.
MAY 3 1978
★ TIME A.M. ★
P.M.

S I R S:

PLEASE TAKE NOTICE, that upon the annexed affidavit
of GEORGE SASSOWER, Esq., duly sworn to on the 30th day of
April, 1978, and all pleadings and proceedings had heretofore
herein, the undersigned will move this Court before Hon.
JACOB MISHLER, Room 6, United States Courthouse, 225 Cadman
Plaza East, Brooklyn, New York, 11201 on the 19th day of May,
1978, at 10:00 o'clock in the forenoon of that day or as soon
thereafter as Counsel may be heard for an Order permitting
reargument and on such reargument vacating the Order of
April 20, 1978 together with any other, further, and/or
different relief as to this Court may seem just and proper
in the premises.

Dated: April 30, 1978.

Yours, etc.,

GEORGE SASSOWER, Esq.
Attorney for plaintiff-pro se.
75 Wykagyl Station
New Rochelle, New York, 10804

To. Hon. LOUIS J. LEFKOWITZ
Hon. HOWARD E. PACHMAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT FOR NEW YORK

File No.
78 Civ. 12

GEORGE SASSOWER, individually, and on
behalf of all others similarly situated,

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES
BROWN, LEONARD J. PUGATCH, HARRY E. SEIDELL,
and THE COUNTY OF SUFFOLK,

Defendants.

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

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

This affidavit is in support of my motion for
leave to reargue the "Memorandum of Decision and Order"
dated April 20, 1978 and entered on April 21, 1978 in the
Office of the Clerk of this Court.

It would serve no useful purpose to reiterate and
restate matters contained in papers already before this
Court except to note that this Court in its recitation has
dismembered and distorted my allegations.

Emphasizing in this affidavit my damage cause of
action, I contend that:

1. Even accepting the propriety of this Court's
factual recitation a legally recognizable cause of action
is set forth.

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George Sassower
Attorney at Law

2. This Court misstated and misinterpreted applicable law.

3. This Court omitted many legally operative allegations only some of which are set forth herein.

* * * *

1. I contend that this Court errs when it finds that a cause of action for damages does not exist where, as this Court stated, plaintiff alleges that:

"he was the target of a vicious conspiracy designed to defame him and strip him of all constitutional rights. In short, plaintiff charges that his removal was unauthorized; that his contempt trial typified a 'Star-chamber' proceeding; that his arrest and return to the Surrogate's Court violated the mandate of the contempt order which directed immediate incarceration in the Suffolk County Jail; that the arresting officers' refusal to permit him access to a neighboring state court before returning him to the Surrogate's Court violated his constitutional rights; that defendants unlawfully refused, during Sassower's two hour detention at the Surrogate's Court, all requests to make telephone calls; that the defendants caused false and misleading statements to be circulated to the press; that the defendants improperly served his subpoenas; that defendants unlawfully instituted a second set of contempt proceedings; that defendants obstructed plaintiff in his attempt to secure a writ of habeas corpus; and that defendants, through their counsel, made false representations to this court."
(Court's Opinion p. 12-13).

support this Court's stated proposition (at p. 14):

"That the contempt proceeding, to defendant's knowledge, may have been infected by procedural defects is of no consequence. (Stump v. Sparkman) at 4256." [emphasis supplied].

To the contrary petitioner, Stump, in his petition for a Writ of Certiorari to the Supreme Court stated (p. 10-11):

" The Court of Appeals further ignored the requirements laid down by Bradley v. Fisher, supra, and Pierson v. Ray, supra, in that the fact of absence of all jurisdiction must be known to the Judge [emphasis supplied]. Nothing in the record presented to the Circuit Court of Appeals permitted Judge Swygert to reach the conclusion that Judge Harold D. Stump knew that he had no jurisdiction to consider the McFarlin's Petition nor to act thereon. The record including the Memorandum of Decision and Order of the United States District Court does not suggest that inference.

* * *

Of equal import to the reiteration requiring knowledge ..."

Had the five Judge majority in Stump v. Sparkman any intention of retreating from the Bradley v. Fisher (13 Wall. 335) statement that "when the want of jurisdiction is known to the judge, no excuse is permissible" (p.352), the Supreme Court would certainly not have repeated it (p.4255 note 6).

To grant judges immunity where they have knowledge that they have no jurisdiction and when they know that they are violating a persons constitutional rights finds no

Handwritten notes: Review of Stump v. Sparkman 1/29/59

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

indication of support in Carey v. Piphus (46 U.S.L.W. 4224) and Procurier v. Navarette (46 U.S.L.W. 4144), decided while Stump v. Sparkman was under consideration.

3a. This Court stated that (p.14):

"The allegations against defendant Signorelli center around performed in the course of his judicial duties. ... Having the power to adjudicate someone in contempt, it cannot be said that Judge Signorelli acted in 'clear absence of all jurisdiction.'"

The complaint states that for a five (5) hours on June 23, 1977 (between the time of my arrest and the time I was brought into Surrogate's Court), I was "repeatedly" refused "access to various courts or judges for the purpose of securing a Writ of Habeas Corpus" (Par. 110 of the Compla.

The Record is eminently clear that during this period of time I made repeated reuests to be permitted to present my Writ of Habeas Corpus not only to various courts and judges of the State Court (and not only to a "neighborin state court", as stated by this Court [pp.4, 13]), but also to a United States court or judge. I doubt that even John Calhoun would argue that a state Surrogate had any semblence of jurisdiction in preventing a citizen of the United States from presenting a Writ of Habeas Corpus to a United States court or judge.

b. This Court stated that

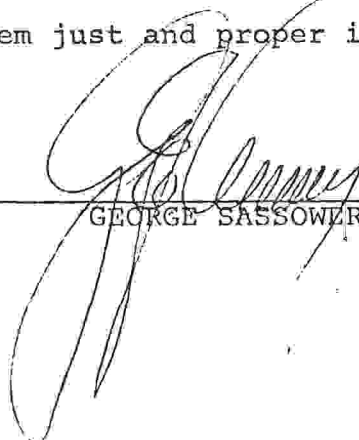
"plaintiff charge(d) ... that his arrest and return to the Surrogate's Court violated the mandate of the contempt order which directed immediate incarceration in the Suffolk County Jail" (p. 13) ... and further that "[d]efendants Croce

and Grzymalski, deputy sheriffs acting pursuant to a facially valid warrant in arresting plaintiff, are as well immune from suit." (p.15).

The allegations are and the facts reveal that not only was the warrant facially invalid but that these deputy sheriffs knew of of such invalidity, knew that they had no jurisdiction to enter Westchester County for the purpose of arresting me or for the other acts committed by them on such day.

As I have heretofore stated, I will not restate all the allegations made against these defendants which clearly state a cause of action.

WHEREFORE, deponent prays that leave to reargue be granted and on such rearguement that the Order of this Court be reversed, 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
30th day of April, 1978.



DORIS L. SASSOWER
Notary Public, State of New York
No. 60-245772
Qualified in Westchester County
Term Expires March 30, 1979

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