

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Application of (WCC)
HYMAN RAFFE, GEORGE SASSOWER, Esq., and Docket No. 85 Civ. 5112
SAM POLUR, Esq., Petitioners, Against the State of
New York, Respondent.

For a Writ of Habeas Corpus.

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To the Honorable United States District Court
for the Southern District of New York:

The petition of Hyman Raffe, George
Sassower, Esq., and Sam Polur, Esq., respectfully show
and allege~~§~~, pursuant to 28 U.S.C. section 2254, in reliance thereon.

1a. This Court is respectfully requested to
take judicial notice of all the pleadings and
proceedings contained in this Court under Docket
Numbers, 84 Civ. 6272 [WCC], 85 Civ. 3712 [WCC], 85 Civ.
3927 [WCC], and 85 Civ. 4158 [WCC], and is incorporated
herein by reference.

b. Those proceedings make serious
allegations of wrongdoing against various members of the
state judiciary. (EXHIBITS "1" and "2")

c. As a result thereof, by way of retribution for resorting to the federal court for relief, some of the members of said state judiciary, and their colleagues, have caused to be inflicted upon petitioners acts of physical and psychological restraints, for which relief is herein requested by Writ of Habeas Corpus.

d. The vast body of federal law, even that of basic constitutional magnitude, as well as state law, is being totally disregarded by the state judiciary in its vendetta.

e. All avenues for relief in the state forum have been exhausted, as will hereinafter be shown.

2a. By Order of Hon. Alvin F. Klein, Justice of the Supreme Court of the State of New York, entered on July 1, 1985, each of the petitioners were found to have been in criminal contempt of court and each sentenced to be immediately incarcerated for 30 days, in addition to fines and penalties imposed. (EXHIBIT "1")

b. The aforementioned order of incarceration was without any trial or hearings, but based on controverted affidavits, which even if the moving allegations were true, would not support a prima facie case for conviction.

c. The aforementioned criminal convictions were rendered even though there is not a single authoritative case in the State of New York, which sustains a criminal conviction, without a trial or hearing, absent, as here, a plea of guilt.

d. The aforementioned criminal convictions were rendered even though there is not a single authoritative case in the United States since Bloom v. Illinois (391 U.S. 194) which sustains a criminal contempt conviction [as here, non-summary] without a trial or hearing.

e. Petitioners entertain no doubt that Mr. Justice Klein knew and knows that such criminal contempt convictions are null, void, and violative of the Constitution of the United States and laws enacted thereunder, as well as the Constitution of the State of New York, and laws enacted thereunder.

3a. In addition to the aforementioned conviction without trial or hearing, the petitioner Hyman Raffe ["Raffe"], has been, by general verdicts acquitted five (5) times of contempt. This alone under state penal standards, would constitute "double jeopardy". On more than one such instances, Raffe has been vindicated by federal constitutional standards which precludes subsequent prosecutions.

Indeed, a seventh (7th) such prohibited criminal contempt proceeding pends in the state court and includes as contempts resorting to the federal court for relief.

b. In addition to the aforementioned conviction without trial or hearing, the petitioner Sam Polur, Esq. ["Polur"] has been, by a general verdict or collateral estoppel, acquitted by state penal standards of which would bar a subsequent prosecution for criminal contempt as violative of "double jeopardy".

c. In addition to the aforementioned conviction without trial or hearing, the petitioner, George Sassower, Esq. ["Sassower"] has been, by a general verdict, acquitted by a general verdict which would bar a subsequent prosecution for criminal contempt as violative of "double jeopardy" under state penal and federal constitutional standards.

Furthermore, the petitioner Sassower is awaiting a trial and/or hearing, pursuant to a pre-existing Order of the Appellate Division, of such charges.

4. Although petitioners have repeatedly alleged that they are being made the subject of "invidious prosecutions" contrary to the constitutions of the federal and state "equal protection" clauses, the state courts have failed and/or refused to afford them a hearing or even a determination on the matter.

5a. In New York, criminal contempt is statutory in nature, and its non-summary provisions are contained in Judiciary Law §750, §751, and §752.

b. The aforementioned criminal contempt convictions are based upon Judiciary Law §750A(3) which requires a "wilful disobedience to its lawful mandate."

c. While petitioners deny their conduct was "wilful", or even that there was "disobedience", petitioners' accusers and the state judiciary have never even alleged, contended, or found, that the mandate under which petitioners have been convicted is even "lawful".

d. Everyone, even those only vaguely familiar with the matter, is aware that the two purported Orders of Mr. Justice Ira Gammerman have serious, if not fatal, jurisdictional, procedural as well as substantive, flaws.

These two purported Orders have defects on their face and were secured as a result of ex parte arrangements made by the firms of Kreindler & Relkin, P.C. ["K&R"] and Feltman, Karesh & Major, Esqs. ["FK&M"] firms, wherein petitioners were not even permitted to interpose their opposition and otherwise denied due process.

Even the judicial defendants, who are pretended to be covered and affected by such orders have, by concession of their attorney, found said orders to be "without legal effect on him, his office, and his clients".

6a. A second Order of Hon. David B. Saxe ["Saxe"], Acting Justice of the Supreme Court of the State of New York, entered on July 1, 1985, finds Sassower guilty of criminal contempt of court, under the same transactional circumstances, and sentenced him to be incarcerated for 10 days, in addition to fines and penalties imposed. (EXHIBIT "2")

b. The aforementioned order of incarceration was without any trial or hearings, but based on controverted affidavits, which even if the moving allegations were true, would not support a prima facie case for conviction.

c. The aforementioned criminal conviction was rendered even though there is not a single authoritative case in the State of New York, which sustains a criminal conviction, without a trial or hearing, absent, as here, a plea of guilt.

d. The aforementioned criminal conviction was rendered even though there is not a single authoritative case in the United States since Bloom v. Illinois (supra) which sustains a criminal contempt conviction [as here, non-summary] without a trial or hearing.

e. Petitioners entertain no doubt that Mr. Justice Saxe knew and knows that such criminal contempt convictions are null, void, and violative of the Constitution of the United States and laws enacted thereunder, as well as the Constitution of the State of New York, and laws enacted thereunder.

f. Furthermore, there is pending in the state tribunal, litigation for money damages against Saxe, as well as a pending appeal in the state Appellate Division wherein serious allegations are made against His Honor for his conduct in 1983.

 Representing Saxe in the money damage suit is Senior Assistant Attorney David S. Cook, Esq. ["Cook"], who was assigned to vouchsafe the assets and affairs of involuntarily dissolved corporations, including that of Puccini Clothes, Ltd. ["Puccini"]. It was Cook to whom Sassower was directed when actions of Saxe seemed suspect and it was to Cook that Sassower gave a great deal of confidential information concerning

the "judicial rape of Puccini". Thereafter, of all the assistant attorney generals available, Cook was commandeered to represent Saxe, and accepted by Saxe as his attorney. Unquestionably, in representing Saxe some of the confidential material that Sassower gave to Cook, was passed on to Saxe.

By reason of the aforementioned, Saxe is infected with a statutory (Judiciary Law §14), as well as, constitutional disability.

g. The litigation for which Saxe found Sassower guilty, included in its major aspect, the assertion of federal constitutional rights in the state forum. Thus, Sassower was found in criminal contempt for asserting federal rights in the state tribunal!

7a. Under federal constitutional law, the litigation involving Puccini should be in an "open courtroom". That is clearly the law in the State of New York (Judiciary Law §4).

b. Despite the aforementioned, Sassower, who has a vested interest in Puccini by virtue of an unsatisfied money judgment, is barred from some of the courtrooms in Supreme Court, New York County, even when there is litigation wherein he is the active attorney of record.

c. One month after Associate Justice ARNOLD L. FEIN of the Appellate Division, was justifiably livid when His Honor learned that petitioner, Sassower, had been excluded from "an American Courtroom" during an "American Trial", Special Referee Donald Diamond ["Diamond"] sua sponte, on June 24, 1985, proclaimed that Polur cannot represent Raffe, and then evicted him from his non-public courtroom during a judicial proceeding.

Again on June 27, 1985, Diamond during a judicial proceeding involving Puccini, where Polur desired to attend as a "spectator", within minutes of entry, is evicted therefrom.

Diamond has absolutely no intention of obeying Mr. Justice Fein, the statutory mandate (Judiciary Law §4), or federal constitutional pronouncements on the subject.

8. The following portions of a trial transcript [made available only after the conference with Mr. Justice Fein], reveals a depraved and gestopo mentality existing at State Supreme Court:

a. The trial transcript of Thursday, April 18, 1985, reveals the following [SM1-2]:

"MR. GERSTEIN: Your Honor, we take the position, and we will demonstrate subject, of course, to your ruling, at the appropriate time and ultimately to the jury's decision as to what is and isn't related --

THE COURT: Anything under 16792 [Barr #2] I assume is all we're going to be involved with.

MR. GERSTEIN: My contention, your Honor, the plaintiffs' contention, as set forth in our trial memorandum, is that all of these subsequent actions, and we'll show you by citing from them, the pleadings as to how they are --

THE COURT: I don't want any of those if they're not under this index number. I told you that before. I want to be restricted to that. ... How, if you are contending that they harassed you with other motions, and so forth, maybe that involves another lawsuit. But that's not one --"

After Mr. Justice Walter M. Schackman received some ex parte messages, he excluded Sassower from the courtroom, imposed a "gag" order, and permitted plaintiffs' attorneys, K&R, to introduce matters on which Sassower was, is, and always has been the attorney of record.

Even after Sassower was compelled to offer preliminary testimony and an offer of proof, so that the trial record could properly set forth what these other cases were about, the exclusion and "gag" directive were reimposed:

"THE COURT: Mr. Sassower, I'm going to excuse you from the courtroom because my rule is back in force. You're not involved in this case and I'd asked you to remain outside the courtroom for the remainder of the trial.

MR. SASSOWER: May I say something?

THE COURT: Yes.

MR. SASSOWER: I invoke, your Honor, the Constitution of the United States and everything thereunder, including Judiciary Law, Section 4. And I specifically except to your Honor's ruling, but I obey it.

THE COURT: Yes.

MR. SASSOWER: Thank you, your Honor. Does that cover any conversations, if I may, with Mr. Polur?

THE COURT: It's still in effect.

MR. SASSOWER: Thank you."

The following vividly elucidates the conspiratorial interplay between adversarial counsel and a judge determined to vitiate constitutional rights and limitations:

"MR. GERSTEIN [K&R]: And this morning, as I walked into the building, I observed Mr. Sassower and Mr. Polur together.

MR. POLUR: Your Honor, may I address myself to that, very respectfully? This is sort of a vigilante criminal statement

from that man. Nobody is going to stop me from being with somebody. I heard the Court's order and I'm obeying the Court's order. This is such despicable language and thoughts. You're spying on me?

MR. GERSTEIN:

Excuse me, sir.

MR. POLUR:

Spy? What is he

saying, Judge?

THE COURT:

He has a right

to do that. As far as the Court is concerned, I want reports. I want to know -- would you just calm down -- I want to know if in fact you are conferring with him. And if you are, I want to know about it. And if anybody, and I say this to anybody in your office, Mr. Relkin, or anybody else who's an officer or a participant in this court, such as the Court Officer or the Clerk or the Court Reporter, if they see at any time you confer with him, I want to know about it, because it's very important to me."

This abhorrent surveillance edict is still in force and effect, although the trial is over, since every request and demand that Mr. Justice Schackman put any intended revocation in writing or on the record has been ignored!

Consequently, Sassower and Polur, have to concern themselves about being under surveillance and being in contempt of court if there is suspected disobedience.

8. Polur and Sassower, attorneys respectively, since 1963 and 1949, have a professional obligation to report misconduct, and although they have a massive amount of evidence of extensive larceny of judicially entrusted assets of Puccini, perjury, and corruption by K&R, Feltman, Karesh & Major, Esqs. ["FK&M"] they have been prohibited by Gammerman from communicating with the Grievance Committee or any professional disciplinary body concerning same.

9a. Petitioners have sought "double jeopardy" relief by way of a Writ of Prohibition, relief to prohibit the exclusionary courtroom practices of Diamond in his judicial proceedings, and other basic federal relief, only to be assessed with large penalties because they did not obtain Gammerman's permission to request such relief.

b. Indeed the attempt to have a Gammerman Order nullified on the record as a fraud upon the court is referred to Gammerman who simply denies the motion.

10a. By self-proclaimed uskases, Gammerman, Diamond, and Administrative Judge Xavier C. Riccobono ["Riccobono"] have made themselves the sole and exclusive arbiters of which motions, actions, and/or proceedings can be processed, and thus by uniform denial thereof, even when made of right, to petitioners [with penalties generally] have denied their right to access to the state court.

b. Indeed many of petitioners legal papers are deliberately secreted and destroyed by Diamond thereby subverting and destroying federal and state constitutional rights to access to the court, due process, and equal protection of the law.

11a. As a matter of law, statutory and constitutional, Riccobono, Diamond, and Gammerman are disqualified in the Puccini related litigation, as they actually know. Nevertheless they have intruded themselves into same and as characterized in this federal tribunal as a "trio of judicial fixers".

b. By the self-proclaimed edicts of Riccobono, Diamond, and Gammerman they have captured the judicial machinery and in effect hold the judges in bondage and made itself the state court of last resort.

12a. Wherever possible petitioners have resorted to the state appellate tribunals to the extent legally possible, without success.

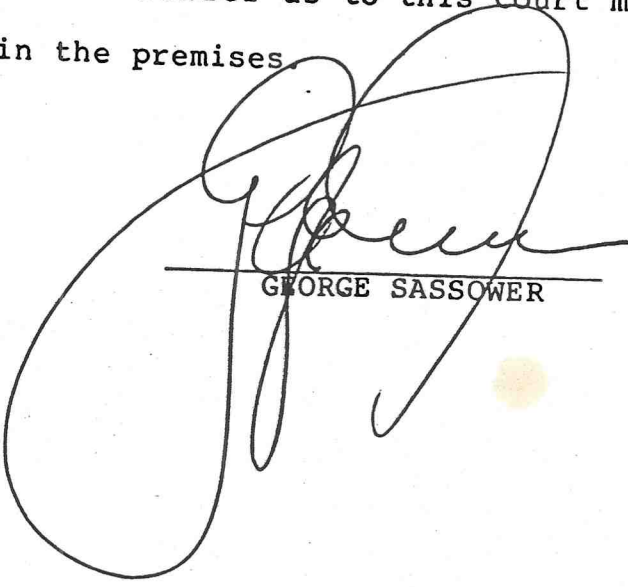
b. It is contemplated that as of noon of July 3, 1985, an Order will emanate from the Appellate Division denying petitioners application for a stay of the incarceration orders of Mr. Justice Klein and Saxe, pending appeal and will be subject to summary arrest and imprisonment.

13. No other application has been made for a Writ of Habeas Corpus in this matter in any state or federal tribunal.

WHEREFORE, it is respectfully prayed that this Writ of Habeas Corpus be issued, with a stay of incarceration, surveillance, and exclusion from the state courtroom, until a hearing is held herein with respect thereto, or if incarcerated that the Sheriff or Sheriffs produce the petitioners bodies immediately to

this Court, and if not in session, releasing them on their own recognizance, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Dated: July 3, 1985



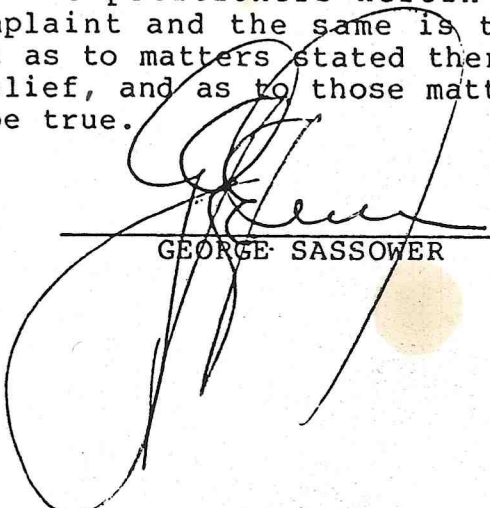
GEORGE SASSOWER

STATE OF NEW YORK
CITY OF NEW YORK
COUNTY OF KINGS

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) ss.:
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GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:

I am one of the petitioners herein and have read the foregoing complaint and the same is true of my own knowledge except as to matters stated therein to be on information and belief, and as to those matters deponent believes them to be true.



GEORGE SASSOWER

Sworn to before me this
3rd day of July, 1985



KENNETH SILVERMAN
Notary Public, State of New York
No. 24-4608988
Qualified in Kings County
Commission Expires March 30, 1987