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## FROM LAWLESS TO WACO

[Who was lawless? Who is waco? What is king?]

1. Luke Lawless, Esq. was unsuccessful in an action on behalf of Antoine Soulard before U.S. District Judge James H. Peck for the District of Missouri. When Judge Peck's opinion was published in a local newspaper, a rival newspaper published a letter signed "A Citizen" which criticized the opinion. Judge Peck arrested the publisher and when he learned that the "citizen" was Lawless he, in the words of the Articles of Impeachment:

"with intention wrongfully and unjustly to oppress, imprison and otherwise injure Luke Lawless, under color of law, did ... order and adjudge, that the said Lawless should be committed to prison for twenty-four hours for contempt and that he should be suspended from practicing as an attorney in the said court ... and immediately committed the said Luke Lawless to the common prison in the said city of St. Louis, to the great disparagement of public justice, the abuse of judicial authority, and the subversion of the liberties of the people of the United States."

Through the efforts of James Buchanan, Chairman of the House Judiciary Committee and thereafter the 15th President of the U.S., the House of Representatives voted for impeachment 123 to 49, and Congress enacted the Law of March 2, 1831, on which Buchanan stated (Nye v. U.S., 313 U.S. 33, 45-46 [1941]):

"I will venture to predict, that whatever may be the decision of the Senate upon this impeachment, Judge Peck has been the last man in the United States to exercise this power, and Mr. Lawless has been its last victim."

Impeachment failed in the Senate, 22 to 21, but the Judge Peck decision was reversed (Soulard v. U.S. 29 U.S. 511 [1830]; 35 U.S. 100 [1936]).

2. Howard Waco, Esq., a Los Angeles County public defender did not appear for the initial calendar call of Judge Howard Mireles, who (Waco v. Baltad, 934 F.2d 214, 215 [9th Cir.-1991]):

"Angered by the absence of attorneys from his courtroom ... ordered [two police officers employed by the City of Los Angeles] ... to forcibly and with excessive force seize and bring Waco into his courtroom. The police officers allegedly went into another courtroom where Waco was representing another client, and forcibly dragged him out of that courtroom. Waco further alleges that the police officers slammed him into the walls, shouted obscenities at him, and slammed him through the doors in Judge Mireles' courtroom."

In reversing the District Court, the Circuit Court stated:

"Judge Mireles would retain his absolute immunity if he merely directed the officers to bring Waco to his courtroom without directing him to use excessive force."

The U.S. Supreme Court, reversed and dismissed Waco's complaint (Mireles v. Waco, U.S. , 112 S.Ct. 286 [1991]).

Mr. Justice Stevens dissented, while Mr. Justice Scalia, with Mr. Justice Kennedy, stated (at p. 290):

"In my view, we should not decide it at all, the factual situation, it presents is so extraordinary that it does not warrant the expenditure of our time."

3. Obviously, Lawless was not "the last victim", and Mr. Justice Scalia does not read the advance sheets, since shortly before King v. Thornburgh (762 F. Supp. 336 [Ga.-1991]) was reported. The facts in that case were (at p. 338):

"Several days before the date of the hearing plaintiff telephoned the magistrate judge's office and informed his secretary that he would be unable to be present on March 31, 1991, because he was then engaged in a criminal trial in ... Brunswick, Georgia. Upon the magistrate judge's instructions, the continuance was denied. Plaintiff King then informed the magistrate judge's secretary that his partner, Carl Bryant, Esq. would possibly be able to appear in his stead."

November 27, 1991

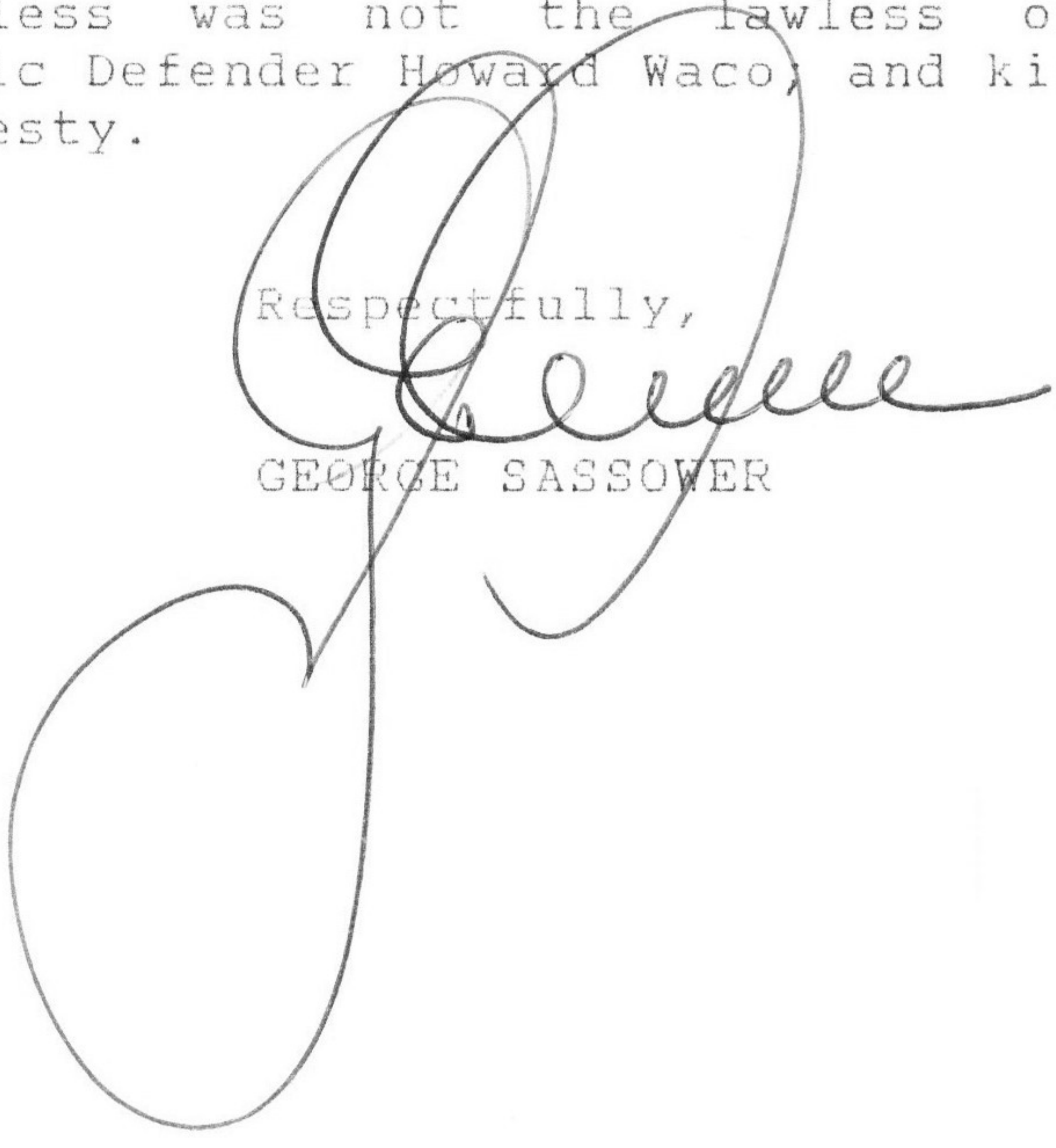
On the morning of March 31, plaintiff king was still engaged in a criminal trial [in Brunswick]. Plaintiff's partner Carl Bryant had to appear in ... Court in Albany, Georgia on the morning of March 31, 1991. He telephoned the magistrate judge's office to advise him that he was in ... Albany, Georgia on another matter and would not be able to appear in plaintiff King's stead in Savannah.

Upon hearing this the magistrate judge telephoned the defendant, Chief Deputy Marshal ....., told the chief deputy that he had a lawyer who had not shown for a hearing and the wanted him picked up in Brunswick and brought to the courthouse in Savannah. ... the Marshal ... advised the magistrate judge that if he wanted plaintiff taken into custody they would have to use restraints. ... plaintiff was handcuffed and waist chained and then transported him to Savannah, Georgia. There he was taken before the magistrate judge."

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Clearly Lawless was not the lawless one; the wacos, do not include Public Defender Howard Waco; and kings are not always treated with majesty.

Respectfully,

  
GEORGE SASSOWER