

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1990
No.

-----X
In re
GEORGE SASSOWER,
Petitioner.
-----X

X-----X
PETITION FOR WRITS OF MANDAMUS AND PROHIBITION
TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT
AND THE DISTRICT OF NEW JERSEY
X-----X
X-----X
PETITION
X-----X

QUESTIONS PRESENTED

Petitioner prays for:

(1) a Writ of Mandamus to the Circuit Court of Appeals for the Third Circuit directing that Court to issue an Order with respect to petitioner's unopposed motion, dated June 21, 1990, to adjudge R. DAVID WALK, JR. in non-summary criminal contempt under Docket No. 89-5810;

(2) a Writ of Mandamus (Procedendo ad Justitium) to U.S. District Judge NICHOLAS H. POLITAN of the District of New Jersey to re-sentence petitioner in accordance with the mandate of the Circuit Court, dated June 19, 1990, and/or issue an unconditional discharge of petitioner;

(3) a Writ of Mandamus to the Circuit Court of Appeals for the Third Circuit directing that Court to issue an Order with respect to petitioner's unopposed motion of June 24, 1990, under Docket No. 90-5147 which requests:

"an Order (1) directing DENIS DILLON to return all appellant's [petitioner's] seized property; (2) prohibiting any attorney, for any respondent, from accepting compensation from HYMAN RAFFE, directly

and/or indirectly, for legal efforts in this Court, except by the express written permission of this Court; (3) directing any and all respondents' attorneys to disclose to this Court whether they ever received compensation from HYMAN RAFFE, directly and/or indirectly, with such other information that this Court may require if the response is in the affirmative; (4) disqualifying the firm of CLAPP & EISENBERG, P.C., and every other attorney, from representing conflicting interests in this Court; (5) disqualifying the Office of ROBERT ABRAMS, Esq. from representing any respondent except ROBERT ABRAMS, Esq., and members of his office, in this matter; (6) disqualifying the Office of U.S. Attorney SAMUEL A. ALITO, JR., from representing any respondent in this matter. ..."

(4) A Writ of Prohibition prohibiting the enforcement of the transparently invalid Order of U.S. District Judge NICHOLAS H. POLITAN of New Jersey insofar as it provides:

"ORDERED, that the plaintiff [petitioner] George Sassower or anyone acting on his behalf or acting in concert or cooperation with Sassower may not file any new case, proceeding, motion or other litigation document in this Court or in the State Courts of New Jersey without specific written order of this Court; and it further

...

ORDERED, that the Clerk of this Court be and is hereby directed not to accept for filing any new case, proceeding, motion or other litigation document submitted by or on behalf of George Sassower, without prior written leave of this Court; and it is further

ORDERED, that George Sassower shall annex a copy of this Order to all subsequent filings with this Court or any court in the State of New Jersey and shall refer to this Order on the cover page of any document he desires to file; and it is further

ORDERED, that in the event that George Sassower or anyone acting on his behalf, shall, in violation of the within Order, file without having first obtained the prior written consent of this Court, any pleading, new case, proceeding, motion or other litigation document, then George Sassower may immediately be held in contempt of this Court and shall be subject to arrest and other appropriate sanctions without further notice ...".

THE PARTIES

GEORGE SASSOWER Petitioner 16 Lake Street White Plains, N.Y. 10603 (914) 949-2169	CIRCUIT CT. APP.: THIRD CIR. Respondent 601 Market Street, Philadelphia, Pa. 19106-1790 (215) 597-2995
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Hon. NICHOLAS H. POLITAN U.S. Courthouse Newark, N.J. 07102 (201) 645-3730	R. DAVID WALK, Esq. 970 Broad Street, Newark, N.J. 07102 (201) 621-2749
---	--

CLAPP & EISENBERG, P.C. 80 Park Place, Newark, N.J. 07102 (201) 642-3900	U.S. ATTORNEY, NEW JERSEY 970 Broad Street, Newark, N.J. 07102 (201) 621-2749
---	--

Hon. ROBERT ABRAMS 120 Broadway New York, N.Y. (212) 341-2000	SNITOW & PAULEY, Esqs. 345 Madison Avenue New York, N.Y. 10017 (212) 599-4500
--	--

ROTHBARD, ROTHBARD & KOHN, Esqs.
1180 Raymond Boulevard
Newark, N.J. 07102
(202) 622-7713

SILLS, CUMIS, ZUCKERMAN, RADIN, TISHMAN, EPSTEIN &
GROSS, P.C.
13 Washington Street,
Newark, N.J. 07102
(202) 643-3232

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OPINIONS BELOW

The only relevant documents issued by the Court below are (1) the Judgment of the Circuit Court of Appeals for the Third Circuit, dated June 19, 1990 (A-1) which remanded U.S.A. v. Sassower (Docket No. 90-5810) for re-sentence of petitioner, and (2) the without due process edict of U.S. District Judge NICHOLAS H. POLITAN of New Jersey, dated May 9, 1988 (A-2).

JURISDICTION

- (i) Not Applicable.
- (ii) Not Applicable.
- (iii) Not Applicable
- (iv) 28 U.S.C. §1651[a].

CONSTITUTIONAL-STATUTORY PROVISIONS

1. Article III of the U.S. Constitution provides:

"§1 The judicial power of the United States, shall be vested in one Supreme Court
§2[1] The judicial power shall extend in all cases, in law and equity, arising under this Constitution"

2. The First Amendment of the United States Constitution provides:

"Congress shall make no law respecting . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

3. The Fifth Amendment of the United States Constitution provides:

"No person shall . . . be deprived of . . . liberty, or property, without due process of law"

4. 28 U.S.C. §1651[a] provides:

"The Supreme Court ... may issue all writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usages and principles of law."

STATEMENT OF THE CASE

1a. Since petitioner only seeks to compel the issuance of long-overdue orders, and not particular dispositions, the merits, vel non, of the underlying controversies are essentially irrelevant to this application.

b. Until such orders are rendered, the underlying issues cannot be properly presented to this Court by way of petitions for writs of certiorari (cf. Rule 11, Supreme Court Rules).

c. Consequently a Rule 20 remedy is the only viable remedy (cf. Mallard v U.S. District Court, U.S. , 109 S.Ct. 1814 [1989]).

d. The aforementioned notwithstanding, a skeleton statement of the underlying facts will aid comprehension of this application and its necessity.

2a(1) U.S. District Judge NICHOLAS H. POLITAN of the District of New Jersey, sua sponte, issued a transparently invalid injunctive edict which totally denied petitioner access to the courts of New Jersey, federal and state, for any and all relief (cf. Abdul-Akbar v. Watson, 901 F.2d 329 [3rd Cir.-1990]), in an attempt to advance a criminal racketeering adventure with judicial involvement.

(2) Petitioner attempted to file a notice of appeal from such injunctive edict but Judge Politan refused to permit the filing of same, 28 U.S.C. §1292(a)(1) notwithstanding.

(3) Petitioner's petition to the Circuit Court for a writ of mandamus to compel the filing of such notice of appeal was denied, although the Circuit Court thereafter stated that Judge Politan's action was improper since petitioner had an absolute right to pursue the appellate process at that point in time.

(4) Approximately seven (7) months later, petitioner made a motion returnable before Chief U.S. District Court JOHN F. GERRY, the appropriate jurist in the matter, which requested, the payment and receipt of "extortion" monies, as quoted supra, be prohibited.

b. The facts underlying the extortion payments made by HYMAN RAFFE ["Raffe"] and received by New Jersey attorneys are uncontroverted:

(1) Petitioner and his client, Raffe, were resisting involvement in judicial corruption and exposing its existence.

(2) Consequently, without a trial, without an opportunity for a trial and without 'live' testimony in support thereof they, with SAM POLUR, Esq. ["Polur"], were repeatedly convicted of non-summary criminal contempt, fined and/or sentenced to be incarcerated Bloom v. Illinois (391 U.S. 194 [1968]); Klapprott v. U.S. (335 U.S. 601 [1949]); and Nye v. U.S. (313 U.S. 33 [1941]) to the contrary notwithstanding.

(3) While petitioner and Polur, Raffe's attorneys of record, were incarcerated, the judicial cronies negotiated with Raffe, and for the payment of monies, which has now reached "millions of dollars", Raffe was never incarcerated.

(4) Raffe's extorted payments were correlated to petitioner's activities, although such payments were contrary to his legitimate interests (cf. Wood v. Georgia, 450 U.S. 261, 265 p. 5 [1981]), in order to compel petitioner to submit and remain silent about judicial corruption.

c(1) As an example, while petitioner was convicted, fined and sentenced to be incarcerated under a trialess, without 'live' testimony of 63 counts of non-summary criminal contempt by Referee DONALD DIAMOND (Sassower v. Sheriff, 824 F.2d 184 [2nd Cir.-1987]), Raffe in a mirrored trialess scenario was found guilty of the same 63 counts plus 8 more counts, or 71 in total.

(2) Petitioner was incarcerated, while Raffe paid the cronies of the judiciary "millions of dollars", gave other unlawful consideration, and according to the written agreement, as long Raffe pays and otherwise complies, he will not be incarcerated.

(3) In Raffe's words, "they are bleeding me to death".

(4) Thus, the real victim of the non-summary criminal contempt proceeding against petitioner has been Raffe, who has been compelled to continue the payment of extortion monies for activities in New Jersey and the Third Circuit.

(5) In New Jersey, those receiving monies extorted from Raffe include the firm of CLAPP & EISENBERG, P.C. ["C&E"],

who not only represent the court-appointed receiver, but also those who made the trust assets of PUCCINI CLOTHES, LTD. ["Puccini"] -- "The Judicial Fortune Cookie" -- the subject to massive larceny.

3a. On June 19, 1990, the Circuit Court of Appeals for the Third Circuit, while it affirmed the petitioner's conviction for non-summary criminal contempt, remanded the same for re-sentencing.

b. The manifest purpose of the District Court's intentional delay in re-sentencing petitioner is to compel him to cease his First Amendment activities until after such re-sentencing (Burkett v. Cunningham, 826 F.2d 1208 [3rd Cir.-1987]).

c. The additional delay is also prejudicing petitioner in his right to make a prompt petition to this Court after a final judgment is entered.

d(1) Consequently, a Writ of Mandamus or Procedendo ad Justiciam, should be expeditiously issued.

(2) Note should be made that petitioner cannot move for such relief in the District Court because of the existence of the Injunctive Order of Judge Politan, while the Circuit Court intentionally takes no action on petitioner's motions.

4a. On June 21, 1990 petitioner moved for an Order to adjudge Assistant U.S. Attorney R. DAVID WALK, JR. ["Walk"] in non-summary criminal contempt.

b. The law is clear that a criminal contempt proceeding survives the disposition of the main disposition

(Cooper & Gell v. Hartmarx, U.S. , 110 S.Ct. 2447, 2456 [1990]).

c. Walk's misconduct was egregious and reprehensible, including the submission of an Appendix to the Circuit Court where pages A-1 to A-53, inclusive, were not part of the Record. The Government's Brief, in major part, was based on the improperly included material.

d. In any event for such and other misconduct, petitioner is entitled to a determination, just as he is entitled to be re-sentenced (Cohens v. Virginia, 19 U.S. [6 Wheat] 264 [1821]) -- at least within his lifetime.

e. The constitutional right to access to the court is meaningless (Bounds v. Smith, 430 U.S. 817 [1977]), unless one can receive judicial determinations on submitted matters.

5a. On June 24, 1990, in Sassower v. Abrams, Docket No. 90-5147, petitioner moved for an Order, heretofore quoted, for the return of his property and for the disqualification of attorneys.

b. The failure of District Attorney DENIS DILLON ["Dillon"] to return all of petitioner's property, although ordered by a federal judge and a state jurist, is impairing petitioner's litigation ability, and is an extrinsic fraud of the first magnitude (U.S. v. Throckmorton, 98 U.S. 61 [1878]).

c. There was no opposition submitted to any of petitioner's motions and the grant of relief is irresistibly compelled.

6a. A Writ of Prohibition prohibiting the enforcement of the transparently invalid Order of U.S. District Judge NICHOLAS H. POLITAN of New Jersey, is also requested.

b. A motion for relief in the Circuit Court, although made, is an act of futility, since such motions will only lie fallow therein.

REASONS FOR THE GRANT OF THIS WRIT

There is an intentional and deliberate attempt to conceal judicial corruption in this matter, which delay is only causing such corruption to be extended into other federal judicial circuits.

Petitioner is entitled to seek eventual review by this Court which is being stonewalled by the courts below.

Dated: December 26, 1990

Respectfully submitted,

GEORGE SASSOWER
16 Lake Street,
White Plains, N.Y. 10603
(914) 949-2169

CERTIFICATION OF SERVICE

On December 28, 1990, I served a true copy of this Petition by mailing same in a sealed envelope, first class, addressed to the Solicitor General, Department of Justice, Washington, D.C. 20530; Circuit Court of Appeals for the Third Circuit, 601 Market Street, Philadelphia, Pa. 19106-1790; Hon. Nicholas H. Politan, U.S. Courthouse, Newark, N.J. 07102; Assistant U.S. Attorney R. David Walk, 970 Broad Street, Newark, N.J. 07102; Clapp & Eisenberg, P.C., 80 Park Place, Newark, N.J. 07102; U.S. Attorney, District of New Jersey, 970 Broad Street, Newark, N.J. 07102; Hon. Robert Abrams, 120 Broadway, New York, N.Y. 10271; Snitow & Pauley, Esqs., 345 Madison Avenue, New York, N.Y. 10017; Rothbard, Rothbard & Kohn, Esqs., 1180 Raymond Boulevard, Newark, N.J. 07102; and Sills, Cumis, Zuckerman, Radin, Tishman, Epstein & Gross, P.C., 13 Washington Street, Newark, N.J. 07102.

GEORGE SASSOWER

United States Court of Appeals

FOR THE THIRD CIRCUIT

No. 89-5810

UNITED STATES OF AMERICA

vs.

GEORGE SASSOWER, Appellant

(D. C. Crim. No. 89-103)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE ----- DISTRICT OF NEW JERSEY

Present: HUTCHINSON, COWEN and SEITZ, Circuit Judges

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the ----- District of New Jersey and was submitted pursuant to Third Circuit Rule 12(6) May 30, 1990.

On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said District Court, entered October 11, 1989, be, and the same is hereby affirmed insofar as the judgment of sentence, however, the terms of probation included in the order will be vacated to permit the said District Court to impose conditions of probation consistent with a sound exercise of discretion. All of the above in accordance with the opinion of this Court.

ATTEST:

M. Elizabeth Ferguson
Chief Deputy Clerk

June 19, 1990

ENTERED

26

on
THE DOCKET
5-11-1988
WILLIAM T. WALSH, CLERK
By *[Signature]*
(Deputy Clerk)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GEORGE SASSOWER,
Plaintiff,

vs.

ROBERT ABRAMS, et al.
Defendants.

Civil Action No. 88-1012
(NHP)

FILED

MAY 9 1988

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

GEORGE SASSOWER,
Plaintiff,

vs.

LEE FELIMAN, et al.

Civil Action No. 88-1562
(NHP)

ORDER OF CONSOLIDATION
AND OTHER RELIEF

This matter having been opened to the Court by motions to dismiss filed by the above-named defendants herein, and the Court having considered the papers; and for good and sufficient cause appearing:

IT IS on this 9th day of May, 1988

ORDERED, that case number 88-1012 and case number 88-1562 be, and hereby are, for all purposes consolidated (hereinafter the "Consolidated Action"); and it is further

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ORDERED, that the Consolidated Action shall be placed on the inactive calendar for a period up to and including May, 1989; and it is further

ORDERED, that the plaintiff George Sassower or anyone acting on his behalf or acting in concert or cooperation with Sassower may not file any new case, proceeding, motion or other litigation document in this Court or in the State Courts of New Jersey without specific written order of this Court; and it is further

ORDERED, that the defendants named in the Consolidated Action are not required to respond to any litigation document previously or subsequently served or filed by or on behalf of plaintiff, unless plaintiff has obtained prior written leave of Court to file such document; and it is further

ORDERED, that the Clerk of this Court be and is hereby directed not to accept for filing any new case, proceeding, motion or other litigation document submitted by or on behalf of George Sassower, without prior written leave of this Court; and it is further

ORDERED, that George Sassower shall annex a copy of this Order to all subsequent filings with this Court or any court in the State of New Jersey and shall refer to this Order on the cover page of any document he desires to file; and it is further

ORDERED, that in the event that George Sassower or anyone acting on his behalf, shall, in violation of the within Order, file without having first obtained the prior written consent of this Court, any pleading, new case, proceeding, motion or other litigation document, then George Sassower may immediately be held in contempt of this Court and shall be subject to arrest and other appropriate sanctions without further notice; and it is further

ORDERED, that notwithstanding anything contained hereinabove, George Sassower may, on or before May 9, 1989, file papers solely in opposition to the motions to dismiss presently pending before this Court; and it is further

ORDERED, that no further oral argument concerning the motions to dismiss shall be held and papers shall be submitted pursuant to Rule 78.


NICHOLAS H. POLITAN, U.S.D.J.