In The
SUPREME COURT OF THE STATE OF NEW YORK
October Term, 1990
No.

GEORGE SASSOWER,

Plaintiff-Petitioner,

-against-

Hon. RICHARD L. THORNBURGH; NICHOLAS H. POLITAN; DANIEL J. MOORE; JOHN F. GERRY; SUSAN C. CASSELL; KREINDLER & RELKIN, P.C.; FELTMAN, KARESH, MAJOR & FARBMAN; CLAPP & EISENBERG, P.C.; ROTHBARD, ROTHBARD & KOHN; HOWARD M. BERGSON; ROBERT ABRAMS; and CITIBANK, N.A.,

Defendants-Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA

PETITION

QUESTIONS PRESENTED

1. Where the Court refuses to adjudicate the invalidity of Sassower v. Sheriff (824 F.2d 184 [2nd Cir.-1987]) and/or Raffe v. Doe (619 F. Supp. 891 [SDNY-1985] based upon the lack of subject matter and personal jurisdiction, and as being the result of judicial frauds, where the uncontroverted documentary evidence reveals such infirmities, even under a pending mandamus proceeding, can the lower courts rely on such determinations as decisive?

2. Assuming, arguendo, the validity of the aforementioned determinations, on a Rule 12(b) motions, can pre-1989 determinations be decisive of a complaint based on 1989 acts of misconduct?

3. Should petitioner been given notice and an opportunity to respond prior to rendering a decision based in part of his other pre-1989 cases?

4. Where petitioner, who was admitted to the bar in 1949, very actively practiced law for almost 40 years, and claims and does claim that:

> "he never commenced a frivolous action, never commenced a frivolous proceeding, never took a frivolous appeal, never made a frivolous motion, nor ever undertook any frivolous judicial proceeding of any kind or nature ...

which assertion has never been controverted, with specifics, by anyone, are the determinations of the lower courts infirm by reason of a Hazel-Atlas v. Hartford (322 U.S. 238 [1944]) scenario?

5. Can the determinations of the lower courts be sustained where the Second Circuit Court of Appeals and petitioner's adversaries have failed and refused to respond to petitioner's demand:

> "that on or before the 9th day of October, 1990, the Circuit Court of Appeals for the Second Circuit and each and every one of affirmant's adversaries set forth, with reasonable specificity, every 'frivolous' assertion they contend affirmant made, setting forth when, where and to whom made, and if in writing, annexing a true copy thereof."?

6. Can petitioner be effectively denied access to the court because he has refused to involve himself in judicial corruption and has exposed such activities, as was his professional obligation?

PRELIMINARY STATEMENT

1. This is one of a series of interrelated certiorari petitions to the Second, Third, Fourth, Eighth, Ninth and District of Columbia Circuits.

Consolidation and/or joint considerations of these petitions is respectfully requested.

Anticipating that a consolidated and/or tandem consideration will be given to these various petitions, an attempt will be made by petitioner to avoid repetition wherever feasible.

2. This petition is one of two interrelated petitions to the Circuit Court for the District of Columbia arising out of events in the Third Circuit, although the Orders involved in this proceeding, with a minor exception, are Second Circuit Orders.

3. There can be no more important petitions pending before this Court than petitioner's petitions, since they all involve the lawless bondage and corruption of the machinery of justice.

THE PARTIES

The parties appear in the caption and are represented by the attorneys appearing in the certificate of service.

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OPINIONS BELOW

1a. The Memorandum Order by the District Court entered on December 28, 1989 (A-01), pursuant to "marching orders" given to Her Honor, completely disregarded the detailed and uncontroverted evidence that Sassower v. Sheriff (supra) and Raffe v. Doe (supra) were void and inapplicable; disregarded petitioner's mandamus proceedings, and accepted such Second Circuit decisions as written on Mt. Sinai and determinative, when they were not even relevant.

b. In any event, on defendants Rule 12(b) motions, these pre-1989 decisions are irrelevant on 1989 conduct.

2. The Memorandum Order entered on March 15, 1990 (A-09), despite a continuing array of evidence that these and other decisions, were rendered to conceal judicial corruption left the trial judge unmoved in appealing to Her Honor to give obedience to her mandated duty (Cohen's v. Virginia, 19 U.S. [6 Wheat] 264 [1821]).

3. That same evidence was before the Circuit Court when it rendered its determination.

JURISDICTION

(i) Decree of the Circuit Court: July 25, 1990

(ii) None.

(iii) Not Applicable

(iv) 28 U.S.C. §1254(1)

CONSTITUTIONAL-STATUTORY PROVISIONS

1. Article I, §8 of the United States Constitution provides that:

> "The Congress shall have the power [3] to regulate commerce ... among the several states ... [9] to constitute tribunals inferior to the Supreme Court. [18] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

2. Article IV, §2 of the United States Constitution provides that:

> "The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states."

3. Article VI[2] of the United States Constitution provides that:

> "This Constitution and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

4. The First Amendment of the United States Constitution provides that:

> "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."

5. The Fifth Amendment of the United States Constitution provides that:

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

6. 28 U.S.C. §1693 provides:

> "Except as otherwise provided by Act of Congress, no person shall be arrested in one district for trial in another civil action in a district court."

STATEMENT OF THE CASE

1. Since this action involves high-level judicial corruption in the Third Circuit, and duplication is being avoided, the facts, with specifics and documentation, will be set forth by petitioner as part of his petitions from the Third Circuit, unless this Court directs otherwise.

2. However several points can be made and noted herein at this juncture:

a. The liability of the co-conspiring defendants, with law degrees, is clear (Dennis v. Sparks, 449 U.S. 24 [1980]).

b. The non-judicial misconduct of U.S. District Court Judge NICHOLAS H. POLITAN ["Politan"] of New Jersey in issuing a civil contempt warrant wherein His Honor was the complainant (Servier v. Turner, 742 F.2d 262 [6th Cir.-1984]); his continuous directions over a period of several months specifically directing the manner of the warrant's execution, including in another state, despite the prohibition in 28 U.S.C. §1693; directions as to the custodial control of petitioner; "fixing" other jurists and his administrative misconduct are all non-immune acts.

c. The conduct of Chief Judge JOHN F. GERRY ["Gerry"], after being communicated by Judge Politan and others, of simply placing petitioner's motions, such as petitioner's motion to prohibit prosecution based on "double jeopardy", his writ of habeas corpus, and other papers, on the shelf and remain eternally unadjudicated, are administrative, not judicial, acts.

d. Unquestionably, petitioner's complaint contained an irresistible compelling cause of action against all defendants (Neitzke v. Williams, 490 U.S. , 109 S.Ct. 1827 [1989]), and there has never has been a showing otherwise, except the assertion that petitioner is litigious (Abdul-Akbar v. Watson, 901 F.2d 329 [3rd Cir.-1990]).

The burden, in any claim of immunity, is on those asserting same (Westfall v. Erwin, 484 U.S. 292 [1988]), for which there was no showing.

The citizen is entitled to the protection from all agencies of government, including the judiciary (Shelley v. Kraemer, 334 U.S. 1 [1947]; Bushell's Case, 124 Eng. Rep. 1006 [1670]).

REASONS FOR THE GRANT OF THIS WRIT

There can be no more important pending petition in this Court than the series of petitions being brought by the petitioner, all of which involve the integrity of machinery of justice, particularly where the judicial corruption in the Second Circuit, enveloped the Third Circuit, then the District of Columbia Circuit, and thereafter three other circuits.

Dated: October 19, 1990

Respectfully submitted,

GEORGE SASSOWER
Petitioner, Pro Se.

CERTIFICATION OF SERVICE

On October 20th, 1989, I served a true copy of this Petition by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to the Solicitor General, Department of Justice, Washington, D.C. 20530; Galland, Kharasch, Morse & Garfinkle, P.C. at 1054 Thirty-First Street, NW, Washington, D.C. 20007, and Ass't N.Y.State Ass't Atty. Gen. Stephen Mendelsohn at 120 Broadway, New York, N.Y. 10271, that being their last known addresses.

Elena R. Sassower

ELENA R. SASSOWER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GEORGE SASSOWER, :

Plaintiff, :

v. : Civil Action No. 89-2214

RICHARD L. THORNBURGH, et al., :

Defendants. :

MEMORANDUM ORDER

On October 30, 1989, this Court ordered, on its own motion, that George Sassower show cause why this case should not be dismissed on various possible grounds. Specifically, Sassower was ordered to show cause why this case should not be dismissed: (1) as against each defendant for lack of venue; (2) as against each defendant for lack of personal jurisdiction; (3) as against all judicial defendants because of their absolute immunity; and, (4) as against all defendants because it violates the injunction established in Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985). Sassower was ordered to respond not later than November 29, 1989.

Sassower has filed numerous and various papers as apparent responses. Unfortunately, his pleadings are completely unresponsive. Consequently, this case shall be dismissed with prejudice for the following reasons.

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12.

I.

The plaintiff has perhaps had an unparalleled career as a litigant and has brought here yet another in a series of lawsuits and motions continuing his "long and tortured history of litigation" in state and federal courts. See Sassower v. Sheriff of Westchester County, 824 F. 2d 184, 185 (2nd Cir. 1987). The details of Sassower's litigiousness are a matter of public record. See, e.g., id.; Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985).[1] For the most part, Sassower's litigation has been related to the dissolution of Puccini Clothes, Ltd. ("Puccini"), a New York corporation placed in receivership. See id. at 892. Sassower originally represented Hyman Raffe, an apparently disgruntled shareholder of Puccini. He was eventually disqualified from representing Raffe and enjoined from filing any future Puccini-related litigation. Id. at 894-95. Nevertheless, "Sassower has bombarded both the state and federal courts with numerous motions (over 300), lawsuits (35) and Article 78 proceedings (40) directed

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[1] In one of his filings, Sassower requests disclosure "concerning any ex parte communications with Her Honor or Her Honor's Office." Stating that he has previously "caught members of the judiciary involved in criminal activities," Sassower writes: "The Order of this Court dated October 30, 1989 did not arrive as a complete stranger. It has been seen before. Investigation has always revealed that it had been preceded by some ex parte communication received by the jurist involved." The public record of Sassower's litigiousness speaks volumes and, indeed, consumes many volumes of F. Supp., F.2nd, Lexis and Westlaw. To the extent that the Court's October 30, 1989, Order indicated an awareness of this litigant beyond the pleadings of this action, the Court relied exclusively on publicly available information and has had no ex parte communications whatsoever. To be sure, as it turns out, Sassower's previous litigation has everything to do with this case.

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against the receiver and his law firm, the attorneys for the other Puccini shareholders, various members of the judiciary, court appointed referees, and the New York State Attorney General." Sassower v. Sheriff of Westchester County, 824 F. 2d at 186. As a result of his actions, Sassower has been held in civil and criminal contempt on more than several occasions. See id.

In response to his "avalanche of litigation," Sassower v. Sansverie, 1989 U.S. App. Lexis 14210 (2nd Cir. September 15, 1989), a permanent injunction was issued by Judge Conner barring Sassower from filing or intervening in any action against any of the defendants that he had previously sued. Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985). Sassower was consequently disbarred because of his contempt convictions for violating the permanent injunction and because of the finding that he had engaged in "frivolous and vexatious litigation . . . for the purpose of harassing, threatening, coercing and maliciously injuring those made subject to it." In re Sassower, 700 F. Supp. 100, 104 (E.D.N.Y. 1988).

The record of cases indicates that Sassower has apparently continued his Puccini-related litigation despite his disbarment, the permanent injunction, and his convictions for contempt. Three separate judicial districts have taken further action to protect their dockets from Sassower. The Southern District of New York ordered the Clerk of the Court "not to accept for filing any paper or proceeding or motion or new case of any kind presented by Mr. George Sassower, or naming him as a party plaintiff or petitioner,

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without the leave in writing first obtained from a judge or magistrate of this Court . . . ." United States for the Benefit of George Sassower v. Sapir, Memorandum and Order, 87 Civ. 7135 (December 10, 1987) slip op. at 2. New Jersey followed suit when Judge Nicholas H. Politan, a defendant in this action, barred Sassower from filing any further Puccini-related litigation papers, except for an opposition to a pending motion to dismiss. See Sassower v. Abrams, 88 Civ. 1012 and Sassower v. Feltman, 88 Civ. 1562, Order of Consolidation and Other Relief (May 9, 1988). Judge Politan's Order was substantially similar to that of the Southern District of New York. Finally, in the Eastern District of New York, Judge Korman directed the Clerk "not to accept any papers, proceeding, or motion or new case of any kind presented by Mr. George Sassower" without prior approval by a U.S. Magistrate. See Sassower v. Sansverie, 1989 U.S. App. Lexis 14210 (2nd Cir. September 15, 1989). On appeal, the Second Circuit upheld the district court's order and issued its own "fair warning" to Sassower that it would do the same "if he continues to abuse the judicial process by the instigation of frivolous appeals . . . ." Id.

II.

Plaintiff's complaint seeks damages of $50 million (before trebling) charging that the Federal District Court of New Jersey is a "racketeering enterprise" and that Judge Politan of that Court has conspired with other named defendants to violate Sassower's

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constitutional rights by having him arrested for contempt. In apparent response to the Court's October 30, 1989, Order, Sassower has evidently moved to amend his complaint to include some additional issues and has moved for an order:

> (1) to declare null, void and of no effect various judgments and orders, including but not limited to Sassower v. Sheriff all other trialess criminal proceedings, and Raffe v. Doe; (2) to direct that monies made payable to the United States, but diverted to the private pockets of KREINDLER & RELKIN, P.C. and CITIBANK, N.A. be deposited with this Court for a proper disposition; (3) that other monies and consideration due the United States, the State of New York, and/or the City of New York, but diverted to the private pockets of FELTMAN, KARESH, MAJOR & FARBMAN, Esqs., KREINDLER & RELKIN, P.C., CITIBANK, N.A., and/or their co-conspirators be deposited with this Court for a proper disposition; (4) to compel Hon. SOL WACTLER, Chairman of the Administrative Board and/or Hon. Matthew T. Crosson, Chief Administrator of the OFFICE OF COURT ADMINISTRATION to cause to be filed with this Court an "accounting" with respect to the stewardship of the judicial trust assets of PUCCINI CLOTHES, LTD. -- 'the judicial fortune cookie' --; (5) to compel Hon. RICHARD L. THORNBURGH to facilitate the lawful access of plaintiff to the various grand juries in the New York, New Jersey and Washington, D.C. . . . .

In another document filed in apparent response to this Court's Order to show cause, Sassower has moved the Court for an order:

> (1) to vacate and/or modify the sua sponte Order of this Court, dated October 30, 1989; (2) to compel District Attorney DENIS DILLON of Nassau County to immediately return to affirmant all property seized from him on or about February 24, 1988; (3) to enjoin Chief Judge CHARLES L. BRIEANT of the Southern District of New York from interfering with plaintiff's right of physical access to the U.S. District Courthouse located at 101 East Post Road, White Plains, New York, and/or discriminating against him in any manner in the use of the governmental facilities therein . . . .

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Plaintiff's filings have failed to respond adequately to any of the four issues on which he was ordered to show cause. Mr. Sassower's filings instead move this Court to take various actions including setting aside numerous named and unamed decisions of other courts. It is axiomatic that his request is beyond the powers of this Court even if his unsupported allegations were meritorious.

Sassower's pleadings are both vexatious and frivolous. Rather than show cause as to why this case does not violate the injunction established in Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985), Sassower has submitted additional materials making it absolutely clear that he seeks to relitigate Puccini-related matters. Rather than show cause as to why this case should not be dismissed as against all judicial defendants because of their absolute immunity, Sassower has submitted additional papers asking this Court to take various actions against numerous judicial defendants.[2] With respect to the Order directing plaintiff to show cause why this case should not be dismissed as against each defendant for lack of venue, Sassower has requested an undetermined amount of additional time so that he can procure documentation to contend "that by

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[2] These defendants are endowed with absolute immunity even if their action was taken "in error, was done maliciously, or was in excess of his authority." Stump v. Sparkman, 435 U.S. 349, 356-57 (1978), cited in Polur v. Raffe, 1989 U.S. Dist. Lexis 8134 (July 14, 1989). Cf. United States for the Benefit of George Sassower v. Sapir, Memorandum and Order, 87 Civ. 7135 (S.D.N.Y. December 10, 1987) ("Plaintiff, who used to be a lawyer, must be deemed to recognize that the Amended complaint violates the 1985 injunction, and [that the federal district judges who he added to the lawsuit] are immune from this sort of litigation.").

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corrupting jurists so that [he] is denied access to the courts in this area, Citibank has effectively waived any objection as to venue . . . ." (citation omitted). No additional time is needed to dispose of this unsupported and bankrupt allegation. Indeed, Citibank is only one of the numerous defendants to this action and, besides, the venue question was raised sua sponte.

Finally, Sassower has similarly failed to show cause why this case should not be dismissed as against each defendant because of a lack of personal jurisdiction. Virtually all of the defendants named have no apparent or alleged connection to the District of Columbia, other than the fact that the Plaintiff has sought to sue them here.

Sassower's failure to comply with the Court's Order or demonstrate jurisdiction as required under the Federal Rules leads to the inevitable conclusion that this case must be dismissed with prejudice on each of the four grounds presented in the Court's Order of October 30, 1989.

Given that this is apparently Sassower's first venture into this venue, no sanctions are herewith imposed. However, the plaintiff is hereby given fair warning that this Court will not hesitate in the future to take appropriate steps to protect itself and prospective defendants from frivolous and vexatious litigation.

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For the foregoing reasons, it is this 28th day of December, 1989,

ORDERED that this case be, and hereby is, dismissed with prejudice.

Norma Holloway Johnson

JUDGE NORMA HOLLOWAY JOHNSON
UNITED STATES DISTRICT JUDGE

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AUSA Richard Roback

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GEORGE SASSOWER, :

Plaintiff, :

v. : Civil Action No. 89-2214

RICHARD L. THORNBURGH, et al., :

Defendants. :

FILED

MAR 15 1990

JAMES F. DAVEY, Clerk

MEMORANDUM ORDER

Plaintiff has filed a motion "to vacate the worthless Memorandum Order of this Court, dated December 28, 1989." On October 30, 1989, Mr. Sassower was ordered to show cause why this case should not be dismissed on four grounds including lack of venue and lack of personal jurisdiction as against each of the named defendants. The plaintiff was also ordered to show cause why this action should not be dismissed in light of the injunction established against further litigation of certain Puccini-related matters in Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985).[1]

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[1] As discussed on a previous occasion, the plaintiff in this action perhaps has had an unparalleled career as a litigant See, e.g., Sassower v. Sheriff of Westchester County, 824 F. 2d 184, 185 (2d Cir. 1987); Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985). For the most part, Mr. Sassower's litigation has been related to the dissolution of Puccini Clothes, Ltd. ("Puccini"), a New York corporation placed in receivership. See id. at 892. Mr. Sassower originally represented Hyman Raffe, a disgruntled shareholder of Puccini. He was eventually disqualified from representing Raffe and enjoined from filing any future Puccini-related litigation. Id. at 894-95. Nevertheless, "Sassower has bombarded both the state and federal courts with numerous motions (over 300), lawsuits (35) and Article 78 proceedings (40) directed against the receiver and his law firm, the attorneys for the other Puccini shareholders, various members of the judiciary, court appointed referees, and the New York State Attorney General." Sassower v. Sheriff, 824 F. 2d

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Mr. Sassower's riposte to this Court's Order to show cause was unresponsive on all counts. Consequently, this case was dismissed on December 28, 1989. Plaintiff now presents several arguments which are treated herein as a motion to reconsider. For the reasons explained, the motion is denied.

First, plaintiff contends that "[t]here is nothing in the Orders of this Court which reveals, expressly or impliedly, any infirmity in plaintiff's complaint" as it pertains to the Attorney General of the United States. Plaintiff has missed the point. The Court's Order to show cause made it absolutely clear that it was incumbent upon the plaintiff to make an affirmative showing. Even now, the plaintiff has failed to show cause why this case should not be dismissed for the reasons stated. Upon reconsideration, the judgment stands with respect to the dismissal of this action against all defendants, including the Attorney General.[2] In

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at 186. In response to his "avalanche of litigation," Sassower v. Sansverie, 1989 U.S. App. Lexis 14210 (2nd Cir. September 15, 1989), a permanent injunction was issued by Judge Conner barring Mr. Sassower from filing or intervening in any action against any of the defendants that he had previously sued. Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985). Mr. Sassower was consequently disbarred because of his contempt convictions for violating the permanent injunction and because of the finding that he had engaged in "frivolous and vexatious litigation . . . for the purpose of harassing, threatening, coercing and maliciously injuring those made subject to it." In re Sassower, 700 F. Supp. 100, 104 (E.D.N.Y. 1988).

[2] However, on reconsideration, the Court does modify one aspect of its earlier decision. Plaintiff's motion has not been dismissed sua sponte on the grounds of lack of personal jurisdiction as against the Attorney General or any other defendant. See Kapar v. Kuwait Airways Corp., 845 F.2d 1100, 1105 (D.C. Cir. 1988).

addition to its decision on the stated grounds, the Court takes this opportunity to articulate that dismissal of this matter is an appropriate sanction under Rule 8(e) and Rule 16(f) for plaintiff's unresponsive, unintelligible, frivolous and vexatious pleadings. Fed.R.Civ.P. 8(e) & 16(f). Cf. Fed.R.Civ.P. 12(f).

Next, plaintiff asserts that his complaint was based on facts which arose after Raffe v. Doe and Sassower v. Sheriff of Westchester County, 824 F.2d 184 (2d Cir. 1987). Plaintiff contends that "prior actions cannot bar substantive relief for subsequent misconduct." Raffe v. Doe bars plaintiff from subsequent Puccini-related litigation. Neither plaintiff's ostensible response to show cause, nor his apparent motion to reconsider, demonstrates to what extent, if any, this action falls outside the scope of Raffe v. Doe. This was the question the plaintiff was asked to address but has instead chosen to ignore. The Court is not in the position, nor should it be, of determining whether some fragment of plaintiff's voluminous complaint has not been previously litigated.

Plaintiff next complains that this Court's reference to the previously issued and valid judgments of other courts somehow violates due process. These citations were not inappropriate, and in any event, were not critical to the disposition of this action.

The plaintiff's final two arguments apparently challenge the rulings of other courts. As noted in the Court's Memorandum Order of December 28, 1989, rather than responding to the Order to show cause, Mr. Sassower's previous filings instead moved this Court to

take various extraordinary actions including setting aside numerous named and unamed decisions of other courts. It is axiomatic that this request is beyond the powers of this Court even if his unsupported allegations were meritorious. As plaintiff is well aware, any grievance with respect to the judgments of other courts must be appealed to that court or the next higher court. There is no appellate review in this court of the decisions of other federal district courts, let alone the decisions of the United States Court of Appeals for the Second Circuit. The plaintiff's accusations regarding various public officials, including the judiciary of New York and New Jersey, are scurrilous and certainly not the basis for any reconsideration of this Court's ruling.

In full view of the foregoing and all of the pleadings filed, it is this 14th day of March, 1990,

ORDERED that plaintiff's motion to reconsider should be, and hereby is, denied.

Norma Holloway Johnson

NORMA HOLLOWAY JOHNSON
UNITED STATES DISTRICT JUDGE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 90-5025 September Term, 1989

C.A. No. 89-02214

George Sassower,

Appellant

v.

Richard L. Thornburgh,
Attorney General

And consolidated case No. 90-5091

BEFORE: Silberman, D.H. Ginsburg and Thomas, Circuit Judges

O R D E R

Upon consideration of appellant's dispositive motions, including his request for remand to file amended complaint, appellees' motion to dismiss appeal No. 90-5025, appellees' motions for summary affirmance, appellant's motion for an extension of time to respond to appellees' dispositive motions, and appellant's applications for a writ of prohibition and for writs of mandamus and prohibition, which we construe as responses to appellees' dispositive motions, it is

ORDERED that the motion for an extension of time to file response be denied. It is

FURTHER ORDERED that the motion to dismiss No. 90-5025 be granted. That appeal was noted while appellant's Rule 59(e) motion for reconsideration was pending in the district court and was thus of no effect. See Fed. R. Civ. P. 4(a)(4); Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61 (1982). It is

FURTHER ORDERED that the motions for summary affirmance of No. 90-5091 be granted, substantially for the reasons stated by the district court in its orders of December 28, 1989 and March 15, 1990. The merits of the parties' positions are so clear as

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to justify summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam); Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir.) (per curiam), cert. denied, 449 U.S. 994 (1980). It is

FURTHER ORDERED that appellant's dispositive motions be dismissed as moot.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 15.

Per Curiam