

No.  
IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 1989

-----x  
In the Matter of the Petition of

GEORGE SASSOWER,

Petitioner,

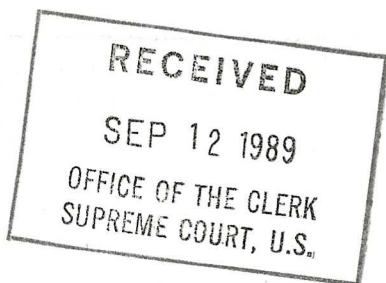
-against-

DENIS DILLON, THE STATE OF NEW YORK, and  
DENNIS F. VILELLA,

Respondents.  
-----x

x-----x  
PETITION FOR CERTIORARI  
to the  
APPELLATE DIVISION OF THE SUPREME COURT OF THE  
STATE OF NEW YORK : SECOND JUDICIAL DEPT.  
x-----x

x-----x  
MOTION FOR A STAY  
x-----x



GEORGE SASSOWER  
Attorney for Petitioner,  
Pro se  
16 Lake Street,  
New York, New York 10603  
914-949-2169

No.  
IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 1989

-----x  
In the Matter of the Petition of  
GEORGE SASSOWER,

Petitioner,

-against-

DENIS DILLON, THE STATE OF NEW YORK, and  
DENNIS F. VILELLA,

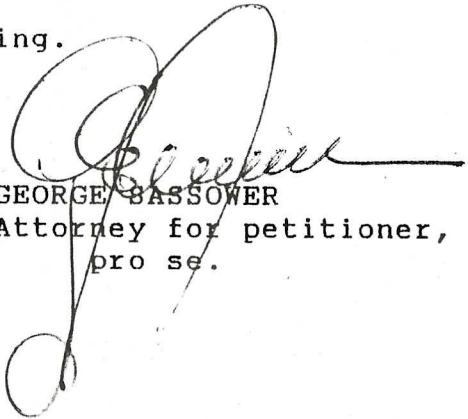
Respondents.  
-----x

x-----x  
PETITION FOR CERTIORARI  
to the  
APPELLATE DIVISION OF THE SUPREME COURT OF THE  
STATE OF NEW YORK : SECOND JUDICIAL DEPT.  
x-----x

x-----x  
MOTION FOR A STAY  
x-----x

Petitioner moves this court to stay the respondents from employing state and/or local governmental facilities from interfering with his contractual rights, including his right to satisfy his money judgment against PUCCINI CLOTHES, LTD., without the transparently unconstitutional conditions set forth in the Order of Referee DONALD DIAMOND, dated October 26, 1988, and entered on November 2, 1988, and further upon the grant of this motion directing petitioner, within a reasonable time thereafter, to pay all filing fees due this Court, any Order of this Court granting in forma pauperis relief to the contrary notwithstanding.

Dated: September 8, 1989

  
GEORGE BASSOWER  
Attorney for petitioner,  
pro se.

No.  
IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 1989

-----x  
In the Matter of the Petition of

GEORGE SASSOWER,

Petitioner,

-against-

DENIS DILLON, THE STATE OF NEW YORK, and  
DENNIS F. VILELLA,

Respondents.  
-----x

x-----x

PETITION FOR CERTIORARI  
to the  
APPELLATE DIVISION OF THE SUPREME COURT OF THE  
STATE OF NEW YORK : SECOND JUDICIAL DEPT.

x-----x

x-----x

AFFIRMATION IN SUPPORT OF A MOTION FOR A STAY

x-----x

Petitioner, GEORGE SASSOWER, having executed and mailed his Petition for Writ of Certiorari, moves this court to stay the criminal prosecution of him by District Attorney DENIS DILLON ["Dillon"] of Nassau County, New York on the authority of Ex parte Young (209 U.S. 123 [1908]).

i. The essential undisputed facts and/or the facts in their most favorable view towards Dillon, are as follows:

a. Petitioner, at the time of his "forthwith" state disbarment, was representing DENNIS F. VILELLA ["Vilella"] who had been indicted for attempted murder and first degree assault.

b. Such "forthwith" state disbarment was totally unrelated to Vilella, and related solely to petitioner's activities in exposing the criminal corruption in the matter of PUCCINI CLOTHES, LTD. -- "the judicial fortune cookie" -- an involuntarily dissolved corporation, whose assets became custodia legis.

c. Such state, not federal, disbarment occurred at the eve of the Vilella criminal trial, and petitioner was ready to proceed forward in such representation at the time thereof.

d. Vilella insisted that petitioner continue with his representation of him in the criminal proceeding, notwithstanding such "forthwith" state disbarment order based upon a disciplinary proceeding wherein Vilella was neither a party nor a participant. The trial judge, however, refused to recognize the petitioner or to make any determination on the federal constitutional issues involved.

e. Those federal constitutional issues included the effect, if any, of Article I §10(1) and the Sixth [Fourteenth] Amendment of the U.S. Constitution in this legal controversy, particularly since New York Judiciary Law §474 speaks of the relationship between attorney and client as "contractual" in nature.

f. The refusal by the state judiciary to physically receive petitioner's papers and/or adjudicate the federal constitutional issues asserted, prompted petitioner to bring a proceeding in the United States District Court for the Southern District of New York, on behalf of Vilella, and other clients who were similarly situated.

k. Consequently, there was good and legitimate reason for Vilella's insistence that he be represented by petitioner in the state judicial forum. Indeed, Vilella refused to obtain or accept other counsel, and defended himself as a pro se defendant.

l. Petitioner position was that unless relieved of his obligations by Vilella, or until the issuance of a formal judicial order wherein the client was a participant, he was legally bound to continue his legal representation.

m. Immediately upon the return of the guilty verdict, Dillon alleges in a criminal proceeding commenced seven (7) months thereafter, that petitioner submitted legal papers which showed, that (1) the crimes for which Vilella was convicted never occurred, and (2) once again asserted that the state could not constitutionally abrogate Vilella's contractual rights against petitioner or ignore Vilella's Sixth and Fourteenth Amendment rights.

n. Such criminal proceeding, instituted by Dillon seven (7) months later, was triggered by petitioner's public exposure of the fabricated nature of such crimes for which Vilella was convicted and the misconduct of the Dillon Office in this matter.

o. Unquestionably, petitioner made every effort, before and since, to have these federal constitutional issues resolved, without success.

2a. On August 18, 1989, Hon. GEOFFREY O'CONNELL, assigned to try these misdemeanor charges against petitioner stated that he had read the documents, and that they clearly set forth petitioner's status at the bar, state and federal. There was no deceit involved in such legal papers, which also clearly set forth petitioner's legal position.

b. Dillon's Office does not controvert the aforementioned conclusions.

3a. Petitioner contends that a person is entitled to an opportunity to adjudicate his legal issues, without seven (7) months thereafter, facing arrest, incarceration, and a criminal trial.

b. Furthermore, when a federal judge, aware of petitioner's status, expressly and/or impliedly, suggests that he present his application, with its federal constitutional questions, to the state forum, the supremacy clause mandates that the Dillon Office give same respect and not bring criminal proceedings against petitioner seven (7) months later.

4a. In Ex parte Young (supra, at 146-147), this Court stated:

"We have the same question [as Cottling v. Kansas City Stock Yards, 183 U.S. 79, 99-102] now before us, only the penalties are more severe in the way of fines, to which is added ... the risk of imprisonment ... . In McGahey v. Virginia, 135 U.S. 662, 694, it was held that to provide a different remedy to enforce a contract, which is unreasonable, and which imposes conditions not existing when the contract was made, was to offer no remedy, and when the remedy is so onerous and impracticable as to substantially give none at all the law is invalid, although what is termed a remedy is in fact given. If the law be such as to make the decision of the legislature or of a commission conclusive as to the sufficiency of the rates, this court has held such a law to be unconstitutional. A law which indirectly accomplishes a like result by imposing such conditions upon the right to appeal for judicial relief as works an abandonment of the right rather than face the conditions upon which it is offered or may be obtained, is also unconstitutional. It may therefore be said that when the penalties for disobedience are by fines so enormous and imprisonment so severe as to intimidate the company and its officers from resorting to the courts to test the validity of the legislation, the result is the same as if the law in terms prohibited the company from seeking judicial construction of laws which deeply affect its rights."

b. At bar it is the actions of Dillon and the courts which, by draconian retaliatory measures, have prevented petitioner and Vilella from an adjudication on important federal constitutional issues.

c. The criminal proceedings against petitioner cannot be justified, and must be stayed.

5. All prior applications, in the state and federal courts, have ignored the federal constitutional issues presented.

6. The aforementioned is stated to be true under the penalty of perjury.

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

Dated: September 8, 1989



GEORGE SASSOWER

CERTIFICATION OF SERVICE

On September 10, 1989, I served a copy of the within Motion and Affirmation for a stay on Hon. DENIS DILLON, at County Court House, 262 Old Country Road, Mineola, N.Y. 11501; THE STATE OF NEW YORK, c/o Hon. ROBERT ABRAMS, Attorney General, at The Capitol, Albany, N.Y. 12224; and Mr. DENNIS F. VILELLA, #87A9590, 354 Hunter Street, Ossining, New York 10562-5442.

LIZBETH A. SASSOWER