

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GEORGE SASSOWER,

Plaintiffs,

-against-

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

Defendants.
-----X

File No.
77Civ1447
[JM]
Action #1

-----X
-----X
GEORGE SASSOWER, individually, and on behalf
of all others similarly situated or affected
Plaintiff,

-against-

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

Defendants.
-----X

File No.
78Civ124
[JM]
Action #2

-----X
-----X
GEORGE SASSOWER,

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
JOHN P. FINNERTY, ALAN CROCE, ANTHONY
GRZYMAŁSKI, HARRY SEIDELL, and THE COUNTY
OF SUFFOLK,

Defendants.
-----X

File No.
84Civ2989
[JM]
Action #4

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

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

1a. This affidavit is submitted without prejudice to plaintiff's contention that the burden of pleading and showing entitlement to immunity is on the defendant (Gomez v. Toledo, 446 U.S.635, 640, 100 S.Ct. 1920, 1924, 64 L.Ed.2d 572, 578; Dennis v. Sparks, 449 U.S. 24, 29, 101 S.Ct. 183, 187, 66 L.Ed.2d 183, 190; Dellums v. Powell, 660 F.2d 802, 807 [D.C. Cir]), and that in order to vindicate his federal rights, he need only plead that he has been denied such rights "under color of state law" (Gomez v. Toledo, supra).

b. Thus far, no attempt has been made to meet such burden.

2a. It was manifestly obvious that a state habeas corpus proceeding to vacate a criminal conviction wherein there was (1) no accusation; (2) no notification of trial or hearing; (3) a trial; (4) conviction; and (5) sentencing, all in absentia, should have taken no longer than a few minutes to sustain.

b. Certainly, in order to sustain plaintiff's state habeas corpus writ, it did not need a gun-to-the-head statement from a federal court to terminate a hearing in its fifth day.

3a. The evidence, now available, but not when Action #1 and #2 were active, reveals that both Ernest L. Signorelli [hereinafter "Signorelli"] and his former campaign manager, Vincent G. Berger, Jr. [hereinafter "Berger"], and now attorney for Anthony Mastroianni [hereinafter "Mastroianni"], had orchestrated a "lynch mob" atmosphere in the courtroom.

These defendants (1) solicited a private interview with a court reporter, causing the publication of highly inflammatory statements the morning the habeas corpus hearing was to commence, and (2) by Berger's inflammatory statements at such hearings when he knew beforehand, as he testified, he had no standing.

Such inflammatory tactics must be assessed by plaintiff's standing insistence on 5th Amendment rights [albeit innocent of the underlying charges].

b. Thus, in a legally egregious situation, wherein it might be expected that the Assistant Attorney General and/or the Assistant Suffolk County Attorney would, sua sponte, consent to sustaining such writ, these public officials were compelled to display strong opposition.

c. These same pressures were placed on the state trial justices.

d. Neither Signorelli, nor Berger, nor Mastroianni were performing judicial duties by the aforementioned actions. On the contrary, they were engaged in an attempt to obstruct the calm judicious administration of justice (Taylor v. Kavanagh, 640 F.2d 450, 453 [2d Cir.]; Martin v. Merola, 532 F.2d 191, 195-198 [2d Cir.]; Helstoski v. Goldstein, 552 F.2d 564 [3rd Cir.]; People v. Marino, 87 Misc.2d 427, 435, 383 N.Y.S.2d 147, 153 [Sup. Monroe]; Canons of Judicial Ethics §3[6]).

4a. The "mock" conviction of the plaintiff took place on Wednesday, June 22, 1977.

b. Plaintiff was arrested, abducted to Suffolk County, incarcerated, and released on a writ of habeas corpus the following morning, Thursday, June 23, 1977, returnable on Monday, June 27, 1977.

c. On Friday, June 24, 1977, when no proceedings were pending involving the plaintiff in any court, recent evidence reveals that Art Penny was solicited to come to Signorelli's chambers for a private interview regarding this matter.

The story regarding this case, resulting from a Signorelli solicited privately interview was published in the Daily News on the morning of Monday, June 27, 1977 (Exhibit "A"), the morning the writ hearing was to commence.

d. The relevant testimony of Art Penny of the Daily News, taken at a state ordered examination before trial, wherein Signorelli's attorney had notice of the taking thereof, is as follows:

" '[He presently] is Assistant to the District Attorney, Suffolk County' (SM7), '[and starting] in 1971 ... wrote all sorts of stories, criminal stories, court stories, investigative stories, indictments, convictions, homicides, plus [did] some investigative work' (SM10).

'[S]ome of [the] people who gave me this education on libel [were] judges ... they gave me some advice .. be careful, be accurate. That was basically it' (SM-21), 'be accurate ... be accurate' (SM22). '[I knew] all the judges in Riverhead on a pretty personal basis. Four or five were very close friends, golfing, husbands and wives dating, going out together, boating ... I can go on

and on' (SM101). '[I] strived for accuracy .. [to be] very careful ... strive for honesty' (SM48), '[in libel law] the best defense [is] being accurate' (SM120), 'I would say fair and accurate reporting were the best defenses' (SM124).

' [I know Judge Signorelli] eighteen, twenty years' (SM46), 'I knew him [Signorelli] as Assistant District Attorney' (SM47), 'I knew him [Signorelli] when he was a County Judge. I watched him in court, I covered his court' (SM48). 'I know Vincent G. Berger, Esq. [Signorelli's campaign manager and attorney for Public Administrator Mastroianni, a Signorelli appointee] for fifteen years ... [we are] on freindly terms' (SM95). [I know] Anthony Mastroianni ... [for] ten, twelve, fifteen years' (SM100), '[on a] first name basis' (SM101). '[I was] certainly on on a friendly basis [with Mervin Woodward, Chief Clerk of Surrogate's Court] ... we were good friends for many years' (SM106).

'[My] office [is] in the Court Building ... Suffolk County paid for the phones. It was a courtesy ... the phone bill used to be picked up by the County [of Suffolk]' (SM17-18), '[I got the story] from somebody [I] knew ... I had three or four calls on this story, I think some of the people had given me leads before ... [the telephone calls were] made to my office ... [to] the press room in the Criminal Courts Building ... my best estimate is I got the calls the Friday [June 24], probably in the morning' (SM37-SM38), 'I believe several of the calls came from friends that I had dealt with before. I think one of the calls came from a complete stranger who I never met before' (SM39), '[the messages were] get over here to the Surrogate's Court, we have a great story for you' (SM40), 'they said we got a good one [story] for you ... we have got a good story for you' (SM50) 'I undoubtedly [went to Surrogate's Court], very obvious [I]

spoke to certain people' (SM41), 'I remember two of [the people who I got calls from (but the witness invoked the shield law)]' (SM42), 'I believe I met ... the people that made the calls to [me] at Surrogate's Court' (SM42), 'I don't think I was in the courtroom at all ... I might have been in chambers ... or outer office' (SM43), 'I don't remember ... who was present when Judge Signorelli gave that explanation ['The Judge explained that he allowed Sassower to purge himself of the contempt charges by giving Mastroianni a complete accounting of the estate'] ... I think it was an indication that \$90,000 was never accounted for' (SM51), 'it should have been he would allow or is allowing Sassower to purge himself of the contempt charges by giving Mastroianni a complete accounting of the estate' (SM54), [my understanding was plaintiff] was held in contempt of court because [he] failed to give a complete accounting as directed by [Signorelli]' (SM57), 'I don't believe ... [I received] any photostatic copies of any of the documents from Surrogate's Court or any other court before [I] wrote the story' (SM31).

'I was the author of that story [Exhibit "A"]' (SM13), 'I doubt very much that it [the published story] was changed' (SM-15), 'I may have called them [the News] on a Friday [June 24, 1977]'.

'In my own mind I am sure I did [speak to Judge Signorelli about this case after June 27, 1977]' (SM104), 'during the following two months after publication ... no one ... advise[d] [me] that there were errors in [the] published article' "(SM27).

5a. Berger, who was Signorelli's former campaign manager, and now authorized to speak and act for the Public Administrator, Mastroianni, testified at his examination before trial that he knew beforehand that he had no standing at the habeas corpus hearing.

b. On the return date, the Assistant Attorney General requested an adjournment, to which plaintiff consented (Exhibit "B").

Berger, who admittedly had no standing, then commenced with his tirade of inflammatory statements related to the underlying merits (Exhibit "B"), when only the technicalities of the "mock" conviction were at issue.

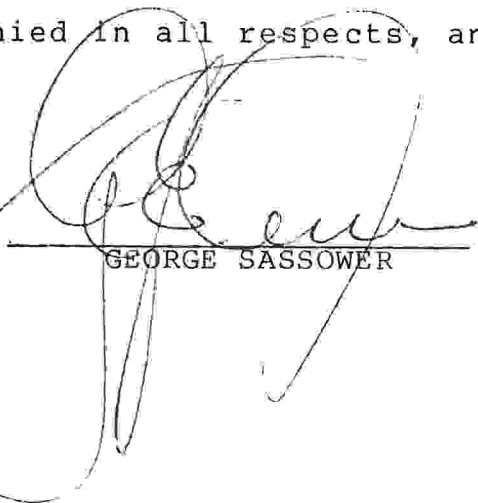
c. Plaintiff's insistence on 5th Amendment rights (Exhibit "B", p. 8), had been long standing (Exhibit "C").

d. Transactions in a criminal courtroom may be public property (Craig v. Harney, 331 U.S. 367, 374, 67 S.Ct. 1249, 1254, 91 L.Ed. 1546, 1551), but plaintiff was entitled to a trial [before a judge], based upon evidence and argument in open court (Patterson v. Colorado, 205 U.S. 454, 462-463, 27 S.Ct. 556, 558, 51 L.Ed. 879, 881, per Holmes, J.), uninfluenced by inflammatory statements made by the trial judges colleague ("Signorelli") and his sycophants in the public press and in the open courtroom.

6a. It must be clearly understood that plaintiff contends that all of Signorelli's acts, after conviction, were non-judicial, including holding plaintiff incommunicado, denying him his 5th Amendment and habeas corpus rights, and other rights.

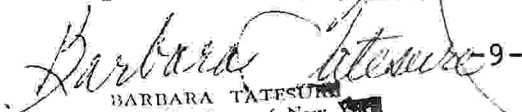
b. Certainly, after recusal, his actions were non-judicial, and did not trigger judicial immunity.

WHEREFORE, it is respectfully prayed that the defendants' motions be denied in all respects, and plaintiff's motions granted.



GEORGE SASSOWER

Sworn to before me this
22nd day of October, 1984


BARBARA TATE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1985

Lawyer to Answer Charges on Estate

WARNING

By ART PENNY (Libel) Suit

A New Rochelle lawyer must appear in Supreme Court in Riverhead today to explain why he should not be jailed for 30 days after being found in contempt of court last week by Suffolk Surrogate Ernest Signorelli.

Judge Signorelli ordered George Sassower 53, of 30 Mildred Parkway, New Rochelle, jailed last Thursday for 30 days, after finding him guilty of contempt. The judge ruled that Sassower removed as executor of a \$100,000 estate 15 months ago failed to provide a complete accounting of the estate's assets.

Another judge released Sassower on \$300 bail and ordered that he show up in court this morning to explain why he should not serve the jail term.

Sassower was executor of the estate of Eugene Paul Kelly of Bay Shore, who died on April 26, 1972, leaving his estate to a daughter and several grandchildren. Sassower, according to the three-inch thick court file on the case, hired his wife, Doris, also an attorney, to represent him as executor.

State inheritance taxes have never been paid and Kelly's heirs have yet to receive their bequests, the court papers indicate. Judge Signorelli first held Sassower in contempt in March 1976, when he removed him as executor, and named Suffolk Public Administrator Anthony Mastroianni to handle this estate.

However, the judge explained that he allowed Sassower to purge himself of the contempt charges by giving Mastroianni a complete accounting of the

Fight Slash in State Aid

The newest slash in Brookhaven Town's equalization rate and its diminishing effect on state aid, including that received by the town's schools, will face vigorous opposition at a hearing tomorrow in Albany before the State Board of Equalizing and Assessment.

This was assured yesterday, by Town Supervisor John Randolph and Suffolk Legislator John Foley (D-Blue Point).

Declaring that the most recent slice is "merely one in a long list of annual unfair reductions," Randolph said town assessor Edward Sullivan will represent Brookhaven at the hearing.

estate. Mastroianni never received the accounting and finally Judge Signorelli ordered Sassower jailed.

Attorneys for the beneficiaries claim mishandling of the estate, which includes bank accounts and properties, including an allegation that Sassower after his removal as executor, tried to sell Kelly's home at 1432 Manatuck Blvd., Bay Shore, last Dec. 2. The courts halted that sale.

June 27, 1977

3.

writ of habeas corpus on Thursday afternoon to the Appellate Division returnable here on Friday. I appeared here on Friday afternoon to find that that writ had not been filed and that another writ had been signed by Judge Thom on Thursday afternoon at a later time making it returnable this morning. In that case I would appreciate an opportunity to respond more fully and an adjournment until the 7th of July to submit papers in opposition.

MR. SASSOWER: I have no objection to that, your Honor.

MR. BERGER: Your Honor, I have an objection to that.

THE COURT: That is the Attorney-General's office?

Atty Gen. → MR. PUGATCH: Right.

MR. BERGER: I would like to state for the record--

MR. SASSOWER: I have no objection but the gentleman who was speaking now has no standing in this proceeding. If your Honor wants to hear him, that is your Honor's decision to make.

MR. BERGER: Your Honor, we are talking about

Exhibit "B"

an estate of approximately \$89,000 that this man since March 9th of 1976 has refused to divulge any information about. He had sole control over it since 1972. My client, the Public Administrator, has every right to participate, at least to say something in this proceeding and any other proceeding pertaining to this estate.

THE COURT: From what I see here, there is no original filed with the Court. If it has, it hasn't been returned to me. This is a writ of habeas corpus. What is the purpose of the writ?

*Suffolk
Co. Atty.*

MR. BAZELL: If I understand correctly, the Petitioner was put into jail on the basis of a commitment. I have a copy of the commitment order which I will show you if you want, your Honor, a warrant of commitment and a commitment order. He was brought into jail and thereafter brought the proceeding. I think Mr. Berger, even though he may not have legal standing, official standing, is more familiar with the facts than I and I think he could explain it to the Court.

THE COURT: That is beside the point. From what I can see in the papers handed to me, which are

photostatic copies, this is a writ of habeas corpus based upon the fact that defendant was adjudicated in contempt and is being held on --

MR. PUGATCH: He was given bail, \$300, your Honor.

THE COURT: If the intent of this is to review the contempt citation, it is an improper method of reviewing the contempt citation. It should be by an Article 78 or appeal.

MR. SASSOWER: I consent to the adjournment. I will be very, very happy to argue this matter today but I certainly hope your Honor does not come to a decision before this matter is argued, even a tentative one.

THE COURT: A decision on what?

MR. SASSOWER: On the writ.

MR. BERGER: On behalf of the Public Administrator, I ask that this writ be dismissed and that the respondent or the petitioner here be remanded to the custody of the Suffolk County Sheriff. He has no intention of complying with the Court Order of the Surrogate. He has refused to comply with requests from my office on behalf of the Public Administrator

to review the assets of this estate. He has openly been in contempt of court of the Surrogate on at least three occasions. I ask that this writ be dismissed and that he be remanded to the custody of the Suffolk County Sheriff.

THE COURT: Why do you need so much time to answer this petition?

MR. PUGATCH: That was what we consented to but if you want to make it a shorter time we have no objection.

MR. BAZELL: The burden is going to be carried by the Attorney-General.

MR. PUGATCH: Upholding the contempt order.

MR. BAZELL: We are just representing the Sheriff.

MR. SASSOWER: Your Honor, may I just state one thing, I'd like first of all to submit a copy of a memorandum of law with admission of service.

Secondly --

THE COURT: Counsel, all this is is an application for an adjournment. I am not going to consider a memorandum of law. I don't have the original papers. Apparently the writ was sworn out on your behalf and

it is your duty or whoever represented you to see that they are returned to the Court. In view of the fact that I have nothing before me, I will grant an adjournment for two weeks for whatever is before the Court.

MR. PUGATCH: We only need until the 7th. It would be one week.

THE COURT: July 7th.

MR. PUGATCH: That would be fine.

THE COURT: July 7th.

MR. SASSOWER: Your Honor, will you entertain the Order to show cause which is a 78 proceeding and make it returnable on the same day so we can all be here at the same time?

THE COURT: Give it to the Clerk.

MR. SASSOWER: It was checked out by the clerk already. Since there is so little time, I would like to give it to the attorneys as soon as possible so they can get their papers in on time and avoid any delay.

MR. BERGER: I would like to call upon Mr. Sassower to comply with the Order of the Surrogate dated April 28, 1977 directing him to turn over the property of this estate. I ask Mr. Sassower for a

response to that, Judge. I ask the Court to note that there is no response to that request, your Honor. There has not been in the past.

MR. SASSOWER: I would like the record to show that I have been the subject of a great many irresponsible charges by Mr. Berger and I would appreciate, if he would like to waive his immunity, I would be very happy to give him responses. In any event, I would like the record to show that I am a defendant in this case and there are decisions in the Supreme Court of the United States as well as this Court that says that the Fifth Amendment still exists in the United States.

MR. BERGER: Your Honor, --

MR. SASSOWER: If you will waive your immunity--

THE COURT: That matter is not before the Court at this time. I request that you cease any communications between each other in court. The matter, whatever is before the Court, is adjourned until July 7th. I will entertain the Order to Show Cause when I finish the proceedings on the bench here.

MR. PUGATCH: If I may submit transcripts of the proceedings?

January 25, 1977

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tion.

THE COURT: All right; get your papers out.

MR. FRANK: May I be excused a moment, Your Honor?

THE COURT: Surely.

Mr. Sassower, I am still waiting for that reply.

MR. SASSOWER: Yes, Your Honor.

MR. BERGER: Note for the record, we are sitting here for ten minutes while Mr. Sassower goes over his files, and my client is present in this court room. We have other duties to take care of. We would like to proceed with this trial.

MR. SASSOWER: Your Honor, it is my contention that legally and morally - - Legally, the Supreme Court has said - -

MR. BERGER: Excuse me, Your Honor. I cannot hear Mr. Sassower.

MR. SASSOWER: - - Legally, the Exhibit "C"

Supreme Court has said that the Fifth Amendment is the result of man's struggle to be civilized. - -

MR. BERGER: I don't like to interrupt anything here, but must we have a lecture on the Fifth Amendment? We would like to proceed with the trial, and would like him to answer that question. It was a very simple question.

THE COURT: Mr. Sassower, I would like to reiterate, I would like an answer to my question.

MR. SASSOWER: May I finish - -

THE COURT: I don't have to have a lecture by you on the Fifth Amendment of the Constitution.

MR. SASSOWER: I wish to stand mute. I don't think you have a legal or moral right to ask me to answer your question.

THE COURT: You don't?

MR. SASSOWER: I have a duty to