

The plaintiff-petitioner, GEORGE SASSOWER, having commenced three separate proceedings as follows:

ACTION NO. 1:

An Article 78 proceeding seeking an order to restrain the respondent, Sheriff of Suffolk County, his servants, agents and/or employees from entering any county outside Suffolk County for the purpose of arresting petitioner Sassower, prohibiting them from removing Sassower from the county of his arrest or detention, and/or restraining them from preventing Sassower from seeking a Writ of Habeas Corpus in the county of his arrest and detention and the District of Federal Court of such arrest and detention;

ACTION NO. 2:

A Habeas Corpus proceeding to review petitioner-relator Sassower's incarceration by the Sheriff of Suffolk County pursuant to a warrant of commitment and contempt citation, both issued by the Surrogates Court of Suffolk County on March 8, 1978;

ACTION NO. 3:

An action alleging, inter alia, tort claims in which plaintiff Sassower seeks ten million dollars in compensatory damages and ten million dollars in punitive damages; and

The plaintiff-petitioner George Sassower having interposed the following applications:

ACTION NO. 2 (Habeas Corpus):

For an order of "summary judgment" sustaining the writ of habeas corpus;

ACTION NO. 3 (Tort Action):

For an order of "Judgment on the Pleadings/Summary Judgment" in favor of plaintiff against the defendant, New York News, Inc., on his second cause of action, or in the alternative to sever such cause against this defendant and for a protective order; and

The defendant-respondents, having interposed the following applications:

ACTION NO. 1 (Article 78 Proceeding):

For an order pursuant to CPLR §7804(f) by the Sheriff to dismiss, raising objections in point of law;

ACTION NO. 2 (Habeas Corpus):

- I. By the Public Administrator of Suffolk County for an order seeking:
 - a) Permission to intervene in Action Nos. 1 and 2;
 - b) Referral of Action Nos. 1 and 2 to the Appellate Division, Second Judicial Department for hearing and determination; and
 - c) In the alternative, dismissal of Action Nos. 1 and 2; and
- II. By the Respondent Sheriff for an order pursuant to CPLR §7009 granting a summary hearing on the habeas corpus application;

ACTION NO. 3 (Tort Damages):

I. By defendant Judges Signorelli and Seidell for an order pursuant to CPLR §3211(a)(5)(7) dismissing Sassower's complaint and amended complaint; and by defendants Mastroianni, Finnerty, Croce and Grymaliski (hereinafter "Suffolk defendants") for an order:

a) Pursuant to CPLR §602(a) consolidating these three actions; and

b) Pursuant to CPLR §3212 granting summary judgment.

NOW, THEREFORE, upon reading and filing of:

ACTION NO. 1 (Article 78 Proceeding):

Petitioner Sassower's notice of petition and verified petition dated and verified June 7, 1978; Respondent Sheriff's notice of motion to dismiss petition raising objections in point of law with supporting affidavit of Erick F. Larsen, Esq., dated June 30, 1978 and annexed exhibits; the reply affidavit of petitioner George Sassower dated July 20, 1978 with annexed exhibits; and

ACTION No. 2 (Habeas Corpus):

The petition for writ of habeas corpus verified by George Sassower and the writ of habeas corpus releasing petitioner in his own recognizance pending final determination granted by Supreme Court, Westchester County, Justice Anthony O. Ferraro (both undated); the Sheriff's return to the writ of habeas corpus consisting of the affidavit of Erick F. Larsen, Esq., dated June 16, 1978 with exhibits; supplemental affidavit of George Sassower dated June 17, 1978; Order of the Supreme Court, Westchester County, Justice Theodore Dachenhausen, Jr., dated August 14, 1978, entered August 16, 1978 transferring venue of Action Nos. 1 and 2 from Westchester County to Suffolk County; petitioner George Sassower's notice of motion and supporting affidavit, both dated December 21, 1978 seeking summary judgment sustaining the writ of habeas corpus; the supplementary affidavit of George Sassower dated January 2, 1979

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with annexed exhibits; the supplementary affidavit of George Sassover dated February 2, 1979; respondent Sheriff's notice of hearing on writ of habeas corpus dated March 14, 1979; Order of Supreme Court, Suffolk County, Justice James A. Gowan dated and entered March 15, 1979 setting Action No. 2 down for a hearing on March 27, 1979; notice of motion on behalf of Public Administrator of Suffolk County dated April 23, 1979 and affidavit of Vincent G. Berger, Jr., dated April 24, 1979 in support of Public Administrator's applications;

ACTION NO. 3 (Tort Damages):

Summons dated June 21, 1978; Suffolk defendants' demand for complaint dated June 29, 1978; plaintiff's verified complaint dated September 23, 1978; Suffolk defendants' verified answer dated October 16, 1978 and verified again on November 3, 1978; defendant Mathias' verified answer dated ____ day of November, 1978; plaintiff George Sassover's amended verified complaint dated December 15, 1978 with annexed exhibits; defendant Berger's notice of rejection of amended complaint; defendant New York News, Inc.'s answer dated February 3, 1979; defendant New York News, Inc.'s amended answer; Order of Supreme Court Suffolk County Justice Leon D. Lazer dated November 14, 1978 and entered November 20, 1978 transferring venue of Action No. 3 from Westchester to Suffolk County; defendants' Signorelli and Seidell notices of motion to dismiss dated November 17, 1978 and January 15, 1979; plaintiff's notice of motion dated January 18, 1979 seeking summary judgment against defendant New York News, Inc., etc.; affidavit in opposition of Harry J. Wise, III, dated January 25, 1979 on behalf of defendant New York News, Inc.; supplementary affidavit of

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George Sassower dated January 31, 1979; Suffolk defendants' notice of cross-motion dated February 14, 1979; affirmation of Erick F. Larsen dated February 15, 1979 in opposition, and in support of cross-motion with exhibits; affirmation of George Sassower dated February 19, 1979 in opposition to defendants' cross-motion with exhibits; supplemental affirmation of Erick F. Larsen dated February 26, 1979 with exhibits; further supplemental affirmation of Erick F. Larsen dated March 2, 1979 with exhibits.

AND Plaintiff-petitioner George Sassower having appeared, pro se; defendants and/or respondents Sheriff Finnerty, Deputy Sheriffs Croce and Grymalski [sic], Public Administrator Mastroianni, having duly appeared by David J. Gilmartin, Suffolk County Attorney, by Erick F. Larsen, Assistant County Attorney; defendants Judges Signorelli and Seidell having duly appeared by the New York Attorney General, Robert Abrams; defendant New York News, Inc., having duly appeared by its attorneys Townley & Updike, Harry H. Wise, III, of counsel; and Public Administrator of Suffolk County Mastroianni, in his capacity as Temporary Administrator of the Estate of Eugene Paul Kelly, having duly appeared by his attorney Vincent G. Berger, Jr.;

AND a summary hearing having been conducted by this Court on March 27, 1979 in connection with the writ of habeas corpus (Action No. 2); and the matters having been otherwise submitted by all parties; and after due deliberation having been had; and for the reasons more fully set forth in the memoranda of this Court dated March 20, 1980 and April 24, 1980;

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IT IS FURTHER ORDERED that in light of the dismissal of Action No. 1, the Public Administrator's application to intervene in Action No. 1 is denied as academic; and :

IT IS FURTHER ORDERED that the Public Administrator's application to intervene in Action No. 2 is denied as academic; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Judges Signorelli and Seidells' application to dismiss Action No. 3 as against them pursuant to CPLR §3211(a)(7) is granted; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff Sassower's application for summary judgment against defendant New York News, Inc., in Action No. 3 is denied; and

IT IS FURTHER ORDERED that plaintiff Sassower's application for a protective order with respect to defendant New York News, Inc.'s notice to take the oral deposition of the plaintiff (Dated January 12, 1979)(Action No. 3) is denied; and

IT IS FURTHER ORDERED that plaintiff Sassower's application for severance of his claims against defendant New York News, Inc. (Action No. 3) is denied; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that petitioner-relator Sassower's writ of habeas corpus (Action No. 2) is dismissed; and

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that petitioner Sassower's application for "summary judgment" on the writ of habeas corpus (Action No. 2) is denied; and

IT IS FURTHER ORDERED that the Order of Recognizance dated June 10, 1978 issued pursuant to CPLR §530.60 in connection with the writ of habeas corpus (Action No. 2) is revoked; and

IT IS FURTHER ORDERED that petitioner Sassower will surrender himself to the custody of the Sheriff of Suffolk County within forty-eight (48) hours after service upon him of this order with notice of entry; and

IT IS FURTHER ORDERED that in the event plaintiff fails to surrender himself as aforestated, respondent Sheriff is granted leave to apply to this Court for an ex parte Order of Commitment; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Suffolk defendants' application for summary judgment in Action No. 3 is denied without prejudice to renewal before this Court upon a more detailed substantiation of the contention that the plaintiff is barred by principles of claim and/or issue preclusion from relitigating issues previously determined against him in prior related federal proceedings; and

IT IS FURTHER ORDERED that Suffolk defendants' application for an immediate hearing upon petitioner Sassower's writ of habeas corpus is granted only to the extent of the hearing already conducted by this Court on March 27, 1979, and is otherwise denied; and

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~~IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants and respondents shall be entitled to their costs, disbursements and reasonable attorneys' fees in these three actions~~

ENTER :

S/ JAMES A. GOWAN
JAMES A. GOWAN, J.S.C.

S/Arthur J. Felice
Clerk

GRANTED Feb. 10, 1981

Dated:

COUNTY CLERK'S OFFICE }
STATE OF NEW YORK } SS:
COUNTY OF SUFFOLK }

I, ARTHUR J. FELICE, Clerk of the County of Suffolk and the Court of Record thereof, do hereby certify that I have compared the annexed with the original. *True, correct* FILED in my office *February 23, 1981* and, that the same is a true copy thereof, and of the whole of such original.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County and Court this *APR 9 1981*

Form No. 236

Arthur J. Felice
Clerk.
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