In The

SUPREME COURT OF THE UNITED STATES
October Term, 1986

No.

GEORGE SASSOWER,

Petitioner,

-against-

LEE FELTMAN, as Receiver; JEROME H. BARR and CITIBANK, N.A., as Executors of the Estate of MILTON KAUFMAN,

Respondents.

----------x

Rule 43 Application

Oral Argument Imperative

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

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

1a. This affidavit is in support of a Rule 43 application to Honorable THURGOOD MARSHALL, as Circuit Justice, for the Second Circuit, for (1) summary reversal of the criminal conviction of petitioner, by Order entered January 27, 1986, as modified by an Order of the Appellate Division, dated June 24, 1986 (Exhibit "1"); (2) together with any other, further, and/or different relief as to His Honor may be just and proper in the premises.

b. Since no court, judge, nor attorney, not even adversarial counsel, has ever overtly disputed, nor can dispute, petitioner's repeated assertion, that "absent a plea of guilty, no american court has the jurisdictional power to convict, sentence, and incarcerate, any person, for any alleged crime, protected by the VI and XIV Amendments to the Constitution of the United States, without a trial", petitioner right to immediate and summary relief is indisputably clear.

Otherwise stated, as a matter of ministerial constitutional compulsion, absent a plea of guilty, every american jurist must afford an accused a trial, before he convicts, sentences, and incarcerates!

c. To the extent that summary criminal contempt may be an exception to the aforementioned hornbook constitutional proposition, this Court has made it clear, that the exception is more in form than substance, and triggered only by necessity.

In any event "summary criminal contempt" is not in issue in this matter.

2a. Petitioner has, within a one year period, been convicted, sentenced, and incarcerated for "non-summary" criminal contempt, not "summary", three (3) times, a crime coming within the protective umbrella of the XIV Amendment (Bloom v. Illinois, 391 U.S. 194).

b. Petitioner, completely served the sentences imposed upon him under the first two convictions, since he could not obtain a writ of habeas corpus ad subjiciendum from the federal district court, since he could not exhaust his state remedies in such short a period.

c. When the petitioner exhausted his state remedies, the federal district court held that habeas corpus relief was "moot" since he was no longer incarcerated, and was, in addition thereto, denied a certificate of reasonable cause.

d. Petitioner's motion for a certificate of reasonable cause is now pending before the Circuit Court of Appeals.

e. Although petitioners first two convictions are not at issue herein, such short history is set forth to show that if His Honor does not grant extraordinary relief, there will be irreparable prejudice, since petitioner owes society another twenty-seven (27) days of incareration, for purely fabricated "crimes".

f. Under the above scenario, for the short term prisoner, federal habeas corpus, is a non-existent constitutional mirage!

3. Petitioner was able to exhaust his state remedies before he completed his sentence on this third conviction, only because of a medical "stay", after a three (3) day detention.

4a. His Honor's attention is directed to 22 NYCRR §691.7, which in relevant part, provides:

> "Attorneys Convicted of Serious Crimes; Record of Conviction Conclusive Evidence. ... criminal contempt of court ..."

b. Presently pending before the Appellate Division of the Second Department, is a motion returnable September 26, 1986, to confirm a Report of a Referee to discipline petitioner because of, inter alia, the aforementioned three (3) criminal convictions, which he was not permitted to controvert.

5a. Petitioner stated to the Appellate Division, First Department, on oral argument, and now states to His Honor, that if given a fundamentally fair trial, according to law, petitioner would accept a term of incarceration of six (6) months, not thirty (30) days, if found guilty of a single count of criminal contempt, not sixty-three (63) as found by Referee DONALD DIAMOND, without a trial!

b. To the charges alleged against petitioner his plea was, inter alia, "not guilty, double jeopardy, and invidious and selective prosecution".

c. To such plea, Referee DONALD DIAMOND, repeatedly stated, ad nauseam, in his trialess Report, "that a plea of not-guilty to criminal charges is tantamount to a general denial and raises no trialable issues of fact".

d. Obviously, petitioner can only interpose factual material, by waiving his constitutional right not to incriminate himself.

e. Furthermore, Referee DONALD DIAMOND repeatedly stated that he, of his own personal knowledge, knew that petitioner was guilty, and does not need to take testimony!

f. Petitioner, for more than two (2) years has accused Referee DONALD DIAMOND of being "corrupt", "a fixer", "a tyrant", and many other things, on which he has uncontrovertible documentary evidence. Nevertheless, Referee DONALD DIAMOND and Administrator XAVIER C. RICCOBONO "solicited" a reference from Hon. MARTIN EVANS (an honest jurist) to Referee DONALD DIAMOND (a corrupt judicial officer), who by any constitutional standard cannot serve as a judicial officer in criminal contempt proceedings against petitioner (In re Murchison, 349 U.S. 133, 136; Mayberry v. Pa., 400 U.S. 455, 465; Johnson v. Miss., 403 U.S. 212, 216).

6a. Petitioner's "self-styled public prosecutors" (Polo Fashions v. Stock Buyers, 760 F.2d 696 [6th Cir.], amicus invited, U.S. , 106 S.Ct. 565, 88 L.Ed2d 550), are nothing better than "criminals with law degrees", who petitioner has exposed as engaging in criminal activity with respect to judicial trust assets!

b. Petitioner's proof is documented, dramatic, and uncontrovertible!

c. It is now more than six (6) years since a solvent PUCCINI CLOTHES, LTD., was involuntarily dissolved, its assets becoming custodia legis, and the "criminals with law degrees" cannot account and will never be able to account without exposing the massive larceny, the perjury, and the corruption, as long as petitioner gives this helpless "person", a tongue!

7a. His Honor is reminded that more than one hundred and fifty (150) years ago:

> "... James Buchanan brought in a bill which became the Act of March 2, 1831. He had charge of the prosecution of Judge Peck and during the trial had told the Senate: 'I will venture to predict, that whatever may be the decision of the Senate upon this impeachment, Judge Peck has been the last man in the United States to exercise this power, and Mr. Lawless has been its last victim.' " (Nye v. United States, 313 U.S. 33, 46).

b. Obviously, Mr. Buchanan was wrong!

c. Petitioner is resolved in becoming the "last victim" of judicial tyranny, at least for the next one hundred and fifty (150) years!

8. Material incorporated in simultaneously submitted applications are incorporated herein by reference.

WHEREFORE, it is respectfully prayed that this application be granted in all respects.

GEORGE SASSOWER

Sworn to before me this
22nd day of September, 1986

LAMBERT J. METZGER
Notary Public, State of New York
No. 4852367
Qualified in Westchester County
Commission Expires Feb. 18, 1988

presented a consistent plan to the respondent. The agency's plan, as clearly demonstrated in the record, was to return Marlon to the respondent if she made some progress in her parental and family planning skills, if she showed more interest in and responsibility toward Marlon in her weekly visits, and if she obtained a crib so that he could stay overnight with respondent and thus gradually be familiarized with respondent and her family.

All concur.

In re Jerome H. BARR, et al., as Executors of Will of Milton Kaufman, etc., Petitioners,

For the Dissolution of Puccini Clothes, Ltd.

Lee Feltman, etc., Appellant-Respondent,

and

George Sassower, Respondent-Appellant.

Supreme Court, Appellate Division, First Department.

June 24, 1986.

Receiver's motion to confirm official referee's report and punish respondent for contempt was denied by the Supreme Court, New York County, Evans, J., and appeal was taken. The Supreme Court, Appellate Division, held that special term abused its discretion by failing to impose sanction for contempt.

Modified and affirmed.

Contempt ⇐39

Special term abused discretion by failing to impose sanction for contempt in light of continuing contempts and respondent's stated intention to continue to do so.

D.F. Schneider, New York City, for appellant-respondent.

George Sassower, pro se.

Before KUPFERMAN, J.P., and FEIN, LYNCH, MILONAS and ELLERIN, JJ.

MEMORANDUM DECISION.

Order of Supreme Court, New York County (Martin Evans, J.), entered January 21, 1986, denying renewal of the receiver's motion to confirm the Official Referee's report and to punish respondent Sassower for contempt is unanimously reversed, on the law and the facts, without costs, renewal is granted and upon renewal the underlying order of November 22, 1985 is modified only to the extent of imposing a sentence of thirty days incarceration and directing that a warrant of commitment issue forthwith, and is otherwise affirmed.

The appeal from order of the same court and justice, entered November 22, 1985, confirming the Official Referee's report to the extent that it found respondent guilty of contempt but denying (with leave to renew) the Referee's recommendation for imposition of a jail sentence and fines, is dismissed as subsumed in the appeal from the order denying renewal.

We agree with the Justice at Special Term that the report of the Referee should be confirmed. That report finds George Sassower guilty of 63 counts of criminal contempt in violating and continuing to violate an order of disqualification. However, in our opinion Special Term abused its discretion by its failure to impose a sanction in the light of the continuing contempts and respondent's stated intention to continue to do so.

Accordingly, we have directed that respondent be incarcerated for thirty days, and that a warrant of commitment issue forthwith.

Exh. 6, V "1".