

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
GEORGE SASSOWER,

Petitioner,

WRIT OF HABEAS
CORPUS

-against-

SHERIFF OF WESTCHESTER COUNTY
Respondent,

Index No. 13503-1986
(West. Co.)

-----X
THE PEOPLE OF THE STATE OF NEW YORK

upon the petition or relation of GEORGE SASSOWER, Esq. --
Greeting:

To: SHERIFF OF WESTCHESTER COUNTY:

WE COMMAND YOU, That you have and produce the body
of GEORGE SASSOWER, Esq., actually or constructively, by you
imprisoned and detained, as it is said, together with your full
return to this writ and the time and cause of such imprisonment
and/or detention, by whatever name the said person shall be
called or charged before Hon. , one
of the Justices of the Supreme/County Court of the State of New
York, County of , at
, in the Courthouse
thereof on the day of September, 1986, at in
the noon of that day to do and receive what shall then and
there be considered concerning the said person and have you then
and there this writ.

WITNESS, Hon.
one of the justices of our said Court, the day of
September, 1986.

Clerk.

The within writ is hereby allowed this day
of September, 1986.

Pending the hearing of the aforementioned Writ, the petitioner
(is) (is not) released on his own recognizance.

J.S.C. J.C.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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GEORGE SASSOWER,

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-against-

SHERIFF OF WESTCHESTER COUNTY,
Respondent,
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To the above named respondent:

1. The petition of GEORGE SASSOWER, Esq., shows that he is presently being constructively detained by the above named respondent, the actual detention and incarceration having been temporarily interrupted and suspended, under judicially imposed restrictive conditions, by reason of temporary medical needs not available at a penal institution.

2. The cause or pretense of the detention is a warrant of commitment signed by the Supreme Court, New York County.

3. That a court or judge of the United States does not have exclusive jurisdiction to order the release of said person.

4. This writ is sought because of an illegal detention, the nature of the illegality being:

a(1) Petitioner caused the exposure of the massive larceny of judicial trust assets, perjury, and corruption, involving members of the judiciary, including at the Appellate Division. Indeed, there was pending a proceeding, pursuant to County Law §701, brought by petitioner, for the appointment of a Special District Attorney for the criminal prosecution of those named, which included nisi prius and Appellate Division jurists.

(2) Furthermore, there have been and are pending actions and proceedings wherein members of the judiciary, Appellate Division and nisi prius are active defendants and/or respondents.

(3) Consequently, those members of the judiciary and their courts had at the time of the aforementioned Order of the Appellate Division a constitutional and statutory disqualification (Judiciary Law §14; Aetna v. Lavoie, U.S. , 106 S.Ct 1580, 89 L.Ed2d 823; In re Murchison, 349 U.S. 133); not subject to any harmless error analysis (Delaware v. Van Arsdall, U.S. , 106 S.Ct. 1431, 89 L.Ed.2d 674); and thus, the proceedings, vel non, were a nullity.

b(1) The aforementioned non-summary criminal contempt conviction, sentence, and detention violated the federal and state constitutions, in that there was no trial or hearing. It is hornbook law, that as a matter of constitutional ministerial compulsion, no american judge nor court can convict, sentence, and incarcerate anyone for an alleged crime, without a trial, absent a plea of guilty, including for non-summary criminal contempt (Bloom v. Illinois, 391 U.S. 194). In short -- the judiciary simply does not have the constitutional power to deprive one of all rights of confrontation prior to conviction and incarceration (Pointer v. Texas 380 U.S. 400)!

Decisive on negating any possible contention of "harmless error beyond a reasonable doubt" by such total deprivation of confrontation rights, is the fact that petitioner offered to accept 6 months incarceration if found guilty of a single count of criminal contempt, not the 63 as found by Referee DONALD DIAMOND, after a fundamentally fair trial according to law. The offer was not accepted by either the private "self-styled public prosecutors" nor the Appellate Division!

(2) Unadulterated rubbish and ludicrous is Referee DONALD DIAMOND's statement, repeated ad nauseam, and embraced by the Appellate Division, that:

"a plea of not guilty on criminal charges are tantamount to a general denial and raises no triable issue of fact"!

c(1) On the same day that the Order of Mr. Justice MARTIN EVANS was entered, based on the same facts, evidence, assertions and contentions, the Order of Mr. Justice LESTER EVENS was entered in the same proceeding, which resoundingly vindicated the petitioner.

(2) Additionally there were about fourteen (14) other contempt proceedings based substantially upon the same facts, evidence, assertions and contentions which did not result in convictions. Thus constitutional and statutory "double [multiple] jeopardy", precludes any conviction or incarceration herein.

d. Making punishment herein more egregious, subsequent thereto, when about eight (8) contempt proceedings had vindicated petitioner, effectively vindicated him, or seemed destined to result in non-convictions, Mr. Justice IRA GAMMERMAN, without any prior notice, without warning, without any supporting papers, without a trial, and without even the pretense of complying with Judiciary Law §756, or its constitutional basis, in the same proceeding, based on the same facts, evidence, contentions, and assertions punished petitioner for contempt. Obviously, there can not be "double punishment" for the same alleged crime under either constitutional or statutory standards of "double jeopardy"!

e(1) Senior Attorney, David S. Cook, Esq., is essentially a one-man unit in the Attorney General's Office, assigned to vouchsafe the assets and affairs of involuntarily dissolved corporations, including that of PUCCINI CLOTHES, LTD.

(2) Petitioner, after exposing the massive larceny of Puccini's judicially entrusted assets, communicated with the Attorney General, the statutory watchdog, and it was David S. Cook, Esq., who responded.

(3) For an extensive period there was an exchange of confidential information between petitioner and Mr. Cook regarding judicial improprieties therein, which as far as petitioner's communications were concerned, had constitutional protection.

(4) With the further involvement of the judiciary, of the hundreds of assistant attorney generals who could have been selected to represent Administrator XAVIER C. RICCOBONO and members of his court, and Presiding Justice FRANCIS T. MURPHY and his judicial thrall, it was Mr. Cook who was dragooned for such assignment, carrying with him petitioner's confidential information.

(5) Thus, Mr. Cook or his alter ego, Assistant Attorney General JEFFREY I. SLONIM, Esq., represents the judicial thrall and Puccini simultaneously. Obviously, Mr. Cook, in such conflicting assignment, has jettisoned all his obligations towards Puccini, including those which are mandatory, e.g. Business Corporation Law §1216!

(6) Consequently, although the Attorney General, must, as a "duty" make application for a final accounting and distribution, after the expiration of 18 months, more than 74 months has expired, and not only has the Attorney General and Mr. Cook failed to make any such application, but opposes same when made by your petitioner, who has, inter alia, a vested interest in said involuntarily dissolved corporation.

(7) Petitioner has been judged by tribunals which have had access to petitioner's confidential information concerning their misconduct given by petitioner to Mr. Cook, and information given by Mr. Cook to petitioner, and is being punished in an attempt to compel petitioner to succumb to a criminal code of silence!

f(1) Criminal contempt proceedings, completely controlled by private adversarial counsel are plainly unconstitutional (Polo Fashions v. Stock Buyers, 760 F.2d 696 [6th Cir.], amicus invited, U.S. , 106 S.Ct. 565, 88 L.Ed2d 550; U.S. ex rel. Vuitton v. Klayminc, 780 F2d 179 [2d Cir.]), particularly where, as here, adversarial counsel are nothing better than "criminals with law degrees" who have engaged themselves in the larceny of judicial trust assets, perjury, extortion, and corruption.

(2) Simply to compel the receiver to account, on this judicial trust, and/or to submit his and his criminal co-conspirators records to an impartial judicial examination would instantly reveal that the purpose of petitioner's unconstitutional convictions and incarcerations is nothing less than a desperate attempt to conceal massive criminal activity!

g. Private adversarial counsel, "indulgence peddlers", have employed and are employing these sham criminal convictions as a means of criminal extortion, by compounding alleged criminal conduct and convictions to those who succumb or agree to succumb.

5a. The constitutional mandate against "cruel and unusual punishment" (U.S. Const., Amend. VIII, XIV; N.Y. State Const. V), mandates that petitioner be immediately discharged, paroled pending the hearing herein, and if necessary, until petitioner has exhausted his full panoply of appealable rights.

b. Where the sentence is short, the prejudice irreparable, merit compelling, and there is no danger of flight, punishment under a sham conviction is violative of "due process" and "cruel and unusual punishment", where punishment there should not have been in the first instance!

c. Furthermore, punishment for the petitioner, and those similarly situated, before exhaustion of their state remedies, would render nugatory Article 1, §9 of the United States Constitution for the short term prisoner, since they could not possibly exhaust their state remedies before their short terms expired (cf. Harris v. Kuhlman, 601 F. Supp. 987, 993 [EDNY, per Weinstein, J.]!)

There is nothing in the history or spirit of Article 1, §9 which can be read as meaning to exclude the short term prisoner from its protection. Thus, the state must afford such prisoner his freedom where there is no danger of flight until he has exhausted his state remedies, as an acknowledgement to the "supremacy clause" of the federal constitution.

6a. People ex rel. Tweed v. Liscomb (60 N.Y. 559, 569), probably the leading case on habeas corpus in this State, states:

"It is no new feature in the law that inferior magistrates may, when thereunto called, sit in judgment upon the jurisdiction of the highest courts, when their process or judgment come collaterally before them. ... It matters not what the general powers and jurisdiction of a court may be; if it act without authority in the particular case, its judgments and orders are mere nullities, not voidable, but simply void, protecting no one acting under them, and constituting no hindrance to the prosecution of any right."

b. Even if this petition is considered to be a successive writ, which petitioner controverts, this petition should be granted if "the court is satisfied that the ends of justice will not be served by granting it." (CPLR §7003[b]). The statute comports with clear case law that successive petitions cannot be abrogated without unconstitutionally suspending the writ itself (Sanders v. United States, 373 U.S. 1).

7. Appeals have been taken from the Orders by virtue of which petitioner has been detained to the Court of Appeals, where the jurisdictional question is presently sub judice, and a double jeopardy proceeding pends in the Appellate Division, First Department, which is also sub judice, except for a conditional temporary stay for medical treatment reasons, upon restrictive conditions.

8a. No previous application has been made for this relief, except without a hearing, Hon. MATTHEW F. COPPOLO, dismissed petitioner's petition, on August 4, 1986.

b. Prior to the aforementioned dismissal, without a hearing, which dismissal was the direct result of ex parte transactions, the firm of FELTMAN, KARESH, MAJOR & FARBMAN, Esqs., conceded the issue of the jurisdiction of the Appellate Division, First Department, to issue its Order was a proper subject of inquiry on a writ of habeas corpus, a subject on which petitioner was and still is ready to go forward on.

c. In petitioner's view, as a result of such manifest improprieties, the Order of Hon. MATTHEW F. COPPOLO is a nullity, in addition to not being the subject of res judicata (Sanders v. United States, supra).

d. The firms of FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. and KREINLDER & RELKIN, P.C. are corrupt, who have not and can not account for the assets of Puccini, without exposing the massive larceny, perjury, and corruption that took place wherein they were the prime participants!

e. Obviously, petitioner is repeatedly convicted and incarcerated, not for what he did, but for what he knows, and his refusal to succumb to a "code of silence" and inaction.

9a. Not previously presented to Mr. Justice MATTHEW F. COPPOLO is the contention now made to the Appellate Division, Second Department, that the aforementioned patently sham conviction, which petitioner offered to serve 6 months, if found guilty of a single count of criminal contempt, after a fundamentally fair trial, held according to law, is that such conviction is a "serious crime" (Judiciary Law §90[2f], 22 NYCRR §691.7[b]), which petitioner claims entitles him to a trial by jury (United States v. Craner, 652 F.2d 23 [9th Cir.]; State v. O'Brien, 704 P2d 905 [Haw], affirming 704 P2d 883; Fisher v. State, 305 Md. 357, 504 A2d 626; cf. Morganthau v. Erlbaum, 59 N.Y.2d 143, 464 N.Y.S.2d 392, cert. den. 494 U.S. 993).

b. To the extent that the aforementioned is set forth, this petition can be legally considered an original application (People ex rel. Smith v. LaValee, 29 A.D.2d 248, 287 N.Y.S.2d 601 [4th Dept.]).

10. Obviously, nothing herein is intended to adversely reflect upon the respondent, the Westchester County Sheriff or his attorney, the Westchester County Attorney. On the contrary, they have disobeyed for the past seven months the mandates originating from New York County to "break-into" petitioner's premises, "seize all word processing equipment and soft ware", "inventory" petitioner's possessions and "report" same, and even to "rip open" petitioner's "mattress".

WHEREFORE, your petition prays that a writ of habeas corpus be issue, directed to respondent, requiring respondents to produce or constructively produce the said GEORGE SASSOWER, Esq., forthwith before this Court and forthwith discharged and/or paroled, without unconstitutional burdens attached thereto.

Dated: August 26, 1986

GEORGE SASSOWER, Esq.
Attorney for petitioner, pro se
51 Davis Avenue,
White Plains, N.Y. 10605
914-949-2169

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

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

I am the petitioner in the within proceeding, have read the foregoing petition, and know the contents thereof.

The same is true to petitioner's own knowledge, except as to matters stated thereon to be based on information and belief, and as to those matters he believes the same to be true.

GEORGE SASSOWER

Sworn to before me this
26th day of August, 1986

GIACCHINO J. RUSSO
Notary Public State of New York
No. 03-4806109
Qualified in Bronx County
Commission Expires 1/31/88