In the

SUPREME COURT OF THE UNITED STATES
October Term, 1988

No.

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In the Matter of the Application of

GEORGE SASSOWER

Petitioner.

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FOR A WRIT OF MANDAMUS, PROHIBITION, and/or
PROCEDENDO AD JUSTICIUM
to the
CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

x----------x

Petitioner, individually and a Chapter 13 debtor, by this petition, respectfully request this Court to:

(1a) mandamus the entire Circuit Court of Appeals for the Second Circuit [hereinafter the "respondent"] to recuse itself in all actions and proceedings wherein petitioner is directly and/or indirectly involved; alternatively,

(1b) mandating the respondent to accept for filing petitioner's tendered "general bias" affirmation, and

(1c) mandating the respondent to process petitioner's actions and proceedings in an expeditious, non-discriminatory, manner;

(2) prohibiting respondent, and its members, from employing the legal services of the U.S. Attorney General, and/or the local U.S. Attorney, as their attorneys, in civil actions and/or proceedings, wherein there are contemporaneous criminal allegations asserted;

(3) mandamus respondent, to give obedience to the non-discretionary mandates contained in Title 11 of the United States Code.

(4) mandamus respondent to adjudicate petitioner's standing with respect to those who are being punished in an attempt to extort petitioner's submission and silence concerning judicial corruption.

(5) mandamus respondent to establish disciplinary procedures for members of its bar, which are independent of those employed by the state and local bar.

1a. At least six (6) members of the respondent, as well as a number of nisi prius federal jurists in respondent's circuit, have involved themselves in criminal racketeering activities, and a "reign of judicial terror" has descended upon petitioner and those associated with him, in an attempt to compel submission and silence, as will hereinafter be described.

b. Such criminal racketeering activities by members of the federal judiciary, are fashioned to operate in tandem with corrupt members of the state judiciary, one aspect of which is now being investigated by several state commissions, and presently receiving media exposure.

2. The respondent, by the simple expedient of stonewalling and/or permitting petitioner's appeals and motions to lie fallow have, in effect, denied petitioner's access to the court for irresistible compelling relief, and/or potential review by his Honorable Court.

3. Some of the actions and proceedings, which are being stonewalled, are as follows:

a(1). Petitioner's motion filed on July 7, 1987 [#85-7471] -- almost two (2) years ago -- wherein substantial fine and penalty monies were made payable "to the [federal] court", pursuant to a trialess, manifestly unconstitutional, non-summary criminal contempt conviction by U.S. District Court Judge EUGENE H. NICKERSON ["Nickerson"].

(2) These fine monies, payable "to the [federal] court" were, by criminal judicial extortion, diverted to KREINDLER & RELKIN, P.C. ["K&R"], the law firm that engineered the massive larceny of the judicial trust assets of PUCCINI CLOTHES, LTD. ["Puccini"].

(3) The aforementioned trialess, manifestly unconstitutional, non-summary criminal conviction by Judge Nickerson, and two (2) other trialess non-summary criminal contempt convictions, which petitioner was not permitted to controvert, legally or factually, were essentially the pre-text for petitioner's disbarment in the state courts, as being serious crimes.

(4) Such state disbarment order was given slavish obedience by this court (Matter of the Disbarment of Geo. Sassower, U.S. , 107 S.Ct. 2174), and other federal courts, without an independent investigation, inquiry, or hearing on the lawfulness of state disciplinary procedures.

(5) The vacatur of such manifestly unconstitutional conviction, made more egregious by the diversion of penalty monies from the United States Government to the private pockets of the "judicial cronies", and the recent media disclosure of corruption in the state disciplinary process, should nullify the sham state disbarment order of petitioner.

(6) The purposeful stonewalling of petitioner's motion to vacate before the respondent for almost two (2) years is deliberate, intentional, malicious, and retaliatory, and prevents possible review to this Honorable Court is such motion is denied.

(7) The diversion of substantial monies from the United States Government to the private pockets of K&R, and its clients, aided and abetted by members of the judiciary, including members of respondent, is criminal, to say the least, and should be prosecuted by the United States Attorney.

(8) After two (2) years, a writ procedendo ad justicium is clearly warranted, particularly where the failure to adjudicate same serves as the pre-text for keeping petitioner disbarred.

(9) Furthermore, petitioner's disbarment, the professional "death penalty", for exposing judicial corruption, serves to "freeze" the First Amendment rights and professional obligations (Disciplinary Rule 1-103) of all members of the bar.

b(1) Petitioner's appeal from a "no due process", transparently unconstitutional Order of Chief Judge CHARLES L. BRIEANT ["Brieant"] of the U.S. District Court for the Southern District of New York, dated December 10, 1987, has been stonewalled for approximately sixteen (16) months, clearly warranting intervention by this Honorable Court.

(2) The "disguised nepotism" practices by and between U.S. Chief Judge Brieant and Presiding Justice FRANCIS T. MURPHY ["Murphy"] of the Appellate Division First Department, a "core" corrupt jurist in the Puccini matter, has also received media attention (Exhibit "A").

(3) Petitioner had an action pending before U.S. District Judge CHARLES L. HAIGHT, JR. ["Haight"] of the Southern District, with irresistible compelling merit, when a suspect Order was issued by His Honor.

(4) One of the "judicial fixers" for K&R and FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. ["FKM&F"], is U.S. District Judge WILLIAM C. CONNER ["Conner"], and when petitioner thereafter obtained a copy of the written ex parte "fixing" communication from Judge Conner to Judge Haight, petitioner moved to make Judge Conner a party defendant.

(5) Judge Haight, clearly embarrassed by the exposure of the "Conner Fixing Memorandum", ex parte and sua sponte, requested that Chief Judge Brieant reassign the pending case to another jurist.

(6) Instead of reassigning petitioner's action, as requested by Judge Haight, Judge Brieant, on December 10, 1987, without notice, without opportunity to controvert, instead dismissed the petitioner's action, falsely asserting in a memorandum that petitioner had made Judge Haight a party defendant.

(7) Petitioner, at the time, was aware of Dennis v. Sparks (449 U.S. 24) and knew that only the "fixer" is liable in damages, not the "fixee", and consequently petitioner did not make Judge Haight a party defendant.

(8) Assuming, arguendo, petitioner had made Judge Haight, a party defendant, which he clearly did not, that would not be grounds for the dismissal of a complaint by a judge exercising administrative authority.

(9) Judge Brieant's ex parte and sua sponte dismissal order, was patently an attempt to abort an action against the private patrons of the corrupt and discredited Judge Murphy, with whom Judge Brieant has been involved with in "disguished nepotism" (Exhibit "A").

(10) In addition to such sua sponte dismissal, Judge Brieant, also imposed unauthorized criminal contempt penalties upon petitioner, to wit, judicial permission was thereafter needed for petitioner to file any paper in any case in the Federal Court in the Southern District of New York.

(11) Such prior publication censorship of a First Amendment right, cannot be sustained, even had petitioner be given due process (Near v. Minn., 283 U.S. 697; Matter of Providence Journal, 820 F.2d 1342, 1354, cert. dism. U.S. , 108 S.Ct. 1502), and petitioner clearly was not afforded due process, either before or after such Brieant ukase was issued.

(12) Furthermore, Congress aware of judicial abuse of the contempt power has limited the criminal contempt penalties in the courts that it created to "fine or imprisonment" (18 U.S.C. 401) only.

(13) In the Second Circuit, for those who expose judicial corruption, there are no trials, no hearings, no due process, only trialess convictions, incarcerations, and unauthorized penalties, the Constitution of the United States, the opinions of this Honorable Court, and Congressional mandates to the contrary notwithstanding.

(14) The stonewalling of petitioner's appeal has been stonewalled for sixteen (16) months by the respondent, is intentional, deliberate, and retaliatory, and prevents possible review by this Court if such dismissal is affirmed.

c(1) Because petitioner did not pay, unlawfully demanded pre-petition costs due to a few defendants, Judge JACOB MISHLER ["Mishler"] dismissed, in November 1987, petitioner's action against all defendants, the congressional mandate in 11 U.S.C. 362[a] notwithstanding.

(2) By law, payment of monetary pre-petition costs are stayed (11 U.S.C. 362[a]), and preference payments may not be made by either a Chapter 7 trustee or a Chapter 13 debtor.

(3) Whether costs must be paid as a pre-condition to an action which seeks to nullify, in part, a prior action as a result of fraud with judicial involvement (cf. Hazel-Atlas v. Hartford, 322 U.S. 238) is not before this Court at this time.

(4) The operative fact involved in this petition to this Honorable Court is that the respondent has stonewalled the appeal from the dismissal Order of Judge Mishler, for the non-payment of pre-petition costs, for about sixteen (16) months, and petitioner is entitled to the processing of his appeal in a non-discriminatory lawful manner.

(5) The action of the respondent is deliberate, intentional, and retaliatory, and prevents possible review by this Honorable Court in the event such nisi prius action is affirmed.

d(1) On July 1, 1988, once again, because petitioner could not lawfully pay pre-petition costs due one (1) defendant because of a pending bankruptcy proceeding, which was unlawfully demanded by that single defendant, Judge CON. G. CHOLOKIS, dismissed petitioner's action against all fourteen (14) defendants.

(2) Except for assigning a Docket Number, the respondent completely and deliberately stonewalled the processing of such appeal for ten (10) months.

(3) All attempts by petitioner to obtain a transcript of the few page "on the record" oral decision of Judge Cholokis have been futile, and deliberately no attempt has been made by the respondent to obtain same, although essential for review of such determination.

(4) Of particular significance in this petition is the fact that before such determination of Judge Cholokis, petitioner attempted to file a "general bias" recusal affirmation, but Judge Cholokis directed the Clerk not to accept same for filing.

(5) A motion to have respondent amend the Docket Sheet, for appeal purposes, to include such "general bias" recusal affirmation, but such motion was denied by the respondent, after an inordinate delay of about seven (7) months.

(6) The filing and consideration of such "general bias" issue is essential for a proper disposition of petitioner's appeal, constitutes a denial of petitioner's constitutional right to access to the court, and specifically a denial of petitioner's First Amendment rights.

(7) Petitioner's "general bias" affirmation which he attempted to file in the District Court and which the respondent also rejected, set forth in dramatic terms the criminal corruption that exists in respondent-court, as hereinafter set forth herein.

QUESTIONS PRESENTED

1. Where petitioner has conclusive evidence of "in-office" criminal racketeering conduct by at least (6) members of respondent, and similar misconduct by a number of *nisi prius* jurists, in addition to co-conspiring jurists in the state courts, which information is being made the subject of media distribution, is respondent disqualified from processing and/or adjudicating petitioner's motions and appeals?

2. Should this Court grant extraordinary relief where the respondent (1) does not recuse itself, and (2) does not determine petitioner's motions and appeals, thus precluding potential review by this Honorable Court?

3. Can the respondent refuse to have filed a "general bias" recusal affirmation, and without assigning any reason for such refusal?

4. Can members of the federal bench, in effect, create for themselves criminal immunity by dragooning to themselves for legal representation in related civil litigation, the services of the U.S. Attorney General's Office?

5. Is petitioner constitutionally entitled to have his appeals and motions processed and determined in the same expeditious manner as appeals by other attorneys and litigants?

6. What, if anything, are the constitutional limitations of power of the judiciary against attorneys and/or litigants who expose judicial misconduct and/or corruption, and/or should this Court set forth standards under its general supervisory power?

7. Where the evidence reveals that the respondent is not giving obedience to the non-discretionary mandates contained in Title 11 of the United States Code, to the irreparable prejudice of petitioner and those associated with him, should a writ of mandamus be issued?

8. Where there is substantial evidence, presently being investigated by several state commissions, that the state disciplinary system has been corrupted so as to aid "friends" and punish "enemies", should the respondent institute an independent disciplinary body for its bar?

9. Is petitioner entitled to standing for those who are held "hostage" in an attempt to compel petitioner's submission and silence?

STATEMENT

1a. Thus far, petitioner has only exposed judicial corruption in the state and federal judicial systems in those matters his professional obligation mandated exposure (Canons of Professional Conduct, DR 1-103), and where necessary to represent with "zeal" (Canon 7), although he asserts and has the evidence that corruption and misconduct is extensive in the state and federal judicial systems within the jurisdictional bailiwick of the Second Circuit.

b. The obligation having been professionally imposed, petitioner does not consider himself a "whistle blower".

2. In almost forty (40) years at the bar, the two (2) matters that have caused draconian consequences to petitioner, his family, his clients, and friends, and which presently pend: (1) the judicial trust assets of PUCCINI CLOTHES, LTD. ["Puccini"] -- "the judicial fortune cookie"; and (2) the ESTATE OF EUGENE PAUL KELLY ["Kelly Estate"] -- "Surrogate Signorelli's fortune cookie".

PUCCINI CLOTHES, LTD.

1. Puccini, a solvent corporation, was involuntarily dissolved by Order of the Supreme Court, New York County on June 4, 1980, its assets and affairs becoming custodia legis, under color of law.

2. Puccini's judicial trust assets became the subject of massive larceny engineered by K&R and CITIBANK, N.A. ["Citibank"].

3a. The aforementioned entered into an arrangement with LEE FELTMAN ["Feltman"], the court appointed receiver, that if he did not expose such larceny and nor make any attempt at recovery for this judicial trust, the balance of such trust assets would be transferred to him personally.

b. Since the receiver's maximum fee is delineated by statute (Bus. Corp. Law 1217), the balance of Puccini's trust assets was transferred to the receiver's law firm, FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. ["FKM&F"].

c. In accordance with such unlawful arrangement approximately one million dollars ($1,000,000) was transferred to FKM&F although they did nothing -- absolutely nothing -- which inured to the benefit of this judicial trust.

d. Between the larceny and the plundering, nothing was left for the legitimate creditors and stockholders-- absolutely nothing!

4a. Petitioner, as an attorney, represented HYMAN RAFFE ["Raffe"], who as a creditor and stockholder had the largest single financial interest in Puccini.

b. Aside from representing Raffe, and essentially as a result of such representation, petitioner, personally, had (1) a substantial judgment against Puccini; (2) very substantial unliquidated monetary claims against Puccini; (3) an attorney's lien on Raffe's judgment and claims against Puccini; (3) an attorney's lien on Raffe's stock interest; (4) and other vested, contractually based, interests in Puccini's equity.

5a. After a number of years, petitioner was able to surface and expose such massive larceny, along with the perjurious denials that the K&R entourage had inundated the courts.

b. An unintended result of such exposure, and the litigation that followed, was the clear and hard evidence of very high level judicial and official involvement, state and federal, in such criminal conduct.

c. Thus, the judiciary, even those not involved in hard core corruption, became the adversary, while simultaneously adjudicating.

6a(1) The statutory, legislative and judicial, scheme in New York is that a receiver must file an accounting "at least once a year" (22 NYCRR 202.52[e]), and no one has the power or authority to extend or excuse such filing.

(2) However, in almost nine (9) that have elapsed, not a single accounting has been filed -- not one!

(3) Under the aforementioned scenario, no true accounting can ever be filed, without further exposing the larceny, plundering, perjury, extortion, and judicial corruption that took place.

b(1) Each year, by February 1, the receiver must file with the County Clerk and the Attorney General, a statement of the "assets" of the judicial trust, which filings also cannot be extended or waived (Bus. Corp. Law 1207[C][3]).

(2) However, since Puccini was involuntarily dissolved, not a single statement has been filed which reveals, in full, the "assets" of this judicial trust.

(3) Again, no such statement can ever be filed, without exposing the larceny, plundering, perjury, extortion, and judicial corruption that exists.

c(1) The Attorney General of the State of New York is the statutory fiduciary of all involuntary dissolved corporations, and he has discretionary rights (e.g. Bus. Corp. Law 1214[a]), and mandatory duties (e.g. Bus. Corp. Law 1216[a]), including the "duty" to make judicial application to settle a filed accounting and cause its assets to be distributed in the event same is not voluntarily performed within eighteen (18) months.

(2) However, in the more than one hundred and six (106) months that have elapsed, a corrupted Attorney General has not made a single application -- not one!

d(1) All fees and awards to court appointed receivers in excess of two hundred dollars ($200) must be reported by the jurist, with detailed explanations if same exceeds twenty-five hundred dollars ($2,500), which reports are public records (Judiciary Law 35-a; 22 NYCRR Part 26, Part 36).

(2) However, corrupted jurists have not made any reports with respect to Puccini, although FKM&F received approximately one million dollars ($1,000,000), and RASHBA & POKART [R&P], also received substantial fees in excess of twenty-five hundred dollars ($2,500).

e. Since FKM&F was never judicially appointed, and neither they nor R&P, the perfidious accountants, were not appointed under the procedures provided by 22 NYCRR 660.24, they are not entitled to anything, and the rule so expressly provides (22 NYCRR 660.24[f]).

f(1). Having completely denuded Puccini of all its assets, the judiciary, state and federal, began to extort further funds from Raffe personally for the benefit of FKM&F and R&P.

(2) Indeed, as will be shown, the federal judiciary have as heretofore alleged diverted monies payable to the federal government to the private pockets of these "criminals with law degrees" and Citibank.

g. K&R and FKM&F -- "the criminals with law degrees" -- openly boast that they, with Citibank, "control" the judiciary, state and federal, nisi prius and appellate -- and the facts reveal that these boasts are correct.

7. To compel petitioner, Raffe, and SAM POLUR, Esq. ["Polur"] to succumb, the state and federal judiciary unleashed a "parade of horribles".

8a(1) Based upon the false assertion that Polur had served a summons upon FKM&F in violation of a transparently invalid court order, without a trial, Polur was found guilty of non-summary criminal contempt, fined and sentenced to be incarcerated for the maximum term of thirty (30) days.

(2) Even when it was uncontroverted that Polur did not serve such summons, a seasoned, but corrupt, jurist, Mr. Justice ALVIN F. KLEIN ["Klein"] refused to release him.

(3) When disciplinary proceedings were instituted against Polur, based upon such trialess conviction, Polur left the scene, and the disciplinary proceedings were placed in abeyance to insure that he did not return to the Puccini scene.

(4) Although it is undisputed that the uncorroborated FKM&F charge lodged against Polur was false and perjurious, Polur has never been able to vacate such conviction, either in the state or federal court.

b. Other fines and penalties were levied on Polur by the judiciary, payable to the "criminals with law degrees".

9a. Once the larceny and perjury was exposed, the primary and almost exclusive relief sought by Raffe, through petitioner, was restitution and an accounting, for which there was irresistible compelling merit.

b. Since the corrupt members of the judiciary and/or their cronies had no desire to return their booty, they began to inflict upon him, the victim, repeated plagues, financial and otherwise.

c. Facing six (6) years in prison, based upon trialess convictions for non-summary criminal contempt, (1) Raffe surrendered all his interest in Puccini; (2) was compelled to execute general releases to the racketeering conspirators, including specifically the federal district judges of the Southern and Eastern District of New York, and the state judges; and in addition thereto (3) paid the "criminals with law degrees" more than two million dollars ($2,000,000) in cash.

d. Raffe pays, and pays, and pays, and in his words "they are bleeding me to death", in exchange for which he is not, under a written agreement, incarcerated under such trialess convictions, unlike petitioner and Polur who refused to purchase "indulgences" from the "bag-men" of the judiciary.

e. As part of the payments extorted from Raffe, the fines imposed by Judge Nickerson, under the trialess non-summary criminal contempt conviction, were to be paid to K&R, instead of the federal government.

f. Directly involved in this unconstitutional conviction, in addition to Judge Nickerson, were [former] Chief Judge WILFRED FEINBERG ["Feinberg"], [former] Chief Judge IRVING R. KAUFMAN ["Kaufman"], and Circuit Judge THOMAS J. MESKILL ["Meskill"].

10a. Nevertheless, it was the action by the respondent with respect to the trialess convictions by Referee DONALD DIAMOND ["Diamond"] that has convinced Raffe that he has no viable alternative and must keep paying extortion to the cronies who openly assert that they control the judiciary.

b. Petitioner, without a trial, or opportunity of same, in the closed courtroom of Referee DONALD DIAMOND ["Diamond"] was convicted of sixty-three (63) counts of non-summary criminal contempt, while Raffe was convicted of seventy-one (71) under the same trialess scenario.

c. Such non-summary criminal contempt proceedings was commenced and prosecuted by FKM&F only three (3) weeks after petitioner and Raffe were vindicated of the same charges, clearly triggering constitutional "double [jeopardy] prohibitions".

d. This time, however, Administrator XAVIER C. RICCOBONO ["Riccobono"] dragooned such proceeding to Referee Diamond, although both were active defendants and respondents in litigation initiated by petitioner and Raffe, and charged with being transactionally involved in the Puccini racketeering adventure.

e. In the Murphy bailiwick, whose nisi prius administrators were Riccobono and Administrator LOUIS FUSCO, JR. ["Fusco"], for the proper monetary arrangements, improper things occur.

f. Repeatedly, ad nauseam, the Reports of Referee Diamond proliferate with statements, without any exception, that no trial or hearing is necessary.

g. Without exception, the voluminous record court, in the Murphy forum, reveals that no hearing or trial was had, nor opportunity for same was afforded.

h. Decisive were the proceedings before U.S. Magistrate NINA GERSHON, wherein DONALD F. SCHNEIDER, Esq. ["Schneider"] conceded the absence in the record of any trial or hearing or opportunity for same (Sassower v. Sheriff, 651 F. Supp. 128 [SDNY]).

i. Nevertheless, Circuit Court Judges GEORGE C. PRATT ["Pratt"], ROGER J. MINER ["Miner"], and ELLSWORTH A. VAN GRAAFIELAND ["Van Graafieland"], completely fabricated and contrived the fact that an opportunity for a hearing was afforded to petitioner (Sassower v. Sheriff, 824 F2d 184 [2d Cir.]), in the same way that Chief Judge MARTIN T. MANTON contrived and fabricated the facts in Art Metal v. Abraham & Straus (70 F.2d 641).

j. It is precisely just such judicial system which has compelled Raffe to pay two million dollars ($2,000,000) to respondent's "indulgence peddlers".

k. There Raffe extortion payments continue, and will continue, until Raffe can convince petitioner to succumb and remain silent about such type of judicial corruption.

11a. For similar reasons DENNIS F. VILELLA ["Vilella"] has been incarcerated for the past twenty (20) months, convicted for crimes never committed by anyone.

b. Raffe, Vilella, and others are held "hostage" to compel petitioner's silence, transgressing petitioner's First Amendment right of free association.

12. In every respect, the respondent and its members, as well as its nisi prius jurists, totally and deliberately ignore the mandatory provisions contained in, inter alia, 11 U.S.C. 362[a] and 525.

The Kelly Estate

13a. Simplified, Surrogate ERNEST L. SIGNORELLI, of Suffolk County, pays his private obligations by having his obligees appointed to perform fictitious work on estates and trusts in his jurisdictional bailiwick, and it is those estates and trusts who satisfy his personal obligations.

b. In Signorelli's larcenous and other despotic adventures, he receives the aid of the judiciary, state and federal, nisi prius and appellant, including by respondent and its members.

c. The same type of hostage situation exists, for when petitioner was incarcerated for non-summary criminal contempt without benefit of trial, and his spouse and daughter presented a writ of habeas corpus directing petitioner's immediate release, upon his own recognizance, they themselves were incarcerated, without food, water, and/or toilet facilities, for no other reason than they served such writ, and otherwise they and others were made subject to a "reign of terror" in order to compel petitioner to succumb.

14a. In all civil litigation, wherein respondent and/or its members, as well as the nisi prius jurists, are sued, they dragoon and/or accept the services of the U.S. Attorney, as their attorney, thus effectively immunizing themselves from any criminal prosecution.

b. As a consequence thereof, not only does the respondent and its members effectively secure criminal immunity, but also their lay co-conspirators.

15. As the media is reporting, the disciplinary proceedings in the Murphy citadel are warped by unlawful favoritism, and respondent should be restrained from slavishly giving obedience to orders of the state disciplinary tribunals, without an independent hearing.

WHEREFORE, it is respectfully prayed that the relief requested in this petition be granted in all respects, with costs.

Dated: April 9, 1989

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