

I N D E X

BRIEF

Questions Presented		1
Statement		2
Point I	Petitioner's Writ of Habeas Corpus should be sustained.	4
Point II	Petitioner's Article 78 Proceeding should be Granted	4
Point III	The Matters were improperly transferred from Westchester County to Suffolk County.	6
Conclusion	The Order appealed from should be modified, the Writ sustained, the petition granted, together with costs and disbursements.	7

APPENDIX

		A-
Statement Under Rule CPLR 5531		1
Notice of Appeal		2
Order appealed from		3
Notice of Petition		4
Petition		6
Writ of Habeas Corpus		9
Petitioner's Affidavit		10
Respondent's Notice of Motion		13
Respondent's Demand		15
Respondent's Demand		16
Petitioner's Affidavit		17
Petitioner's Affidavit-Exhibit		26
Petitioner's Affidavit-Exhibit		28

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

-----x
GEORGE SASSOWER,

Petitioner-Appellant,

-against-

JOHN P. FINNERTY, SHERIFF OF SUFFOLK
COUNTY,

Respondent-Respondent.
-----x
-----x

GEORGE SASSOWER,

Petitioner-Appellant,

-against-

SHERIFF OF THE COUNTY OF SUFFOLK,

Respondent-Respondent.
-----x

PETITIONER'S BRIEF

QUESTIONS PRESENTED

1. Should petitioner's Writ of Habeas Corpus be summarily sustained?

Special Term did not respond.

2. Should petitioner's Petition have been summarily sustained?

Special Term did not respond.

3. Should the matters herein have been transferred to Suffolk County under the circumstances at bar?

Special Term responded in the affirmative.

STATEMENT

On July 28, 1977, Mr. Justice GEORGE F.X. MCINERNEY reiterated the fundamental constitutional proposition that petitioner could not be summarily tried for criminal contempt in his absence (aff'd 65 A.D.2d 756, 409 N.Y.S.2d 762).

With knowledge of the aforesaid determination, the gross illegality of his action, and that petitioner was in the midst of a trial in Supreme Court, Bronx County, Acting Surrogate HARRY E. SEIDELL, the sycophant of Surrogate ERNEST L. SIGNORELLI, tried, adjudicated, and sentenced petitioner to be incarcerated for thirty days, all in absentia (A18).

When the Sheriff of Suffolk County opted to enforce such egregious Contempt Order, despite his knowledge of its invalidity, petitioner caused to be served upon him a Notice of Petition and Petition seeking to restrain him and his deputies

"from entering any county outside of Suffolk County for the purpose of arresting Petitioner, prohibiting them from removing Petitioner from the County of his arrest or detention and/or restraining them from preventing Petitioner from seeking a Writ of Habeas Corpus in the county of his arrest and detention (in) the District of (the) Federal Court of such arrest and detention ... " (A4-5).

Nonetheless and notwithstanding, the day following personal service of such petition on respondent, petitioner was seized in Westchester County by Deputy Sheriffs of Suffolk County, placed in handcuffs, and beaten up because

of his attempt to gain the aid of the local police during his abduction to Suffolk County (A18).

Petitioner's attempts to gain habeas corpus relief or to communicate with an attorney, relatives or friends were also prevented prior to actual incarceration in Suffolk County (A18).

A Writ of Habeas Corpus was secured by petitioner's attorney-wife returnable in Westchester County when she was made aware of the situation. Pending return of the Writ, petitioner was released on his own recognizance (A9, A18).

On the return date of the Writ of Habeas Corpus, no one answered the calendar on behalf of respondent. Nevertheless, the matter was adjourned (A10).

The Record reveals that prior to the calendar call, HARRY E. SEIDELL, through his secretary communicated with the secretary of the Justice Presiding in Westchester County in an ex parte covert attempt to influence the outcome (A11).

The Record further reveals that although the respondent did not answer the calendar call, he did have an attorney representative in Court who did not speak or reveal his presence in open court and whose identity was not ascertained by petitioner until after the matter had been adjourned and both had left the Courtroom (A10-11).

On an adjourned date, both proceedings were transferred to Suffolk County, as desired by respondent (A3).

POINT I

PETITIONER'S WRIT OF HABEAS
CORPUS SHOULD BE SUSTAINED

Since the illegality of the procedures by ERNEST L. SIGNORELLI or HARRY E. SEIDELL in sentencing petitioner in criminal contempt was uncontroverted, the matter should not have been transferred to Suffolk County. Rather the writ should have been summarily sustained.

Not only was petitioner unconstitutionally tried in absentia (Sassower v. Signorelli, 65 A.D.2d 26 , 409 N.Y.S.2d 762), but he was also unconstitutionally found guilty in absentia and sentenced to be incarcerated without being afforded the constitutional right of allocution.

Hypocrisy is being immortalized by these judicial potentates of Suffolk County who apparently believe that they are exempt from the injunctions of the Constitution of the United States and that the emoluments of their office include their right to harass, at government expense, patently meritless claims and the right to improperly influence other members of the judiciary by ex parte communications.

POINT II

PETITIONER'S ARTICLE 78
PROCEEDING SHOULD BE
GRANTED

1. The Sheriff is a local officer, whose bailiwick does not extend beyond the county lines (Public Officers Law §2; People ex rel Fallon v. Wright, 150 N.Y. 444, 448).

Respondent's common law limited territorial jurisdiction

(70 Am Jur 2d, Sheriffs, Police, Constables §27, p. 150-151; 5 Am Jur 2d, Arrest §19, p. 710; 6A CJS, Arrest, §53b, p. 125) has not been changed by statute (County Law §650; Criminal Procedure Law, §1.20 [34-b]).

Prohibiting respondent from "entering any county outside of Suffolk County for the purpose of arresting petitioner" would, under the circumstances be a most appropriate remedy against one who refuses to observe the legal limitation of his authority and claims immunity for any damages caused by his actions.

2. Petitioner further requested that respondent be restrained "from removing Petitioner from the County of his arrest or detention and/or restraining them from preventing petitioner from seeking a Writ of Habeas Corpus in the county of his arrest and detention ...".

CPL §120.90 (3) specifically provides that the arrested person must be brought to "a local court of the county of arrest...".

The statutory mandate is consonant with the Writ of Habeas Corpus, "the swift and imperative remedy in all cases of illegal restraint, (including) judicial" (Fay v. Noia, 372 U.S. 391, 400, 403).

Despite the prior service of such Notice of Petition on the respondent, he caused his deputies to violate basic constitutional and statutory rights when he seized petitioner in Westchester County and abducted him to Suffolk County.

POINT III

THE MATTERS WERE IMPROPERLY
TRANSFERRED FROM WESTCHESTER
COUNTY TO SUFFOLK COUNTY

In the event that this Court does not summarily sustain petitioner's Writ of Habeas Corpus and his Article 78 petition, then the matter should be returned to Westchester County for disposition.

The Record reveals a number of bases for retention of venue in Westchester County, and certainly for venue in a County other than Suffolk County. These include the following:

1. Respondent did not demand a change of venue until after answer and failed to set forth the basis thereof.
2. Petitioner is a resident of Westchester County, the Writ was made returnable therein, it was the County wherein the respondent intended to and did unlawfully intrude, it was the county wherein respondent refused to perform his duty (to bring petitioner before a local court or permit him to present a Writ of Habeas Corpus), and where the material events took place, including the detention of petitioner.
3. There is extensive related litigation between the petitioner and two judges in Suffolk County wherein petitioner has alleged several prior attempts to improperly influence dispositions before other judges and courts.

The actions of HARRY E. SEIDELL in communicating with Court in Westchester County, ex parte and covertly, is just one instance of the improprieties of HARRY E. SEIDELL and ERNEST L. SIGNORELLI in this regard.

As petitioner has stated:

" Judge Seidell should be made aware
that in the present litigation, he is

a litigant or a witness and should act as such and not exceed his judicial prerogatives in an arena where he has no jurisdiction." (All)

Obviously it is not as easy for HARRY E. SEIDELL and ERNEST L. SIGNORELLI to exert their improper influence or evoke feelings of partisanship in counties outside of Suffolk County as it is in the county wherein they exercise their official functions, which includes the dispensation of regular and substantial patronage.

4. Additionally, in view of the altercation that took place between petitioner and the Deputy Sheriffs when petitioner sought the aid of local police, in which one Deputy Sheriff claimed that petitioner while handcuffed him and caused him multiple injuries, hospital treatment and the loss of eleven days of work, petitioner seriously questions his personal safety in Suffolk County if compelled to attend there.

5. Under the criteria set by this Court in Arkwright v. Steinbugler, 283 App. Div. 397, rearg. and leave den. 283 App. Div. 873), transferal of venue to Suffolk County constitutes a plain abuse of discretion.

CONCLUSION

THE ORDER APPEALED FROM
SHOULD BE MODIFIED, THE
WRIT SUSTAINED, THE PETITION
GRANTED, TOGETHER WITH COSTS
AND DISBURSEMENTS

Respectfully submitted,

GEORGE SASSOWER, Esq.
Attorney for petitioner-pro se.