

DORIS L. SASSOWER

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By Fax and Mail:
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July 22, 1993

National Commission on Judicial Discipline and Removal
2100 Pennsylvania Avenue, N.W.
Suite 690
Washington, D.C. 20037-3202

ATT: William J. Weller, Deputy Director

RE: Commission Meeting
Friday, July 23, 1993

Dear Mr. Weller:

After several messages left for you, we received a call from your office saying that, due to the press of business, you were unable to speak with us personally.

We wish you and the members of the National Commission to understand the significance presented by the case of Sassower v. Field, detailed in our July 14, 1993 letter. You advised us, by letter dated July 20, 1993, that our aforesaid letter has been circulated to the Commission members.

The Commission's Draft Report states:

"...absent a convincing demonstration of the inadequacy of the 1980 Act, we would not recommend...an alternative...". (at p. 6, emphasis added)

Such statement follows the Commissioners' conclusion on the very same page that:

"Our analysis of experience under the 1980 Act and other formal mechanisms of discipline within the judicial branch reveals that existing arrangements are working reasonably well..." (at p. 6, emphasis added)

The Draft Report identifies appellate review as the primary formal disciplinary mechanism, other than the 1980 Act (Chapter V). As outlined in our July 14, 1993 letter, the case of Sassower v. Field establishes, unequivocally, that the appellate process cannot be counted on to provide protection or redress to

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the victims of judicial misconduct--even where the appellate record provides uncontroverted documentary evidence of judicial misconduct that is not only unethical, but criminal in nature.

Your July 20, 1993 letter recognizes that we had exhausted the appellate process:

"The record...strongly suggests that you have arduously tried to avail yourself of all avenues of appeal short of a request for review of your complaint by the House of Representatives..." (at p. 2, emphasis added)

We are struck by the fact that you--as Deputy Director of a national commission that has been studying the adequacy of the 1980 Act--did not suggest to us that our disciplinary complaint lay within the purview of that Act. The fair inference is that you do not regard the 1980 Act as a disciplinary mechanism for us, the innocent victims of vicious judicial retaliation, or for the public, whose interest in a judiciary of integrity has been equally violated.

If your view is shared by the members of the Commission, we would respectfully ask that they identify Sassower v. Field as the "convincing demonstration of the inadequacy of the 1980 Act" (referred to at page 6 of the Draft Report), so that appropriate alternate legislative recommendations can be made, in accordance with the Commission's mandate. To assist the members of the Commission, we request that you retrieve from the House Judiciary Committee the appellate record--a full copy of which you had received from Edward O'Connell and, according to your July 20, 1993 letter, returned to him.

Additionally, it would appear from your July 20, 1993 letter that although the Ninth Judicial Committee's critique of the federal judicial screening process "will be included in the Commission's records", it has not been circulated to the members of the Commission. If that is the case, we draw your attention, specifically, not only to the excerpt from pages 83-5 of the Draft Report (cited at pages 5-6 of our July 14, 1993 letter), but to the following further statement made by the Draft Report:

"Given the recent prosecutions of federal judges, it would be helpful to know exactly where, if anywhere, the appointment and confirmation process went wrong in each case. Neither the Justice Department nor the Senate has engaged in such self-examination, internally asking whether information is extant in the background investigation files to suggest the potential for judicial misconduct and, if so, whether this

information was ignored by both the executive branch and the Senate." (at p. 66) (emphasis added)

As documented by the Ninth Judicial Committee's critique, such information has, indeed, been "ignored by both the executive branch and the Senate". In that respect, as well as others not included in the Draft Report, our critique presents the Commission with the kind of empiric research which is not only "helpful to know", but absolutely essential.

Nonetheless, no one from the Commission's staff has as yet communicated with us either about the critique or about the additional information, subsequently obtained, which our July 14, 1993 letter identified (at p. 7) as "invaluable to your Commission prior to rendition of its Final Report".

In view of the Commission meeting scheduled for tomorrow, we respectfully ask that each of the Commissioners be provided with a copy of the critique and the correspondence to Senate Majority Leader Mitchell relating thereto. Only in that way can the Final Report reflect the extraordinary documentary evidence which you now have in hand, but have not incorporated for evaluation by the Commissioners.

We understand that the Commission will be holding a public meeting on Wednesday, July 28th--but that no testimony will be taken at that time.

Because, as hereinabove set forth, the Draft Report expressly identifies that a "convincing demonstration" of the inadequacy of the 1980 Act would be critical to its recommendations and because we believe that Sassower v. Field serves such catalytic purpose, we are prepared to make the trip to Washington to answer any questions the Commissioners may have on that case. That we can, in addition, discuss the Ninth Judicial Committee's critique--whose shocking findings mandate dramatic recommendations in the Final Report--must be seen as a unique opportunity for the Commission in its "eleventh-hour deliberations".

We respectfully request that copies of this letter be distributed to Commission members at tomorrow's meeting and that same, likewise, be made part of the official record of the Commission.

Very truly yours,

DORIS L. SASSOWER

ELENA RUTH SASSOWER

cc: Congresswoman Nita Lowey
Edward O'Connell, Counsel
House Subcommittee on Intellectual Property
and Judicial Administration
Charles Stephen Ralston, Esq.
NAACP Legal Defense & Educational Fund