

In The  
SUPREME COURT OF THE UNITED STATES  
October Term, 1991  
No. 91-

-----x  
GEORGE SASSOWER,  
Petitioner-Appellant  
-against-  
D. MICHAEL CRITES and WILLIAM P. BARR,  
Respondents-Appellees.  
-----x

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

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

PRELIMINARY STATEMENT

This is the second, of a series, of petitioner's petitions addressed to the Sixth Circuit, which will reveal that such circuit has become completely engulfed in the most extensive case of judicial corruption in Anglo-American legal history.

All facts asserted by petitioner are documented, as well as uncontroverted.

QUESTIONS PRESENTED

1a. Where petitioner's complaint sought to enjoin the appellees, U.S. Attorney D. MICHAEL CRITES ["Crites"] of the Southern District of Ohio and Attorney General WILLIAM P. BARR ["Barr"] from defending in civil tort litigation, at federal cost and expense, federal judges who: (1) were being sued in their individual capacities; (2) had not received an Attorney General's 28 U.S.C. §2679[d] "scope certification"; and (3) were conducting themselves contrary to legitimate federal interests, such as diverting monies payable "to the federal court",



including monies paid on behalf of petitioner, to the private pockets of their cronies, did petitioner set forth a cognizable legal cause of complaint?

b. Is federal defense representation, at federal costs and expense, for federal judges sued in their individual capacities, for personally motivated activities, effectively an unauthorized and taxable increase in their salaries?

2. Where the undisputed assertion by petitioner was that, except in an situation not here relevant (cf. 28 U.S.C. §547[3]), there was no statutory authority for a U.S. attorney to represent individuals, as distinguished from a United States substituted defendant (28 U.S.C. 2679[d]) in his litigation against them, did petitioner set forth a cognizable legal cause of complaint?

3. Where petitioner's complaint requested the appellees to take such necessary action as may be necessary to recover monies payable 'to the federal court' which were diverted to private pockets, which diverted monies included those paid on behalf of petitioner, did petitioner set forth a cognizable legal cause of complaint?

4. Where petitioner's complaint requested the appellees, as representatives of the United States, to recover from their purported clients such costs and expenses incurred by them in their defense, did petitioner set forth a cognizable legal cause of complaint?

5a. Where all petitioner's assets have been "frozen" because of his resistance and exposure of judicial corruption,



including a contractually based money judgment in excess of \$50,000, did the District Court improperly refuse making demand upon petitioner's debtors for the filing fees, as part of his in forma pauperis application?

b. Is the refusal to resort to petitioner's contractually based money judgment in order to satisfy the fees due the court, an impermissible monetary fraud upon the federal government?

6. Alternatively, was the Court judicially estopped from making a 28 U.S.C. §1915 analysis of petitioner's filing?

7a. In view of this Court's recent holding in Denton v. Hernandez, U.S. , 60 USLW 4346, 4348 [1992], which holds that this dismissal does "not prejudice the filing of a paid complaint making the same allegations", and since, eventually, petitioner will have the funds for a filing, is any purpose served by this judicial dance?

b. Should judicial notice be taken that in a related and simultaneously filed proceedings addressed to the Second Circuit, payment of the filing fees in this case are being requested under an affirmative stay application from those who are petitioner's debtors under the Uniform Fraudulent Conveyance Act?

THE PARTIES

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

U.S. Attorney D. MICHAEL CRITES  
Appellee  
85 Marconi Blvd.  
Columbus, Ohio 43215  
(614) 469-5715

Attorney General WILLIAM P. BARR  
10th & Constitution Ave.  
Washington, D.C. 20530  
(202) 514-2001

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OPINIONS BELOW

The opinion of U.S. Magistrate Judge NORAH McCANN KING ["King"], granted petitioner in forma pauperis relief (A1-A2), without ruling on the prime contention asserted by petitioner in his application, to wit., resorting to petitioner's contractually based money judgment of more than \$50,000 for the filing fee.

However, the same day, Chief U.S. District Court Judge JOHN D. HOLSCHUH ["Holschuh"], in a patently suspect opinion, denied petitioner relief, asserting that "the legal theories and the factual contentions lack arguable basis" (A3-A4).

On petitioner's FRCivP, Rule 59(e) and 60(b)[6] motion, Chief Judge Holschuh, in a post-Denton v. Hernandez (supra) opinion, specifically refused to resort to his substantial contractually based assets for the payment of the filing fees (A5-A8), and thus obviate any 28 U.S.C. §1915 analysis.

JURISDICTION

- |       |  |                    |
|-------|--|--------------------|
| (i)   | District Court: [2/19/92; 5/13/92]<br>Circuit Court Opinion: CCA6 #92-3472 | A1, A3, A5<br>None |
| (ii)  | None.  |                    |
| (iii) | Not Applicable   |                    |
| (iv)  | 28 U.S.C. §1254[1]   |                    |



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 ..."

2. Article III of the United States Constitution provides:

"§1 The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time and ordain and establish. ... §2[1] The judicial power shall extend in all cases, in law and equity, arising under this Constitution and Laws of the United States ...."

3. Article 1, §10[1] of the U.S. Constitution provides:

"No state shall ... make ... any ... law, impairing the obligation of contracts ... ."

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 ... shall be deprived of ... liberty, or property, without due process of law ...".



6. 28 U.S.C. §1254[1] provides:

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods; (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; (2) ... "

STATEMENT OF THE CASE

1a. On February 4, 1992, petitioner submitted (1) a complaint; (2) a temporary restraining order and preliminary injunction; and (3) a demand on KREINDLER & RELKIN, P.C. ["K&R"] to pay petitioner's filing fee from the monies due him under a contractually based money judgment in his favor.

b. Alternatively, petitioner asserted, that because of the unconstitutional "freezing" of petitioner's assets by depriving him of access to the courts, including for the liquidation of his contractually based money judgment in excess of \$50,000, the judiciary were estopped from any 28 U.S.C. §1915 analysis of his filings.

2a. Petitioner's proposed temporary restraining order and preliminary injunction, served on all persons named therein or affected read, in haec verba, as follows:

"Upon the annexed petition of petitioner, dated February 4, 1992, and it appearing to the satisfaction of this Court that Chief U.S. Circuit Court Judge JAMES L. OAKES, Chief U.S. District Court Judge CHARLES L. BRIEANT, and other federal jurists of the Second Circuit are involved in, inter alia, the larceny of assets from judicial trust estates, diverting monies payable 'to the federal court' to private pockets, extortion, and other criminal racketeering activities; and it further appearing that the office of respondent, U.S. Attorney D. MICHAEL CRITES, has acknowledged that these federal jurists in related tort litigation in this judicial district are being 'sued in their individual capacities'; and it



appearing that any federal representation, at federal cost and expense, without an Attorney General's 28 U.S.C. §2679[d] scope certification; for privately motivated criminal activities such as diverting monies 'to the federal court' to private pockets; for activities which conflict with respondents' primary obligation to prosecute criminal transgressors of the federal criminal code and to recover monies diverted from 'the federal court'; and would effectively constitute an unconstitutional increase in the salary of the involved jurists, and due notice having been given to all interested parties, with opportunity to oppose, it is

ORDERED, that the trial or hearing of this matter, respondents be and the same are hereby restrained from representing any person in his individual capacity and without an Attorney General's 28 U.S.C. 2679[d] certification that the jurist was 'acting within the scope of his office or employment at the time of the incident out of which the claim arose'; or for privately motivated criminal activities, such as diverting monies 'to the federal court', to private pockets; or for activities which conflict with the dominant obligation of the respondents to prosecute transgressors of the federal criminal code and to recover monies diverted from 'the federal court'; or which would effectively constitute an unconstitutional increase in the salary of the jurists involved, and it is further

ORDERED, that the respondents be and they are hereby directed to take such necessary action as may be necessary to recover monies payable 'to the federal court' which were diverted to private pockets and any other action which were or are in violation of legitimate sovereign interests., and it is further

ORDERED, that the respondents be and they are hereby directed to recover from their purported clients such costs and expenses incurred by them in defending these jurists, who they purportedly represent."

b. The body of petitioner's complaint read, in haec verba, as follows:

" 2. Petitioner has exposed and opposed an egregious criminal racket, with judicial involvement, as was and is his societal, legal and professional obligation (18 U.S.C. §4).



3a. Although the litigation in this district revolves almost exclusively with the judicial trust assets of PUCCINI CLOTHES, LTD. ['Puccini'], some of the jurists involved in the Puccini criminal racket are also involved in the lawless plundering of the ESTATE OF EUGENE PAUL KELLY ['Kelly Estate'], and other related matters, e.g., Chief U.S. Circuit Court Judge JAMES L. OAKES ['Oakes'] of the Second Circuit Court of Appeals and U.S. Circuit Court Judge GEORGE C. PRATT ['Pratt'] of the Second Circuit.

b(1) The Surrogate-Judge involved in the Kelly Estate made it his practice to satisfy his personal obligations from the assets of the estate under his court's control, a practice which conflicted with petitioner's trust obligation as executor and trustee.

(2) The Surrogate's operation was similar, but more far more egregious than that described in Greyford, Justice, Chicago Style (Tuohy and Warden) at p. 212), for which the jurist received a sentence of 18 years of incarceration.

4. In both the Puccini and Kelly Estate matters, an essential part of this judicially involved racketeering activity was to inundate the records of Lexis and Westlaw with false information to conceal the larceny and denigrate and defame those who exposed and/or oppose such practices, with constitutional implications.

5a. Puccini was involuntarily dissolved on June 4, 1980, and although an accounting must be filed 'at least once a year', in the almost 12 years that have elapsed, not a single accounting has been filed.

b. No accounting can possibly be filed without exposing both the larceny and the judicial involvement in same.

6a. In an attempt to conceal such larceny, the judiciary imposed a 'reign of judicial terror' upon (a) HYMAN RAFFE ['Raffe'], (b) POLUR ["Polur"] and (c) petitioner, which included convictions for non-summary criminal contempt, without a trial, without the opportunity for a trial, without any confrontation rights, and/or without any live testimony in support thereof, with fines and/or terms of incarceration imposed therein.



b. Obviously, the reported decisions, as are found on the records of Lexis and Westlaw, conceal such the lack of constitutional and jurisdictional predicates or any of the underlying criminal practices.

8a. Monies which were made payable 'to the federal court' under trialess convictions were diverted to the private pockets of those who engineered the larceny of the judicial trust assets of Puccini.

b. Raffe, as the media has confirmed, has paid 'more than \$2,500,000' not to be incarcerated under a trialess conviction and a trialess Report.

c. The assertions are uncontroverted in this district and elsewhere and a great deal of the evidence is on file in the Dayton division (Sassower v. Mead Data Central, et al., Docket No. C-3-91-436; Grand Jury Application [Sassower] v. Crites, Docket No. MC-3-91-54).

9a. The Lexis (centered in Ohio) and Westlaw (centered in Minnesota) operation, whose input are exclusively controlled by the judiciary, including corrupt judges, is essential to this criminal racketeering adventure.

b. The conviction of Chief U.S. Circuit Court Judge MARTIN T. MANTON ['Manton'] of the Second Circuit (United States v. Manton, 107 F.2d 834 [2nd Cir.-1938]) who, for a 'pay-off' concocted non-existent facts, reveals the modus operandi is not original (Art Metal v Abraham & Straus, 70 F.2d 641 [2nd Cir.-1934]).

10a. The Federal Tort Claims Act, which applies to members of the judiciary (28 U.S.C. §2671) provides that the federal government defends, at federal cost and expense, and satisfies any judgment if the Attorney General of the U.S., or his designee, certifies that the jurist 'was acting within the scope of his office or employment at the time of the incident out of which the claim arose', otherwise the jurist, official and/or employee defendants at his own cost and expense.

b. Jurists who are unlawfully dissipating estate assets, engaged in extortion, and diverting monies payable 'to the federal court' to the pockets of their cronies, are certainly not acting 'within the scope' of their office.



c. Apparently, the Attorney General and/or his designees do not wish to sign a 'scope' certification, but these corrupt jurists, employing the 'clout' of their office, have apparently dragooned the respondents to have federal representation, at taxpayer cost and expense.

11a. By dragooning respondents' representation in civil tort action, they also have effectively immunized themselves for criminal prosecution and for any return of the monies illegality dissipated.

b. Furthermore, by having the federal government undertake the expense of such litigation would be an effective increase in their salary without congressional authorization. Judges who steal, rob, plunder, and extort should not receive a greater enumeration, than honest judges."

c. Along with petitioner's in forma pauperis application, wherein petitioner asserted that the judiciary was estopped from making a 28 U.S.C. §1915 analysis, petitioner submitted, with proof of service, the following demand:

"To: KREINDLER & RELKIN, P.C.  
350 Fifth Avenue  
New York, New York 10118

WHEREAS, petitioner above-named, holds an unsatisfied, contractually based, money judgment against PUCCINI CLOTHES, LTD., an involuntarily dissolved corporation, and

WHEREAS, there is no question, including by written admission, you made the judicial trust assets of PUCCINI CLOTHES, LTD., the subject of larceny.

NOW, therefore, pursuant to applicable law, including the Uniform Fraudulent Conveyance Act, demand is made that:

You immediately turn over to the Clerk of the above Court, the sum of \$120 for the filing fee of the above proceeding, and/or such other monies requested to be paid over by the aforementioned Court, or suffer such other expense and penalties provided by law.



2a. There was no response from anyone, to petitioner's filings, and on February 19, 1992, Magistrate King without addressing the questions presented, granted in forma pauperis relief, affording ten (10) days to any party to request reconsideration (A1-A2).

b. That same day, Chief Judge Holschuh, sua sponte, reversed Magistrate King, and dismissed the complaint.

c. Petitioner's notice of appeal was docketed in the District Court on March 19, 1992, but not docketed by the Circuit Court until May 19, 1992, or two months later.

3. In the interim, on March 2, 1992, petitioner moved pursuant to FRCivP Rules 59 and 60 for reconsideration and to vacate, with the unopposed moving affirmation reading, in haec verba, as follows:

"This affirmation is made in support of FRCivP, Rule 59, Rule 60(3)(6) motion with respect to the Orders of Chief U.S. District Court Judge JOHN D. HOLSCHUH ['Holschuh'] and U.S. Magistrate Judge NORAH McCANN KING ['King'], both filed February 19, 1992.

1a. U.S. Magistrate Judge King's Order stated:

"on petitioner's motion for leave to proceed in forma pauperis. Upon consideration, the Court finds the motion is meritorious, and therefore, it is GRANTED."

b. Chief Judge Holschuh's immediately vacated Magistrate King's Order, "on ['his'] own motion", stating:

"The precise nature of relief sought by petitioner is not made express in the petition. ... The petition contains no allegation that the named respondents have engaged in any misconduct... [T]he petition contains no allegations that the named respondents have failed to perform



a duty owed to the plaintiff' sufficient to warrant the issuance of a writ of mandamus or prohibition. ... [T]he Court concludes that the legal theories and the factual contentions of the complaint lack arguable basis. ... The complaint is therefore frivolous within the meaning of 28 U.S.C. §1915(d). The complaint in this action is hereby DISMISSED. The Court further determines, pursuant to 28 U.S.C. §1915(a), that an appeal from this judgment would be frivolous and not taken in good faith."

2a. Both of the aforementioned Orders ignored the fact that affirmant has assets, a substantial amount contractual in nature, and therefore carrying the protective umbrella against 'impairment' (Article 1 §10[1], Amendment V of the U.S. Constitution).

b. One such contractual asset is a money judgment against PUCCHINI CLOTHES, LTD. ['Puccini'] -- 'the judicial fortune cookie' -- where the amount due, with interest included, is over \$50,000.

c. Those judicial trust assets of Puccini were made the subject of larceny by KREINDLER & RELKIN, P.C. ['K&R'], and affirmant has a claim over against K&R under the Uniform Fraudulent Conveyance Act, and as part of affirmant's application he made demand on it for such amount as was necessary to pay the fees due the federal government for this filing.

d. Thus had K&R given obedience to such demand and/or the Court compelled obedience, there would not have been any 28 U.S.C. §1915 analysis.

3a. Article 1 §10[1] of the U.S. Constitution, protects not only the debt from 'impairment', but also the remedies.

b. In Murray v. Charleston (96 U.S. 432, 448 [1878]), the Court stated:

"There is no more important provision in the Federal Constitution than the one which prohibits ... impairing the obligation of contracts, and it is one of the highest duties of this court to take care the prohibition shall neither be evaded nor frittered away. Complete effect must be given to it in all its spirit. The inviolability of contracts, and the duty of



performing them, as made, are foundations of all well-ordered society, and to prevent the removal or disturbance of these foundations was one of the great objects for which the Constitution was framed."

c. The limitations, prohibitions and protective provisions contained in the U.S. Constitution are directed towards all agencies of government, including the judiciary (Shelley v. Kraemer, 334 U.S. 1 [1947]).

4. Thus affirmant's argument was and still is that if the Court did not demand such monies from K&R, or otherwise resort to the other assets of affirmant, unconstitutionally frozen, the Court was estopped from making any 28 U.S.C. §1915 analysis.

5. Insofar as the Magistrate King Order was concerned; in granting in forma pauperis relief, which was an alternative request of affirmant, by not taking any action to compel payment by K&R, Her Honor was in effect defrauding the federal government of monies due it as a filing fee.

6a. While Magistrate King probably overlooked the fraudulent implication of Her Honor's actions, it seems clear that Chief Judge Holschuh was aware of the 'marching orders' conveyed to members of the judiciary in His Honor's district.

b. K&R is a 'sacred cow', 'bag men' and 'judicial crony' -- who not only made the judicial trust assets of Puccini the subject of larceny, but also diverted to themselves and their client the monies payable 'to the federal court' to their own pocket.

c. Those monies, payable 'to the federal court', but diverted to K&R, included monies due and payable by affirmant, which were paid on his behalf by HYMAN RAFFE ['Raffe'].

d. Affirmant and Raffe were both convicted of non-summary criminal contempt by U.S. District Court Judge EUGENE H. NICKERSON ['Nickerson'] without a trial, without the opportunity for a trial, without any confrontation rights, without any live testimony in support thereof, and despite pleas of 'not guilty', Nye v. U.S. (313 U.S. 33 [1941]) to the contrary notwithstanding.



e. Affirmant refused to pay such fine monies under such trialess conviction, but Raffé threatened with incarceration if he did not pay same on affirmant's behalf, paid such monies to K&R, not the federal court.

7a. On the federal level, this criminal racket is centered about Chief U.S. Circuit Court Judge JAMES L. OAKES ['Oakes'] of the Second Circuit and Chief U.S. District Court Judge CHARLES L. BRIEANT ['Brieant'] of the Southern District of New York.

b. The petition herein alleges that in this judicial district there is pending (Sassower v. Mead Data Central, et al., Docket No. C-3-91-436; Grand Jury Application [Sassower] v. Crites, Docket No. MC-3-91-54).

c. In the civil tort action entitled Sassower v. Mead (supra), the aforementioned jurists, and others, who are involved in their own private criminal adventure, which are contrary to sovereign interests, are being represented by respondent, D. MICHAEL CRITES ['Crites'], without a 'scope certification'.

d. There is no statutory authority which permits Crites to represent persons in their individual capacity who have not been scope certified and a United States substitution made (28 U.S.C. §547), except for 'collectors, or other officers of the revenue or customs for any act done by them or for the recover of any money exacted by or paid to these officers, and by them paid into the Treasury'.

e. In order to protect their perfidious judicial clients for their criminal activity in this district, in this simultaneous civil and criminal proceeding, Crites objects and to any grand jury presentation by affirmant in Grand Jury Application [Sassower] v. Crites, supra).

f. Since the preparation of the petition herein, there has been a third action filed based in large part on the misconduct of Crites and his office in corrupting members of the judiciary in this judicial district (Sassower v. Thompson, C-3-92-27 [WHR]).

g. Piecemeal disqualification proceedings, in three actions, are better handled in one proceeding, where a single issue exists, and not where it is marble-caked with other issues.



8a. The obligation of the respondents is to enforce the criminal laws of the United States and protect the civil interest of this nation, not the criminal activities of those like Chief Judge Oakes and Chief Judge Brieant and their criminal diversion of federal funds.

b. The charges against Oakes and Brieant are fully documented, and essentially confirmed by responsible media representatives.

c. The cover-up activities by other members of the judiciary is also scandalous and of a criminal magnitude (cf. 18 U.S.C. §4).

9. The Attorney General and U.S. Attorney, belong to the Article II branch of government, whose purpose is to prosecute the criminal activities of Article III members of the judiciary, and recover monies diverted by such perfidious jurists, not defend them, and oppose, harass and incarcerate affirmant, at federal cost and expense for being honest.

10. The relief requested herein must include a prohibition, in all of affirmant's litigation in this district, from respondents representing persons, at federal cost and expense, who are not 'scope certified', and mandating that they take such action as may be necessary to recover the monies diverted from the 'federal court'."

4a. Despite the lack of opposition, law or fact, Chief Judge Holschuh denied relief to petitioner.

b. Assuming arguendo, there is no merit to petitioner's filing, the refusal of Chief Judge Holschuh to invade petitioner's assets to pay the filing fee, is just another fraud upon the federal purse since, thus far, nothing has been received by the judicial treasury in this matter.

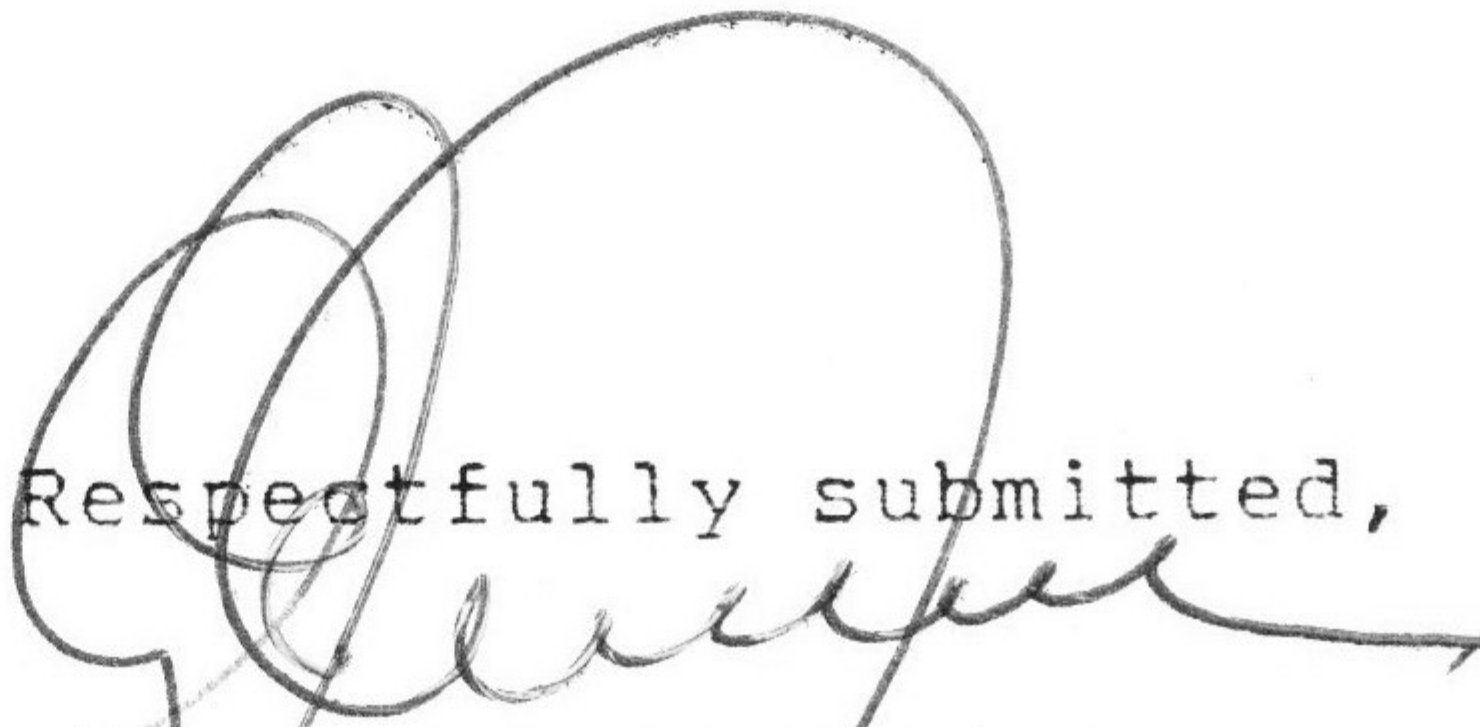


REASONS FOR THE GRANT OF THIS WRIT

The judicial dance simply expands, metastasizes and makes more scandalous a racketeering adventure whose ultimate fate is already sealed.

Dated: May 23, 1992

Respectfully submitted,

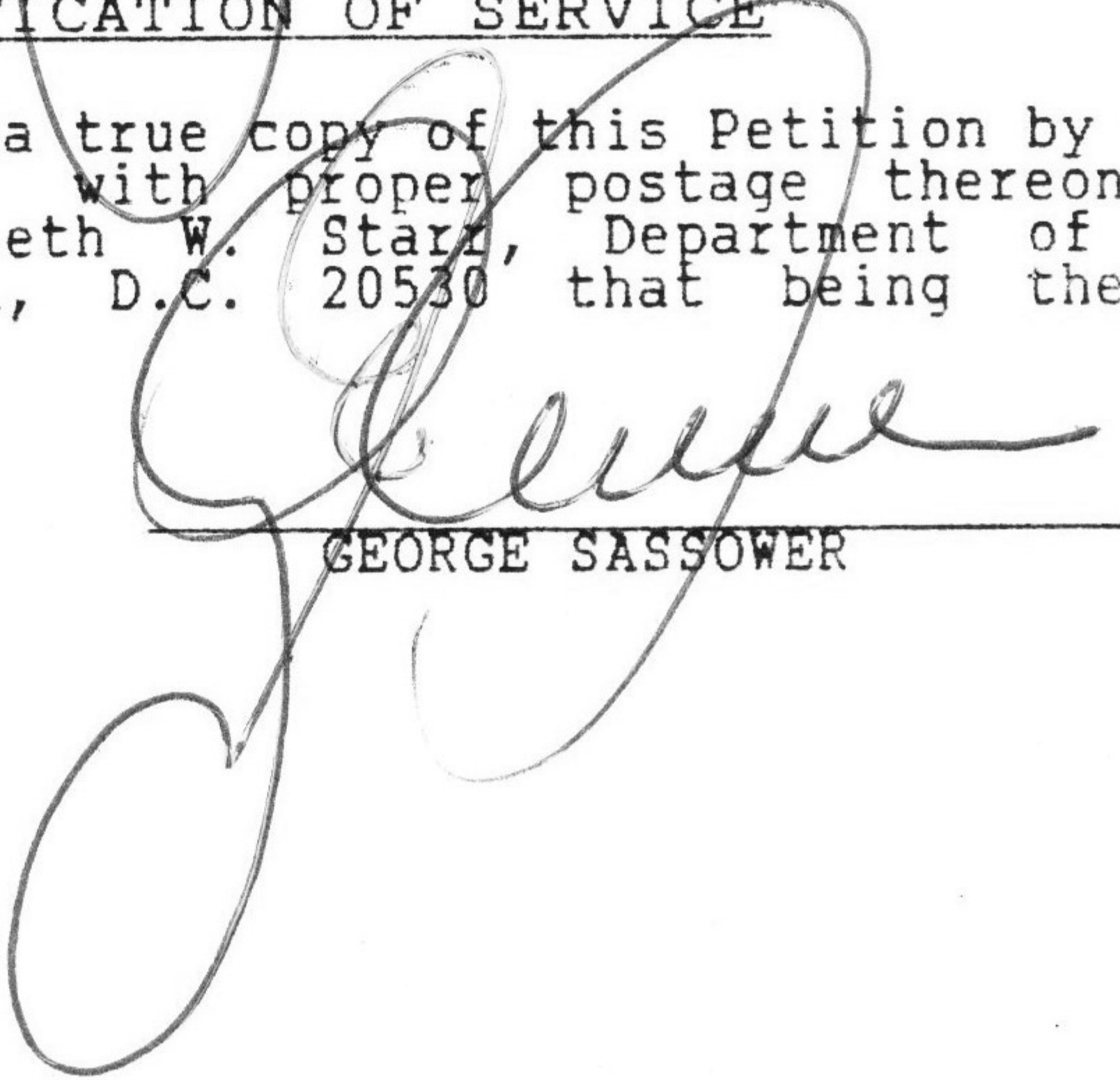


GEORGE SASSOWER [GS-0512]  
Petitioner, pro se  
16 Lake Street,  
White Plains, N.Y. 10603  
914-949-2169

CERTIFICATION OF SERVICE

On May 24, 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 that being their last known addresses.

Dated: May 24, 1992



\_\_\_\_\_  
GEORGE SASSOWER



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
92 FEB 19 PM 2:32  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION COLUMBUS

GEORGE SASSOWER,

Petitioner,

vs.

Civil Action

D. MICHAEL CRITES, et al.,

C2-92-151

Respondents.

JUDGE HOLSCHUH

ORDER TO PROCEED IN FORMA PAUPERIS ~~MAGISTRATE~~ JUDGE KING

This matter is before the Court on petitioner's motion for leave to proceed in forma pauperis. Upon consideration, the Court finds the motion is meritorious, and therefore, it is GRANTED.

WHEREUPON, IT IS ORDERED THAT the petitioner be allowed to prosecute his action without prepayment of fees or costs and that judicial officers who render services in this action shall do so as if the costs had been prepaid.

If any party seeks reconsideration of this Order, that party may, within ten (10) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Order, and the part thereof in question, as well as the basis

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for objection thereto. 28 U.S.C. §636(b)(1); Rule 72(a), F.R. Civ.  
Pro.; Eastern Division Order 91-3 (I)(F)(5).

*Norah McCann King*

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Norah McCann King  
United States Magistrate Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
KENNETH J. MURPHY  
CLERK

92 FEB 19 PH 2:32

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

GEORGE SASSOWER,

Petitioner,

vs.

Civil Action

D. MICHAEL CRITES, et al.,

Respondents.

**C2-92-151**  
**JUDGE HOLSCHUH**

**MAGISTRATE JUDGE KING**

OPINION AND ORDER

Petitioner, proceeding without the assistance of counsel, brings this action for a writ of mandamus and prohibition, purportedly under 28 U.S.C. §§1331, 1343, 1361 and 2201. This matter is now before the Court on its own motion. 28 U.S.C. §1915(d).

Respondents are the United States Attorney for the Southern District of Ohio and the Attorney General of the United States. The body of the petition contains no mention of the respondents, but instead refers to generalized allegations of judicial misconduct within the Second Circuit and the reporting of judicial decisions in "the records of Lexis and Westlaw. ..." Petition, ¶6(b). The precise nature of relief sought by petitioner is not made express in the petition. Instead, petitioner asks only that a writ of prohibition and mandamus "be issued against the respondents together with any other, further and/or different relief as to this Court may seem just and proper in the premises.

A-3



..."

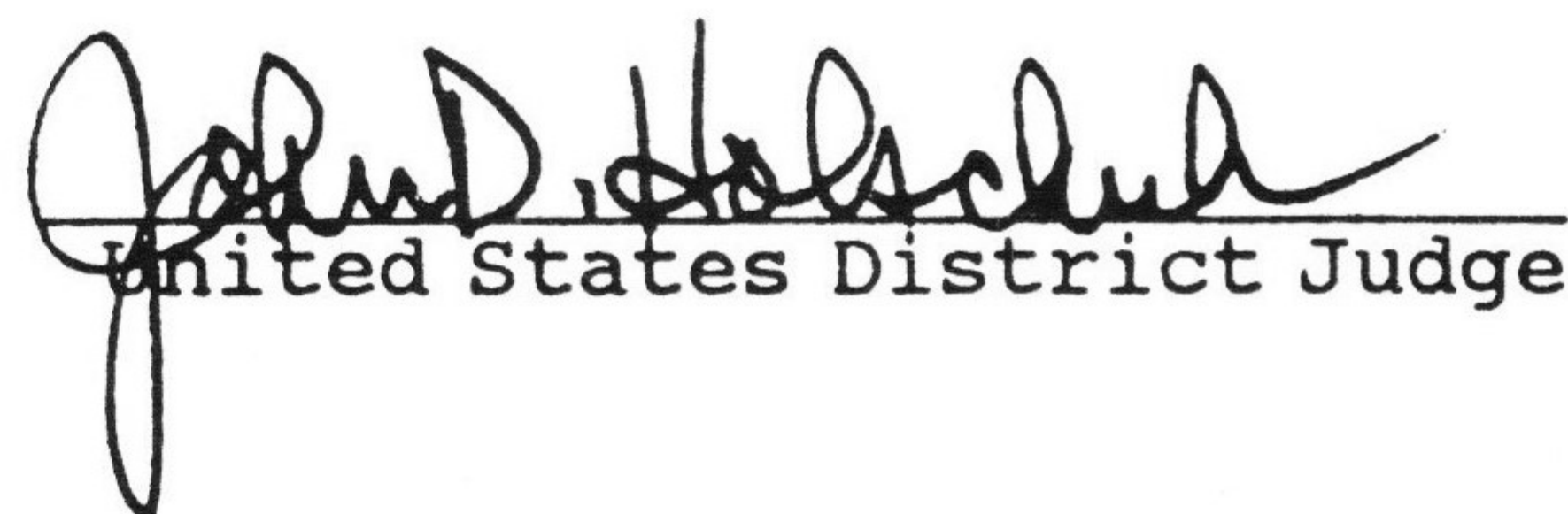
The allegations in the petition fail to state a claim for relief against the named respondents. The petition contains no allegation that the named respondents have engaged in any misconduct. Moreover, the petition contains no allegations that the named respondents have failed "to perform a duty owed to the plaintiff" sufficient to warrant the issuance of a writ of mandamus or prohibition. See 28 U.S.C. §1361.

Accordingly, the Court concludes that the legal theories and the factual contentions of the complaint lack arguable basis. See Neitzke v. Williams, 490 U.S. 319 (1989). The complaint is therefore frivolous within the meaning of 28 U.S.C. §1915(d).

The complaint in this action is hereby DISMISSED.

The Court further determines, pursuant to 28 U.S.C. §1915(a), that an appeal from this judgment would be frivolous and not taken in good faith.

The Clerk shall mail a copy of the complaint and of this Opinion and Order to the named defendants.

  
United States District Judge



Judge	H
Mag. Judge	K
Docketed	<i>a</i>

FILED  
KENNETH J. MURPHY  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

92 MAY 13 AM 8:05

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

GEORGE SASSOWER,

Petitioner,

vs.

Civil Action 2:92-CV-151

D. MICHAEL CRITES, et al.,

Respondents.

OPINION AND ORDER

Petitioner, proceeding without the assistance of counsel,<sup>1</sup> brings this action for a writ of mandamus and prohibition under 28 U.S.C. §§1331, 1343, 1361 and 2201. Petitioner originally submitted the petition for filing along with an application to proceed in forma pauperis. Also submitted for filing at the same time was a "demand" directed to "Krendler & Relkin, P.C." ["K & R"], asserting that petitioner Sassower "holds an unsatisfied, contractually based judgment against Puccini Clothes, Ltd.," the assets of which have allegedly been made "the subject of larceny" by the addressees of the demand. Petitioner specifically demanded that K&R "immediately turn over to the Clerk of ... court, the sum of \$120 for the filing fee of the above proceeding and/or such other monies requested to be paid over by the aforementioned Court or suffer such other expense and penalties provided by law."

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<sup>1</sup>Petitioner appears, however, to have legal training.

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Demand, filed February 19, 1992.

After reviewing the materials submitted by petitioner, United States Magistrate Judge King granted petitioner's application for leave to proceed in forma pauperis. 28 U.S.C. §1915(a). The complaint was dismissed, however, as frivolous within the meaning of 28 U.S.C. §1915(d).

This matter is now before the Court on petitioner's motion, filed March 5, 1992 pursuant to Rules 59(e) and 60(b)(6) of the Federal Rules of Civil Procedure, to vacate or modify the orders granting plaintiff leave to proceed in forma pauperis and dismissing the action. Also before the Court is plaintiff's motion of March 9, 1992, asking the Court to direct various law firms and judges "to pay this Court the sum of \$120, the filing fee due by plaintiff to this Court, in partial satisfaction of his contractually based money judgment against Puccini Clothes, Ltd. . . ."

Title 28, United States Code, §1915(a) governs proceedings in forma pauperis:

Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefore, by a person who makes affidavit that he is unable to pay such costs or give security therefor. . . . (Emphasis added).

Section 1915(d) also provides that the Court "may dismiss the case if . . . satisfied that the action is frivolous or malicious." In his motion to modify or vacate the orders of February 19, 1992, petitioner argues that his application for leave to proceed in



forma pauperis should not, in fact, have been granted. Instead, petitioner contends, his claimed debtors should have been ordered to pay his filing fee and other costs of litigating this action. Were petitioner not granted leave to proceed in forma pauperis under §1915(a), petitioner reasons, the Court would then have had no authority to act sua sponte to dismiss the action as frivolous under §1915(d).

Plaintiff asserts that he has a money judgment against Puccini Clothes Ltd. for an amount in excess of \$50,000. He goes on to allege that the assets of Puccini, however, "were made the subject of larceny by K & R" and that petitioner therefore "has a claim over against K & R under the Uniform Fraudulent Conveyance Act. ..." By granting petitioner's application for leave to proceed in forma pauperis rather than compelling payment of the filing fee by K & R, the United States Magistrate Judge "was in effect defrauding the federal government of monies due it as a filing fee." Petitioner's Motion of March 5, 1992, at ¶5.

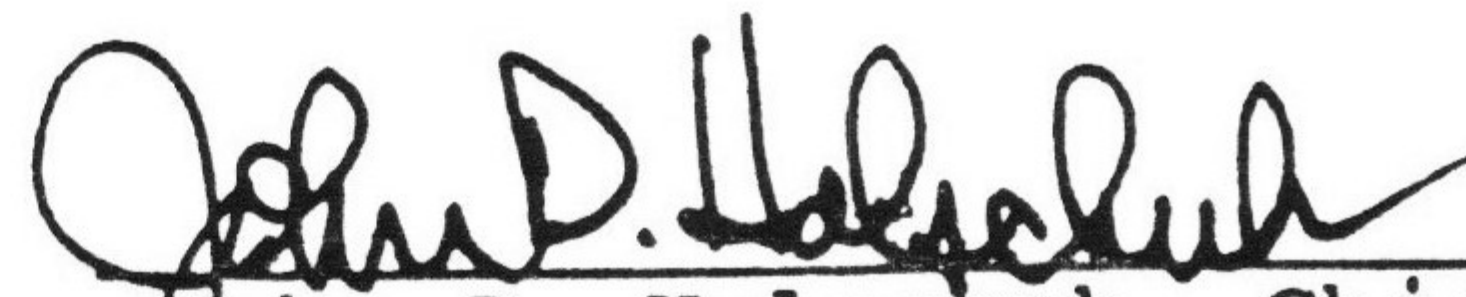
It is clear from petitioner's assertions that he is unable to effect the prepayment of the filing fee in this action. Moreover, this Court concludes that petitioner's demand for payment by certain other persons does not constitute adequate security for the payment of the filing fee. The United States Magistrate Judge did not, therefore, err in considering petitioner's application to proceed in forma pauperis. Accordingly, petitioner's March 5, 1992 motion to vacate or modify the Orders of February 19, 1992, as it relates to the Order of the United States Magistrate Judge, is



DENIED.

Once an action is instituted pursuant to the provisions of 28 U.S.C. §1915(a), subsection (d) of that statute authorizes sua sponte consideration of the allegations made in the action. 28 U.S.C. §1915(d). This Court dismissed the petition as frivolous within the meaning of the statute. As it relates to the dismissal of the action, petitioner's March 5, 1992 motion is likewise DENIED.

In his March 9, 1992 motion, petitioner asks that the Court direct K & R, another law firm, and two judicial officers to pay the filing fee in this action. In explanation, petitioner states that, "under the Uniform Fraudulent Conveyance Act, affirmant may institute a direct action against 'the criminals with law degrees.' ..." Motion of March 9, 1992 at ¶4a. The action sought by petitioner is inappropriate within the context of the summary proceedings contemplated by 28 U.S.C. §1915(a). Accordingly, petitioner's motion of March 9, 1992 to direct certain persons to pay the filing fee in connection with this case is DENIED.



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John D. Holschuh, Chief Judge  
United States District Court