

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1990
No. 92-

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GEORGE SASSOWER,
Petitioner-Appellant,
-against-

STEPHEN B. HIGGINS; DONALD P. LAY; RICHARD S.
ARNOLD; ROGER L. WOLLMAN; CLARENCE ARLEN BEAM;
BARBARA L. HERWIG; JEROME G. ARNOLD; JAMES L.
OAKES; CHARLES L. BRIEANT; SAMUEL A. ALITO,
JR.; FRANCIS T. MURPHY; ROBERT ABRAMS; DONALD
DIAMOND; FELTMAN, KARESH, MAJOR & FARBMAN;
KREINDLER & RELKIN, P.C.; CITIBANK, N.A.;
DENIS DILLON, and FIDELITY & DEPOSIT COMPANY
OF MARYLAND,
Respondents-Appellees.

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x-----x
PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE
EIGHTH CIRCUIT

x-----x
x-----x
PETITION
x-----x

PRELIMINARY STATEMENT

1. This is the first of several interrelated petitions for a Writ of Certiorari from the Eighth Circuit, to be submitted over the next several weeks, concluding with an application for consolidation.

Some of the other intended petitioner are not presently ripe for petitions to this Court since they have motions or other collateral proceedings pending sub judice at the Circuit Court.

2. Since petitioner will attempt to avoid repetition in his several petitions from the Eighth Circuit, excluded from this petition are "Questions Presented" and "Facts" more appropriately included in his subsequent petitions.

QUESTIONS PRESENTED

1a. Where the statutory mandate provides for appellate review of a final order of the U.S. District Court by the U.S. Circuit Court of Appeals [28 U.S.C. §1291], and petitioner has complied with every procedural requirement for such appellate review, can the Circuit Court, on an ad hoc, ex post facto, and retaliatory basis refuse to entertain petitioner appeal to that Court by physically returning his submitted Briefs?

b. Should this Court mandamus the U.S. Circuit Court of Appeal for the Eighth Circuit ["CCA8"] to accept petitioner's timely served and properly prepared Briefs, and direct review the District Court Order?

2a. Where petitioner filed a disciplinary complaint with CCA8, pursuant to FRAppP Rule 46[c], having compelling merit, can that Court refuse to process and dispose of such complaint?

b. Under the circumstances presented, which includes a fraud on the federal purse, should this Court mandamus CCA8 to process and dispose of such disciplinary complaint?

3. Where petitioner, through the U.S. Attorney, tendered a communication addressed to the Foreperson of the Grand Jury, with some of his evidence of judicial corruption, was petitioner entitled to a Writ of Mandamus from the District Court when, without lawful excuse, the U.S. Attorney failed to transmit such communication to the Grand Jury?

4a. Independently of petitioner's constitutional and/or statutory right and/or duty to have his information of

egregious criminal conduct transmitted to the Grand Jury, does petitioner have standing to vindicate the rights of the Grand Jury, in the event this Court does not appoint an attorney to represent the rights and interests of the Grand Jury?

5a. Can the U.S. Attorney defend, at federal cost and expense, judges and other officials sued personally for their involvement, in non-judicial capacities, in diverting substantial monies payable "to the federal court" to the private pockets of their cronies, the larceny of judicial trust assets, extortion of millions of dollars paid to private pockets, in lieu of incarceration, and other racketeering activities, and where those sued have not been "scope certified" nor a United States substitution?

b. Can the same Assistant U.S. Attorney defend, in tort litigation, at federal cost and expense, "non-scope certified" judges and officials sued in their personal capacities, who are criminally conducting themselves contrary to sovereign interests, while such same Assistant U.S. Attorney simultaneously opposes a Grand Jury submission?

6. Do federal judges or courts, nisi prius or appellate, have the lawful power to ignore and take no remedial action when confronted with the uncontroverted documentary evidence that monies payable "to the federal court" has been diverted to private pockets (e.g. 18 U.S.C. §4).

7a. Can CCA8, in addition to not accepting petitioner's appellate briefs, without any lawful reason for such rejection, articulated or otherwise, suggest that the U.S.

Attorney for the District of Minnesota bring contempt proceedings against petitioner, when any and all possible misconduct, occurred in either New York or Missouri?

b. Can a judge or court constitutionally commence or threaten to commence a contempt proceeding for exposing and resisting judicial corruption, including for petitioning for a Grand Jury inquiry on the subject?

8. Should this Court appoint an attorney to represent the legitimate financial interests of the United States in the event the U.S. Solicitor General fails to do so?

9. Could the District Court refuse to adjudicate petitioner's Second Cause of Action, which sought to preclude federal representation, at federal cost and expense, without a "scope" certification; petitioner's Third Cause of Action, which was a Rule 60(b) independent action seeking to nullify prior Eighth Circuit proceedings; and petitioner's Fourth Cause of Action for money damages?

THE PARTIES

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

STEPHEN B. HIGGINS
U.S. Attorney
U.S. Courthouse
1114 Market Street,
St. Louis, Missouri 63101
(314) 539-3280

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TABLE OF AUTHORITIES

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Wood v. Georgia 370 U.S. 375 [1962])	3

OPINIONS BELOW

The Opinion of the District Court only addressed petitioner's First Cause of Action for a Grand Jury submission, and ignored the other three causes of action.

The Circuit Court, physically returned petitioner's timely and properly prepared Briefs upon receipt.

JURISDICTION

- (i) Decree of the District Court: November 5, 1991
Circuit Court Judgment January 30, 1992
- (ii) None.
- (iii) Not Applicable
- (iv) 28 U.S.C. §1254

CONSTITUTIONAL-STATUTORY PROVISIONS

1. 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."

2. 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."

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

"No person shall ... nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be deprived of

... liberty, or property, without due process of law ...".

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

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial [in] the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor"

5. 18 U.S.C. §3332(a) provides:

"It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation."

6. 18 U.S.C. §3333(a) provides:

"A special grand jury impaneled by any district court, with the concurrence of a majority of its members, may ... submit to the court a report (1) concerning noncriminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action; or (2) regarding organized crime conditions in the district."

STATEMENT OF THE CASE

1a. There is being simultaneously submitted petitioner's motion and a Rule 23 stay application which fully sets forth the facts involved for this petition, and no beneficial purpose would be served by repetition herein.

b. Furthermore, in petitioner's intended motion for a consolidation, he will submit one combined statement for all his petitions from the Eighth Circuit.

2. Nevertheless, petitioner here states:

a. Where egregious judicial criminal activity is involved, including at the Circuit Court level, which is receiving the cooperation of the Department of Justice, the right of the citizen to access to the grand jury becomes an absolute First Amendment right (Wood v. Georgia, 370 U.S. 375 [1962]).

b(1) Where such criminal activity is contrary to the legitimate interests of the sovereign, and includes an ongoing fraud upon the federal purse, every judge and court, is duty bound to remedy the situation (e.g. 18 U.S.C. §4).

(2) Federal representation, at federal cost and expense, of judges and officials who are defrauding the federal purse for personal ends, and who cannot obtain a "scope certificate" is a continuing scandal of the first magnitude.

c. The citizen has no lawful power to waive, conceal or excuse a judicial fraud (Hazel-Atlas v Hartford, 322 U.S. 238 [1944]), and the Circuit Court of Appeals will not obtain that unlawful result by non-summary criminal contempt proceedings, even if such power existed (Bloom v. Illinois, 391 U.S. 194, 206 [1968]).

REASONS FOR THE GRANT OF THIS WRIT

This is a continuing expanding judicial scandal, which cannot be arrested by the denial of this petition, but instead will become a topic for the media attention and a resultant grand jury investigation.

Dated: April 27, 1992

Respectfully submitted,

GEORGE SASSOWER [GS-0512]
Petitioner, pro se
16 Lake Street,
White Plains, N.Y. 10603
914-949-2169

CERTIFICATION OF SERVICE

On April 28, 1992 I served a true copy of this Petition by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to U.S. Solicitor General, Kenneth W. Starr, Department of Justice, 10th & Constitution Ave., Washington, D.C. 20530 and U.S. Attorney, Stephen B. Higgins at U.S. Courthouse, 1114 Market Street, St. Louis, Missouri 63101; and U.S. Attorney Jerome G. Arnold, 234 U.S. Courthouse, Minneapolis, Mn. 55401, that being their last known addresses.

Dated: April 28, 1992

GEORGE SASSOWER [GS-0521]

FILED

NOV 2 1991

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

U. S. DISTRICT COURT
E. DISTRICT OF MO.

GEORGE SASSOWER,

Plaintiff,

v.

STEPHEN B. HIGGINS, et al.,

Defendants.)

Cause No. 91-1442-C (4)

MEMORANDUM AND ORDER

This matter comes before the Court on defendant Stephen B. Higgins' motion to dismiss and plaintiff's motion for partial summary judgment.

Plaintiff attempts to present certain allegations regarding corruption and obstruction of justice by members of the judiciary and other officials in this circuit to the grand jury. It is argued by plaintiff that because he forwarded certain information regarding criminal activity to Mr. Higgins, the United States Attorney, that in turn, this information must necessarily be forwarded to the grand jury and could not lawfully be barred.

With respect to the allegation that the United States Attorney did not present plaintiff's requested allegations to the grand jury, the plaintiff has not given a clear basis in fact or law for the Court to encroach on the prerogatives of the executive branch. See Application of Ward, 833 F.2d 113 (8th Cir. 1987). The general rule is that an individual cannot bring accusations before a grand jury unless invited to do so by the prosecutor or the grand jury. A well-recognized exception to this rule is that

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the Court, in its supervisory power, can authorize an individual to appear before a grand jury if it feels that the circumstances require such. In a charge to the grand jury, Mr. Justice Field stated ". . . they {complainant} should impart it to the district attorney who will seldom fail to act in a proper case. But if the district attorney should refuse to act, they can make their complaint to a committing magistrate, before whom the matter can be investigated, and if sufficient evidence be produced of the commission of a public offense by the accused, he can be held to bail to answer to the action of the grand jury." Charge to Grand Jury, 30 F. Cas. 992 (C.C. D.Cal. 1872) (No. 18,255); see also In Re New Haven Grand Jury, 604 F. Supp. 453, 457, 460-61, n.8-11 (D. Conn. 1985). In In Re New Haven, the Court analyzed the standard a judge should impose when making a decision on whether or not to convey plaintiff's materials to the grand jury. The Court stated "Without necessarily making a final determination on the merits or purpose of an application, a judge should make a threshold judgment of whether the correspondence is frivolous or vexatious; whether it appears to be designed 'as an instrument' for the gratification of private malice. . . ." Charge to Grand Jury, supra, 30 F. Cas. at 994-995, "or for the purpose of disrupting the system for the administration of justice, and whether the applicant has sought relief from other appropriate law enforcement authorities." In Re New Haven at 463.

The complaint filed by the plaintiff in this case is unclear, rambling, and disjointed. While pro se complaints are to

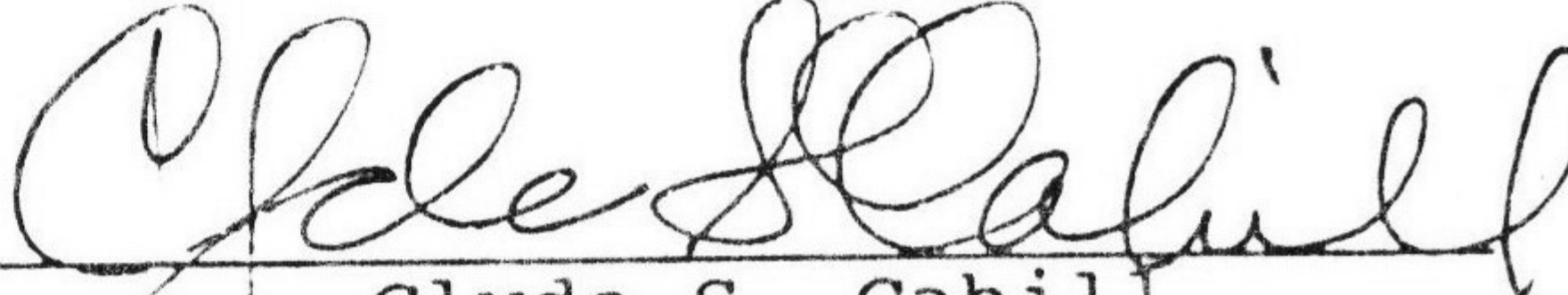
be construed liberally, the complainant is still required to state clear, specific allegations. Martin v. Sargent, 780 F.2d 1134, 1137 (8th Cir. 1985). The complaint as filed does not do so.

In view of the foregoing, the Court does not find that plaintiff has filed a complaint sufficient at this time to warrant an intrusion into the grand jury process, nor does the Court find that plaintiff has pled sufficient facts to state a claim. Therefore,

IT IS HEREBY ORDERED that defendant Stephen E. Higgins' motion to dismiss the amended complaint and all named defendants is granted.

IT IS FURTHER ORDERED that plaintiff's motion for partial summary judgment is denied as moot.

Dated this 5th day of November, 1991.


Clyde S. Cahill
United States District Judge

United States Court of Appeals

FOR THE EIGHTH CIRCUIT

No. 91-3783EMSL

George Sassower,

Appellant,

vs.

Stephen B. Higgins, Donald P. Lay,
Richard S. Arnold; Roger L.
Wollman, Clarence Arlen Beam,
Barbara L. Herwig, Jerome G.
Arnold, James L. Oakes, Charles
L. Brieant, Samuel A. Alito, Jr.,
Francis T. Murphy, Robert Abrams,
Donald Diamond, Feltman, Karesh,
Major & Farbman, Kreindler &
Relkin, P.C.; Citibank, N.A.,
Denis Dillon, Fidelity & Deposit
Company of Maryland,

Appellees.

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Appeal from the United States
District Court for the
Eastern District of Missouri

FILED

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U. S. DISTRICT COURT
E. DISTRICT OF MO.

JUDGMENT

The Petition for a Writ of Prohibition and Mandamus is denied. George Sassower is hereby enjoined from filing any paper with with any court of this Circuit without first obtaining leave of that court in accordance with the provisions of this court's order of March 15, 1991, in Nos. 90-5474 and 90-5501 (see 930 F.2d 583, 584-85). The Clerk of Court is hereby directed to refer the file in this matter (No. 91-3783) to the United States Attorney for the District of Minnesota for consideration of whether to commence proceedings to hold George Sassower in contempt of court for violating the above-referenced order of March 15, 1991.

January 30, 1992

A-H

A true copy:

ATTEST:

Michael E. Gans

Clerk, U.S. Court of Appeals, Eighth Circuit

MANDATE ISSUED, February 21, 1992

A-5.

United States Court of Appeals

For the Eighth Circuit

U.S. Court & Custom House

1114 Market Street

St. Louis, Missouri 63101

Michael E. Gans
Clerk of Court

314 - 539-
FTS: 262-

January 31, 1992

Mr. George Sassower
16 Lake Street
White Plains, NY 10603

No. 91-3783 Sassower v. Higgins, et al.

Dear Mr. Sassower:

Per court order we are prohibited from filing anything further in this case. We are returning Appellant's Brief received this date.

Sincerely,

MICHAEL E. GANS, CLERK

Patty Wakefield
By: Patty Wakefield
Deputy Clerk

MEG/pw

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