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August 27, 1985

Hon. Donald M. Sheraw
Clerk, Court of Appeals
Court of Appeals Hall
20 Eagle Street,
Albany, New York, 12207

Re: Raffe and Sassower v. Justices
Subject: Preference.

Honorable Sir:

A calendar preference is hereby requested in the above matter in order to preserve the constitutional values underlying the proscription of "double jeopardy" and "invidious and selective enforcement".

1. This is a proceeding wherein the appellants requested a writ of prohibition against respondents based upon double jeopardy and invidious and selective enforcement procedures.

2. The proceeding was commenced in the Appellate Division and directly involves the construction of the Constitution of the United States (Amendment V and XIV) and State of New York (Article 1, §§5, 6, 11).

3a. Appellants' Brief and Appendix was served on August 25, 1985. The original file was subpoenaed from the Appellate Division to the Court of Appeals on August 26, 1985. Thus, appellants have fully performed their appellate obligations to this Court for review of this matter.

b. Many of the issues and arguments parallel those set forth in "People ex rel George Sassower on behalf of Sam Polur, Esq. v. Cunningham", wherein a summary reversal has been requested; alternatively, for a calendar preference.

The very fact that such events took place reveals, ipso facto an invidious and discriminatory governmental practice.

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4a. The Order appealed from is dated and was entered on May 14, 1985, and the Notice of Appeal was served on June 8, 1985.

b. The subsequent events, which the grant of this writ was designed to prevent, could not be reasonably anticipated.

c. Thus, in not requesting a preference at an earlier date, counsel could not reasonably conceive that any justice of the Supreme Court of the State of New York would convict, sentence, and incarcerate in criminal proceedings, without a trial; that the writ of habeas corpus ad subjiciendum, after 800 years, would be effectively be castrated; that the constitutional and statutory right preventing "double jeopardy" rendered nugatory; and the right against self-incrimination, made the subject of prejudicial judicial comment and action!

5. Some of the reasons for a calendar preference, are as follows:

a. The very interest sought to be protected, to wit., the "wearing down", the "needless anxiety", the "harrassment" (Justices v. Lyndon, U.S. , 104 S.Ct. 1805), requires that a preference be granted where a writ of prohibition is based upon such grounds.

b. On a regular basis, presently continuing, intoxicated by success, still further contempt proceedings are being undertaken or threatened by private adversarial interests, which should be arrested at the earliest possible time by this Court.

c. Based solely and only on the orders of non-summary criminal contempt by Hon. Alvin F. Klein and Hon. David B. Saxe, disciplinary proceedings have been undertaken, although not any known jurist can be found to state that any person could be convicted and incarcerated for non-summary criminal contempt, without a trial or a plea of guilty.

d. The orders of non-summary criminal contempt by Hon. Alvin F. Klein and Hon. David B. Saxe are transparent frauds, as are the subsequent similar proceedings pending and threatened, and should be halted immediately.

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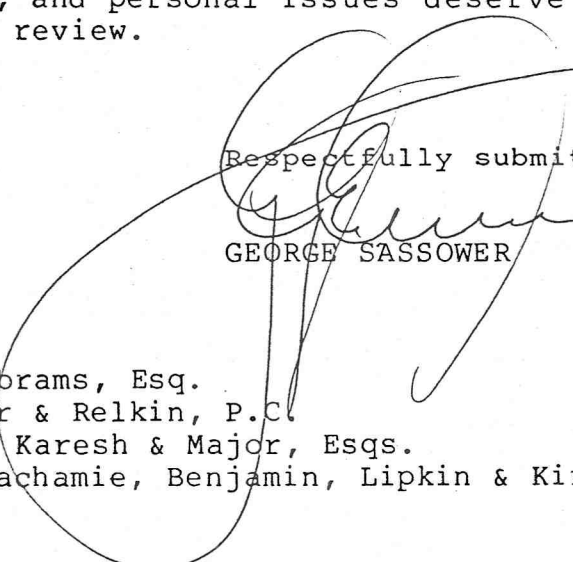
e. The practice of private adversarial counsel acting as a criminal prosecutor, can no longer be reconciled with constitutional mandate (e.g., Brady v. Maryland (373 U.S. 83) or other constitutional and ethical requirements of law (Polo Fashions v. Stock Buyers, 760 F.2d 698 [6th Cir.])), a matter, not thus far made the subject of judicial examination by the state judicial system, as far as counsel can determine.

f. Appellants further contend that the federal view of its habeas corpus obligation when it involves state judicial proceedings (Rose v. Lundy, 455 U.S. 509), compels this state to implement procedures for appellate review, writs of prohibition, and/or treatment of writs of habeas corpus for short term prisoners so as to permit extraordinarily rapid state exhaustion or mandatory parole so as not to suspend the federal writ in such matters.

g. Having an appellant serve his full term first and then afford him his constitutional mandated trial, is the subject of an appeal presently pending in the Circuit Court of Appeals, for the Second Circuit. For the short term prisoner with manifest merit, as exists at bar, is not comity, but a mockery on the Constitution of the United States.

I respectfully submit these important legal, public, and personal issues deserve expeditious and immediate review.

Respectfully submitted,


GEORGE SASSOWER

GS/h

cc: Robert Abrams, Esq.
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Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.