

United States District Court

NORTHERN

DISTRICT OF CALIFORNIA

In the Matter of a Grand Jury
Application by
GEORGE SASSOWER,
Petitioner,
-against-
Hon. WILLIAM T. MCGIVERN, JR.,
Respondent.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

TO: (Name and Address of Defendant)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

GEORGE SASSOWER
16 Lake Street
White Plains, NY 10603-3852

an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK

DATE

BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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In the Matter of a Grand Jury
Application by
GEORGE SASSOWER,
Petitioner,
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Hon. WILLIAM T. MCGIVERN, JR.,
Respondent.
-----x

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P E T I T I O N
ORIGINAL
FILED

OCT 10 1991

Petitioner, as and for his petition, respectfully
sets forth and alleges:
JAN WYKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1a. Petitioner brings this proceeding directly under
the Constitution and laws of the United States.

b. Jurisdiction in the United States District Court
exists by virtue of 28 U.S.C. §1331, §1346 and §1361.

2a. Petitioner is a born American citizen, battle-
starred veteran of World War II, and oath bound to protect and
defend the United States Constitution.

b. Petitioner's constitutional and legal rights
include his right to petition government for redress of his
grievances, a right guaranteed by, inter alia, Article III,
Amendments I, V, and XIV of the United States Constitution and
federal laws enacted thereunder.

c. The grand jury is one of the agencies of
government to which petitioner has the constitutional right to
petition where the purpose is to advise that body of criminal
activities, a legal right recognized in, inter alia, 18 U.S.C.
§1504, §3332[a].

3a. The grand jury has the "duty" to make inquiry into
the commission of alleged criminal offenses within its bailiwick

(18 U.S.C. §3332[a]), which requires an unobstructed line of communication with those who have knowledge of such activity.

b. 18 U.S.C. §3332[a] articulates the historic "sword" duty of the grand jury and the mode of communication to that body by the private person:

"It shall be the duty of each grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such [U.S.] attorney receiving information concerning such an offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation." [emphasis supplied]

4a. Although the authority and power of the grand jury to inquire into criminal activities is not dependent on the will or consent of the prosecutor or the court, the general mode of communication by a private person to the federal grand jury is through the U.S. attorney (e.g., 18 U.S.C. §1332[a]) and/or the federal district court (e.g., 18 U.S.C. §4).

b. Once the U.S. attorney or the court receives a communication intended for the grand jury, related to criminal activity not then being considered by that body, such communication, if proper in substance and form, must be forwarded to the grand jury, as a matter of ministerial compulsion, permitting no discretion whatsoever (In re Grand Jury Application, 617 F. Supp. 199 [SDNY-1985]).

c. Access to the grand jury herein would have a direct and personal effect on petitioner and his vested constitutional property rights.

5. Clearly established, fundamental, and an essential element of American law, is that no person, no matter how exalted his status, including judges and prosecutors, are above the criminal laws of our society. They have no special immunity from a grand jury investigation and inquiry.

6. Some of petitioner's evidence that he desires to bring to the attention of the grand jury are occurring in this judicial district.

7. The statutory scheme for federal governmental tort liability and the decisions thereunder is clear, settled and uniform:

a(1) The plain language of 28 U.S.C. §2679[d] reads that unless the Attorney General certifies that an official "was acting within the scope of his office or employment" he cannot be defended at federal cost and expense.

(2) Thus, the reason there is no "scope certification" or "scope adjudication", is irrelevant since its absence precludes federal representation.

(3) Nevertheless, Assistant Attorney Generals BARBARA L. HERWIG ["Herwig"] and EDWARD T. SWAINE ["Swaine"] have been representing in tort litigation in this judicial district, at federal cost and expense, those who have not been "scope certified" or "scope adjudicated".

(4) In short, in this judicial district, Herwig, Swaine, and those who they purport to represent are defrauding the federal treasury. This is a matter of grand jury concern.

b(1) The authority of the U.S. attorney and the limits of such authority are found in 28 U.S.C. §547, which reads as follows:

"Except as otherwise provided by law, each United States attorney, within his district, shall--- (1) prosecute for all offenses against the United States; (2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned; (3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against 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; (4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and (5) to make such reports as the Attorney General may direct."

(2) A "scope certification" or "scope adjudication" triggers a UNITED STATES OF AMERICA ["USA"] substitution as the tort defendant (28 U.S.C. §2679[d]), and thereby authorizes 28 U.S.C. §547 representation by the Attorney General's Office.

(3) Absent the USA substitution as the defendant, there is no statutory authorization for federal attorneys to represent tort defendants in their individual names.

(4) Herwig and Swaine are usurping their legal authority as they and their clients are defrauding the American taxpayer.

c(1) The reason for the lack of certification is not inadvertent since Herwig, as reflected by the decisions in the Federal Reporter, is the Department of Justice authority on the subject and her name often appears on the reported cases.

(2) The evidence reveals that the Herwig and Swain clients are clearly not acting within the scope of their office, but are acting contrary to the interests of the federal government, monetarily and otherwise.

(3) Obviously, neither the Attorney General nor any one of his designees desire to execute a "scope certification" nor have any court adjudicate such issue.

(4) Although Herwig and Swain cannot find anyone who is willing to execute a "scope certificate", they nevertheless represent these perfidious officials, at federal cost and expense.

d(1) The Herwig and Swain clients, as the documentary evidence demonstrates, are involved in the larceny of judicial trust assets, diverting monies payable "to the ['federal'] court" to private pockets, extortion and other criminal racketeering activities.

(2) When, as here, federal attorneys, at federal expense, represent those who are diverting monies payable to the federal government to private pockets, the matter is clearly of grand jury concern.

(3) The clients of Herwig and Swaine have federal representation, at federal cost and expense, because they have the "clout" of their official position.

(4) "Clout" does not determine eligibility for a federal defense, as the recent case of Johnson v. Carter (939 F.2d 180 [4th Cir.-1991]) reveals.

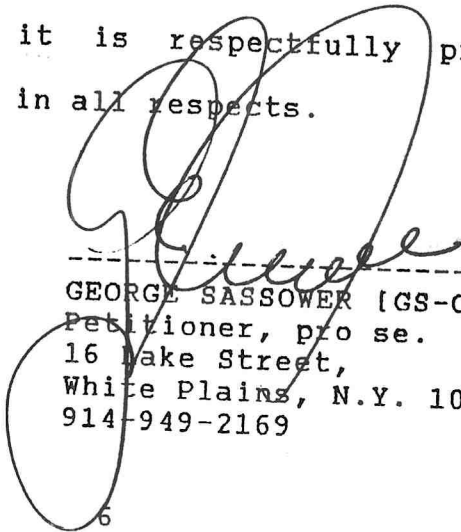
(5) In such case, in which Herwig was one of the attorneys, "scope status" was denied to the Commander-in-Chief of the U.S. Atlantic Fleet when he abused a civilian law enforcement officer.

8a. While in every reported case, Herwig always appears in conjunction with the local U.S. attorney, she has failed to do so in this Circuit, which is to the credit of respondent.

b. Nevertheless, it does not comport with the "appearance of justice" for the respondent to make the grand jury presentation, particularly since it is superiors in the Department of Justice who have authorized such improper representation.

WHEREFORE, it is respectfully prayed that the within petition be granted in all respects.

Dated: October 2, 1991



GEORGE SASSOWER [GS-0521]
Petitioner, pro se.
16 Wake Street,
White Plains, N.Y. 10603
914-949-2169

CIVIL COVER SHEET

JS 44C/SHY
Rev. 1/90

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet. (For more detailed instructions, see separate instruction sheet.)

PLAINTIFFS *George Sassower*DEFENDANTS
Hon. William T. McGivern, Jr.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

George Sassower
16 Lake Street
White Plain, N.Y. 10603

ATTORNEYS (IF KNOWN)

?

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

Grand Jury Application, 18 USC 2332; Armed Mail I

No. D. Calif.
Has this or a similar cause been previously filed in SDNY at anytime? No ☒ Yes ☐ Judge Previously Assigned _____

If yes, was this case Vol. ☐ Invol. ☐ Dismissed, No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN ☒ IN ONE BOX ONLY)

NATURE OF SUIT

CONTRACT		TORTS		FORFEITURE/PENALTY		ACTIONS UNDER STATUTES	
☐ 110 INSURANCE	☐ 310 AIRPLANE	☐ 362 PERSONAL INJURY-MED MALPRACTICE	☐ 610 AGRICULTURE	☐ 422 APPEAL	☐ 400 STATE REAPPORTIONMENT		
☐ 120 MARINE	☐ 315 AIRPLANE PRODUCT LIABILITY	☐ 365 PERSONAL INJURY PRODUCT LIABILITY	☐ 620 FOOD & DRUG	☐ 28 USC 150	☐ 410 ANTITRUST		
☐ 130 MILLER ACT	☐ 320 ASSAULT, LIBEL & SLANDER	☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	☐ 625 DRUG RELATED SEIZURE OF PROPERTY	☐ 21 USC 881	☐ 430 BANKS & BANKING		
☐ 140 NEGOTIABLE INSTRUMENT	☐ 330 FEDERAL EMPLOYERS' LIABILITY	☐ 370 OTHER FRAUD	☐ 630 LIQUOR LAWS	☐ 28 USC 157	☐ 450 COMMERCE/ICC RATES/ETC.		
☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	☐ 340 MARINE LIABILITY	☐ 371 TRUTH IN LENDING	☐ 640 R.R. & TRUCK		☐ 460 DEPORTATION		
☐ 151 MEDICARE ACT	☐ 345 MARINE PRODUCT LIABILITY	☐ 380 OTHER PERSONAL PROPERTY DAMAGE	☐ 650 AIRLINE REGS	☐ 660 OCCUPATIONAL SAFETY/HEALTH	☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)		
☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)	☐ 350 MOTOR VEHICLE	☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY	☐ 690 OTHER		☐ 810 SELECTIVE SERVICE		
☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	☐ 355 MOTOR VEHICLE PRODUCT LIABILITY				☐ 850 SECURITIES/COMMODITIES/EXCHANGE		
☐ 160 STOCKHOLDERS' SUITS	☐ 360 OTHER PERSONAL INJURY				☐ 875 CUSTOMER CHALLENGE		
☐ 190 OTHER CONTRACT					☐ 12 USC 3410		
☐ 195 CONTRACT PRODUCT LIABILITY					☐ 891 AGRICULTURE ACTS		
					☐ 892 ECONOMIC STABILIZATION ACT		
					☐ 893 ENVIRONMENTAL MATTERS		
					☐ 894 ENERGY ALLOCATION ACT		
					☐ 895 FREEDOM OF INFORMATION ACT		
					☐ 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE		
					☐ 950 CONSTITUTIONALITY OF STATE STATUTES		
					☒ 890 OTHER STATUTORY ACTIONS		

Check if demanded in complaint

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

OTHER

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

JUDGE

DOCKET NUMBER

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN ☐ IN ONE BOX ONLY)

☒ Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

ORIGIN

☐ 4 Reinstated or Reopened

☐ 5 Transferred From (Specify Dist.)

☐ 6 Multidistrict Litigation

☐ 7 Appeal to District Judge from Magistrate Judgment

(PLACE AN ☐ IN ONE BOX ONLY)

☐ 1 U.S. PLAINTIFF

☐ 2 U.S. DEFENDANT

BASIS OF JURISDICTION

☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)

☐ 4 DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [x] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE PTF [] DEF []

CITIZEN OR SUBJECT OF A FOREIGN COUNTRY

PTF [] DEF []

INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE

PTF [] DEF []

CITIZEN OF ANOTHER STATE [] PTF [] DEF []

INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE

[] PTF [] DEF []

FOREIGN NATION

[] PTF [] DEF []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

George Sassouk
16 Lake Street
White Plains N.Y. 10603
914-949-2169

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

Hon. William T. McGivern, Jr.
Room 1601
Golden Gate Ave. Pobox 3605
San Francisco, California 94102
415-556-1156

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☐ FOLEY SQUARE
(DO NOT check either box if this is a PRISONER PETITION.)

DATE

Oct. 2, 1998

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

ADMITTED TO PRACTICE IN THIS DISTRICT

☒ YES (DATE ADMITTED Mo. ___ Yr. ___)

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

George Sassouk JS 44C/SDNY Rev. 1/90

DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS
UNITED STATES DISTRICT COURT
~~SOUTHERN~~ DISTRICT OF NEW YORK *California*,
Northern.

In the Matter of the Petitioner/Plaintiff
v. Grand Jury Application
George Sassouk
Hon. William T. McGivern, Jr.
(respondent(s)/defendant(s))

I, *George Sassouk*, am the petitioner/plaintiff in the above entitled case. In support of my motion to proceed without being required to prepay fees or costs or give security therefore, I state the because of my poverty I am unable to pay the costs of said proceeding or to give security therefore; that I believe I am entitled to redress.

I declare that the responses which I have made below are true.

1. If you are presently employed, state the amount of your salary wages per month, and give the name and address of your employer. YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE IN PRISON.

No.

2. If you are NOT PRESENTLY EMPLOYED, state the date of last employment and amount of the salary per month which you received AND how long the employment lasted. YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE IN PRISON. IF YOU HAVE NEVER BEEN EMPLOYED, SAY SO.

Oct. 1988 - 500/mo.

3. Have you received, within the past twelve months, any money from any of the following sources?

- a. Business, profession, or form of self-employment? Yes ___ No X
b. Rent payments, interest, or dividends? Yes ___ No X
c. Pensions, annuities, or life insurance payments? Yes ___ No X
d. Gifts or inheritances? Yes ___ No X
e. Any form of public assistance? Yes ___ No X
f. Any other sources? Yes X, No ___

If the answer to any of the questions in part three is yes, describe each source of money and state the amount received from each during the past twelve months.

\$4200/yr. Social Security.

4. Do you own any cash or do you have money in a checking or savings account?

Yes X No (Include any funds in prison accounts)
If the answer is yes, state the total value owned.

about \$0 borrowed

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (including ordinary household furnishings and clothes)?

Yes X No

If the answer is yes, describe the property and state its approximate value.

Substantial - All upon it is finally Frozen & unavailable.

6. List the persons who are dependent upon you for support; state your relationship to those persons; and indicate how much you contribute toward their support at the present time.

→ Elizabeth A. Sassner - daughter cannot

If you live in a rented apartment or other rented building, state how much you pay each month for rent. Do not include rent contributed by other people.

0

8. State any special financial circumstances which the court should consider in this application.

→ All Assets unavailable. Frozen. for whistle blowing

I understand that a false statement or answer to any questions in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 2 day of Oct., 1991.

(Signature)
George Sassner

CANNOT
support

* IF P.
monied.
by C.C.B.
9th in
cases.
before that
Court.