In The

SUPREME COURT OF THE UNITED STATES
October Term, 1986

No.

GEORGE SASSOWER,

Petitioner,

-against-

THE JUSTICES OF THE THE SUPREME COURT, OF THE STATE OF NEW YORK: APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT, and COUNTY OF NEW YORK,

Respondents.

For a Writ of Prohibition.

Rule 43 Application

Oral Argument Imperative

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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 petitioner's third conviction in one year, all for non-summary criminal contempt, all without a trial, as against about seventeen (17) vindications, effective vindications, or results other than guilty, each of such twenty (20) proceeding triggering "double [multiple] jeopardy" constitutional rights and prohibitions; (2) vacating the criminal contempt

sanctions imposed by Mr. Justice IRA GAMMERMAN, of March 11, 1986, imposed by virtue of a "phantom", "non-existent" contempt proceeding; (3) prohibiting petitioner's private adversaries from initiating any criminal contempt proceedings against petitioner, without his consent, unless a jurist, qualified by constitutional and statutory standards, first certifies that he has examined the application and reasonably believes that same does not violate petitioner's "double jeopardy" constitutional rights; (4) 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 petitioner's contention that his "double jeopardy" rights have been violated, the substantive merits are not belabored herein, but rather, the need for extraordinary and summary relief.

c. Nevertheless, it takes a vivid imagination to conceive of a situation wherein petitioner was resoundingly vindicated by Hon. LESTER EVENS, and within one (1) business day after service of such Order, with Notice of Entry, that petitioner would be served with four (4) more contempt proceedings, based on substantially the same contentions, assertions, facts, and evidence.

Vindications simply became curses!

d. Then, when all seven (7) contempt proceedings either vindicate petitioner, effectively vindicate him, or seem clearly to result in a determination other than guilty, Mr. Justice IRA GAMMERMAN, without any motion papers, without any prior notice, without any trial, without any anything, not even a pretended compliance with Judiciary Law §756 or constitutional due process, imposed criminal contempt sanctions upon petitioner!

e. Annexed hereto is petitioner's petition dated April 16, 1986 (Exhibit "1"), confirming the irresistible conclusion that "double jeopardy" rights have been violently transgressed.

f. Subsequent to the execution of the petition of April 16, 1986, and on June 24, 1986, the Appellate Division, First Judicial Department (Exhibit "2"), imposed "double punishment", by decreeing that petitioner should be incarcerated for thirty (30) days, in addition to the punishment imposed by Mr. Justice IRA GAMMERMAN, on March 11, 1986.

g. This application should be considered in tandem with petitioner's simultaneous applications, since repetition will, to the extent feasible, be avoided.

2a. On September 9, 1986, the Appellate Division, denied petitioner's application to strike from its June 24, 1986 opinion (Exhibit "2"), the statement that petitioner's "stated intention to continue to do so [violate an order of disqualification]" (Exhibit "3").

b. The Appellate Division denied such application although it was not denied that that such statement was false, contrived.

c. In view of petitioner's repeated vindications, and his repeated statements that he violated absolutely nothing, the statement could not have been possibly made by petitioner.

3. "Double jeopardy" constitutional and societal values mandate that extraordinary, summary, and expeditious relief be granted to petitioner herein.

a. Petitioner is a private, sole practitioner, who has been compelled to seek forma pauperis relief, by reason of the unconstitutional and in terrorem tactics of his adversaries, as set forth in such application, which is incorporated herein by reference.

b. Those that petitioner has exposed as having been engaged in the massive larceny of judicial trust assets, perjury, and corruption; include CITIBANK, N.A., a wealthy estate, a judicial trust, three (3) affluent law firms, members of the judiciary, and their access to the state treasury, who are all involved in a criminal adventure.

c. The evidence of such criminal conduct is documented, uncontroverted, and indeed petitioner has at least four effective confessions of such feloneous conduct.

4a. The present detention and incarceration of petitioner for thirty (30) days, was interrupted after three (3) days, by reason of a rupture of a vein in petitioner's right eye, causing permanent blindness in such eye.

b. Petitioner's present medical efforts are focused on preventing a similar occurrence to his other eye, and he expects the temporary medical stay to terminate momentarily.

5a. Based upon a "phantom", "non-existent" judgment, FELTMAN, KARESH, MAJOR & FARBMAN, Esqs., one of the firms that petitioner exposed, caused the Sheriff of the City of New York to seize petitioner's bank assets, including that which he had in trust for one of his daughters.

b. Then such law firm, claiming that such "phantom" judgment was totally unsatisfied, obtained from Referee DONALD DIAMOND orders which directed the Sheriff of Westchester County:

> "to enter, search and seize any and all word processors, word processing equipment and related software, including without limitation an Exxon word processor ... and if entry cannot be obtained by peaceful means, the Sheriff shall enter the premises by any means necessary and may break and enter the premises; and it is further

> ORDERED ... the Sheriff of Westchester County shall file with Referee Donald Diamond an affidavit setting forth in detail and with particularity the property of George Sassower in his possession, and in the event that the Sheriff has not seized the personalty described in the preceding decretal paragraph, describing in detail the efforts made to do so ..."

c. When the Westchester County Attorney, requested judicial instructions, with respect to such orders, Mr. Justice IRA GAMMERMAN, "stayed" such motion!

d. Although the Westchester County Attorney, assumes such "phantom" judgment really exists, he nevertheless stated in one of his affidavits that he:

> "opposes the totalitarian attempt to have [the Sheriff] break into a judgment debtor's residence and tear apart a mattress in which the judgment debtor allegedly keeps money, all for the purpose of satisfying a $5,000 judgment."

e. For nine (9) months, petitioner has been in a constant state of apprehension, concerned that the Sheriff would be the recipient of an influential telephone call, "break into" his premises and seize his word processing equipment.

f. On one occasion, reasonably anticipating such break-in, petitioner "in the middle of the night", had to flee his premises, with his word processing equipment and important files, and go underground.

6. When Hon. BRUCE McM. WRIGHT, denied a CPLR 3211 motion by KREINDLER & RELKIN, P.C., another firm that petitioner has exposed, it simply went, ex parte, to Referee DONALD DIAMOND, who dismissed the action and imposed a $25,000 fine on petitioner.

7a. Since the corrupt jurists involved in this criminal adventure, in addition to the aforementioned described conduct, have made every attempt to improperly influence jurists in cases wherein petitioner is involved, petitioner, after thirty-seven (37) years of private practice, is now relegated to handling only pro bono matters.

b. It is simply unfair that petitioner's clients should have their cases adversely affected ("fixing") by those who are attempting to compel petitioner to succumb.

8a. Petitioner's client of twenty-five (25) years, HYMAN RAFFE, was vindicated of non-summary criminal contempt five (5) times, and then, on papers which did not even reveal a prima facie case for anything, based on the same charges, was convicted and sentenced to be incarcerated for thirty (30) days.

b. On condition that HYMAN RAFFE discharge petitioner, as his attorney, and agree to other unconstitutional provisions, he has remained free for more than one year, and free of these outrageous monetary assessments, imposed completely without authority!

9a. SAM POLUR, Esq., based upon a false and uncorroborated accusation by DONALD F. SCHNEIDER, Esq., of FELTMAN, KARESH, MAJOR & FARBMAN, Esqs., was also convicted, sentenced, and incarcerated for thirty (30) days, without a trial, for non-summary criminal contempt.

b. Mr. Polur has since left the scene!

10a. Petitioner has repeatedly stated, and does now again state, that he has neither the power nor authority to condone criminal conduct, and has no intention of doing so, no matter how many times he is incarcerated and his constitutional rights transgressed. There will be equality before the law!

b. Petitioner has also repeatedly stated that he will waive his "double jeopardy" rights if given a fundamentally fair trial, according to law, an offer which has never been accepted.

11a. PUCCINI CLOTHES, LTD., a solvent corporation, was involuntarily on June 4, 1980 -- more than seventy-five (75) months ago, its assets and affairs becoming custodia legis.

b. The Receiver must render a final accounting and distribution within one (1) year, and if not rendered within eighteen (18) months, the Attorney General, as a mandatory duty, must make application for such accounting (Business Corporation Law §1216).

c. Nevertheless, since Puccini was involuntarily dissolved, no accounting has been rendered, nor can any accounting be rendered without disclosing the massive larceny of its judicial trust assets, the perjurious statements made to the court denying same, and the corruption involved, including of the Attorney General.

d. Petitioner has a judgment against Puccini and a very large claim, which is now totally valueless, if access to the courts is not afforded.

e. HYMAN RAFFE, is a 25% stockholder in Puccini, also has a judgment against it for more than $500,000.

f. Petitioner's personal and professional obligation is to be "zeolous" in the protection of his and his client's rights, and he intends nothing less!

g. Obviously, there can never be an accounting while petitioner gives this helpless judicial trust, a "person" within the meaning of the XIV Amendment, a tongue!

h. To some in the judiciary, this involuntary helpless trust is not a constitutional "person", but a "judicial fortune cookie"!

12. Since "double jeopardy", and indeed "double punishment", constitutional values are involved; the constitutional transgression indisputably clear; and the "machinery of justice" being employed to extort rather than grant justice, summary relief of an effective nature, is respectfully requested.

WHEREFORE, it is respectfully prayed that this application be granted, with expedition, together with such other, further, and/or different relief as to His Honor may seem just and proper in the premises.

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

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

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GEORGE SASSOWER,

Petitioner,

-against-

THE JUSTICES OF THE THE SUPREME COURT, OF THE STATE OF NEW YORK: APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT, and COUNTY OF NEW YORK,

Respondents.

For a Writ of Prohibition.

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TO THE JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW YORK: FIRST JUDICIAL DEPARTMENT:

The petition of GEORGE SASSOWER, Esq., respectfully shows this Court, and alleges:

1a. Petitioner respectfully requests that this proceeding be (1) transferred to another judicial department; (2) issuing a Writ of Prohibition against the respondents, which, except upon petitioner's expressed written consent, prohibits them from entertaining any contempt proceedings, criminal or civil, against petitioner, based on contentions or assertions, already contended, asserted, and adjudicated favorably to petitioner; (3) dismissing the appeals, as distinguished from the cross-appeal, presently pending before respondent, Appellate Division (#1720-1721), as prohibited by constitutional (federal and state) and statutory "double jeopardy"; (4) together with any other, further, and/or different relief as this Court

Exhibit "1"

b. Most of the essential facts on which this proceeding is based, arose at a time subsequent to the making of the Record on the aforementioned appeal, presently pending to be heard on May 14, 1986.

2a. This Court, being a respondent in this matter, it is jurisdictionally powerless to issue a Writ of Prohibition against itself (Dr. Bonham's Case, 77 Eng. Rep. 646, 652 [1910]; Day v. Savadge, 80 Eng. Rep. 235, 237 [1614]; Judiciary Law §14), as contrary to jura sunt naturae immutabilia.

b. Furthermore, this Court, and some of its members are transactional actors, and indeed defendants and respondents in pending proceedings, making it inappropriate for this Court to become judicially involved in this matter, absent manifest necessity.

3a. The underlying proceeding is PUCCINI CLOTHES, LTD., ["Puccini"], involuntarily dissolved on June 4, 1980 -- soon entering its seventh year -- without any accounting ever having been rendered, final or intermediate.

b. Petitioner's "crime" is that he has given, having a personal and professional interest in Puccini, the helpless judicial eunuch, a "tongue"!

c. Puccini, the "judicial fortune cookie", as the uncontroverted documentary evidence reveals, was massively raped and ravished of all its assets by "felons with law degrees"!

d. In various ways, including criminal, the "felons with law degrees", were aided and abetted by members of the judiciary, including in particular, the "trio of judicial fixers"!

4a. The "felons with law degrees", the "trio of judicial fixers", and others interested in concealing such "crimes", believe "unrevealed crimes" are not "crimes"!

b. The "felons with law degrees", the "trio of judicial fixers", and other interested in concealing such "crimes", perceive petitioner as the only obstacle in the successful concealment of such criminal conduct!

c. The aforementioned have attempted to "bludgeon" petitioner into silence by various methods, including multiple, simultaneous and repeated, contempt proceedings.

d. Additionally, by these multitudinous contempt proceedings, the "felons with law degrees", the "trio of judicial fixers", and others, desire to transfer their own criminal and unethical conduct to petitioner by these repeated, but baseless, accusations of contempt.

* * *

5a. It is factually, legally, and theoretically, impossible for petitioner to be simultaneously accused of "zeolously" advancing his own and his client's rights, and accused of "civil" contempt!

b. Statutory civil contempt requires a finding, factually supported, that petitioner's conduct was (Judiciary Law §770):

> "calculated to , or actually did, defeat, impair, impede, or prejudice the rights or remedies of [Puccini] ..."

c. Since both petitioner and his client have substantial judgments and other interests in Puccini, petitioner's is interested in advancing, not defeating, Puccini's interests!

6a. Petitioner is the respondent (as well as appellant, on a related appeal) in an appeal pending in this Court, wherein Hon. MARTIN EVANS confirmed a trialess Report by Referee DONALD DIAMOND [one of the "trio of judicial fixers"] holding petitioner herein in criminal and civil contempt, but wherein no punishment was imposed of any kind.

b. Renewal, by motion submitted December 19, 1985, was denied. Mr. Justice Evans holding (Exhibit "A"):

> "[M]otion seeking to renew the motion for contempt against George Sassower, Esq., is denied. Movant has not set forth an adequate basis for altering this Court's prior Order."

7a. This Writ is made necessary because (1) the facts upon which it is based arose subsequent to the making of the Record therein; (2) the potential appeal process to the Court of Appeals is better postured.

b. This prohibition proceeding is without prejudice to petitioner's contention in his Brief.

c. This proceeding is also without prejudice to the vacatur of the Report of Referee Diamond Diamond based upon improprieties committed therein, subsequently learned.

8a. Eleven days after the motion was submitted to the Court for determination by Hon. MARTIN EVANS, and on December 30, 1985, in the same proceeding, the appellant submitted the same contentions, including the assertions that were made in the trialess Report of Referee Donald Diamond, and more, to Hon. LESTER EVENS.

b. Such submission resulted in the Order of January 15, 1986, also entered on January 27, 1986, which stated (Exhibit "B"):

> "The motion to hold GEORGE SASSOWER in contempt is denied. With regard to charges of contempt related to Mr. Sassower's motion numbered 145 on the calendar of 12-30-85, that motion has been dismissed and contempt charges are now moot. Those charges relating to Mr. Sassower's purported conduct in matters other than motion #145 are insufficient to support a finding of contempt." [emphasis supplied]

c. Indeed their was a third proceeding, under a different title, but with the same factual assertions and contentions, submitted to Hon. SEYMOUR SCHWARTZ.

d. The law is clear that where a criminal proceeding is terminated for insufficiency, it triggers constitutional and statutory double jeopardy rights (Burks v. United States, 437 U.S. 1; Greene v. Massey, 437 U.S. 19; People v. Brown, 40 N.Y.2d 381, 386 N.Y.S.2d 848, cert. den. 433 U.S. 913; People v. Davis, 91 A.D.2d 948, 458 N.Y.S.2d 563 [1st Dept.]; People v. Dann, 100 A.D.2d 909, 474 N.Y.S.2d 566 [2d Dept.]; Rafferty v. Owens, 82 A.D.2d 582, 442 N.Y.S.2d 571 [2d Dept.]; People v. Warren, 80 A.D.2d 905, 437 N.Y.S.2d 19 [2d Dept.]).

9a. It takes a vivid imagination that upon service of the aforementioned Order of Mr. Justice LESTER EVENS, with Notice of Entry, petitioner was served with four (4) more contempt proceedings, based on the same contentions and assertions!

b. Making the matter more egregious, based on still another, but "phantom", "non-existent" motion, Mr. Justice IRA GAMMERMAN, on March 11, 1986, held petitioner in criminal and civil contempt, sub silentio, based on the same facts and contentions that were before Mr. Justice Martin Evans and Mr. Justice Lester Evens, and imposed sanctions on your petitioner which were requested by appellants on the main pending appeal to this Court.

10a. The question presented is whether, petitioner, having been vindicated by Hon. LESTER EVENS, based on the same facts and assertions, compels the dismissal of the contempt conviction by Hon. MARTIN EVANS?

b. Eliminating statutory civil contempt, simplifies the issue, for it is clear, particularly in criminal contempt:

> "If the judges disagree there can be no judgment of contempt" (California v. Molitor, 113 U.S. 609, 618).

11a. Unless a Writ of Prohibition is granted, vindication becomes a curse, for it only brings, in geometric fashion, new contempt proceedings, based on the same assertions and contentions!

b. The "criminals with law degrees", the "trio of judicial fixers", and the others, can abandon the notion that multiple incarcerations, without trials, and herculian penalties, will cause petitioner to succumb!

c. No previous application has been made to this or any other court or judge for the relief sought herein based on the foregoing facts.

WHEREFORE, it is respectfully prayed that petitioner's motion be granted in all respects, with costs.

Dated: April 16, 1986

GEORGE SASSOWER

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.

Exhibit "2"