

COURT OF APPEALS : STATE OF NEW YORK

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In the Matter of the Application of
HYMAN RAFFE, GEORGE SASSOWER, Esq., and
SAM POLUR, Esq.,

Petitioners-Appellants,

-against-

Hon. ALVIN F. KLEIN and Hon. DAVID B.
SAXE,

Respondents-Respondents.

Pursuant a Writ of Prohibition and a Bill
In Equity.

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JURISDICTIONAL STATEMENT

- a. 1. The title of the case appears above.
2. The appeal is taken from an Order of the Appellate Division of the Supreme Court, First Judicial Department, finally determining an action directly involving the construction of the Constitutions of the State of New York and of the United States (CPLR §5601[b][1]).
3. The notice of appeal was served and filed on September 26, 1985.
4. The Order appealed from, with notice of entry was never served.
5. Robert Abrams, Esq.
2 World Trade Center,
New York, New York, 10047
(212) 488-5896

Feltman, Karesh & Major, Esqs.
55 East 52nd Street,
New York, New York, 10055
(212) 371-8630

Kreindler & Relkin, P.C.
500 Fifth Avenue,
New York, New York, 10110
(212) 719-1600

- b. 1. The Notice of Appeal is annexed hereto
(Exhibit "A").
2. The Order appealed from is annexed hereto
(Exhibit "B").
3. None.
4. There was no opinion in the Appellate
Division.
5. None.
6. None.

STATEMENT OF ESSENTIAL FACTS

1. Petitioners moved for a writ of prohibition, as an original proceeding in the Appellate Division, against respondents based on (1) "double jeopardy", and (2) for an Order setting down the matter to determine whether petitioners' constitutional rights under "equal protection of the laws" were being violated.

EQUAL JUSTICE.

2. There was no opposition, actually, factually, or even by naked assertion, that petitioners were not being invidiously and selectively prosecuted by adverse private attorneys and their clients for criminal contempt.

The very fact that petitioners were convicted, sentenced, and incarcerated, without trial, without allocution, and without other fundamental rights, is indicative of invidious prosecution in which the judiciary are active and culpable participants!

3a. The respondent, Hon. Alvin F. Klein, had without trial, allocution, or other fundamental rights, convicted and sentenced each of the petitioners to be incarcerated for thirty days, pursuant to an Order dated June 26, 1985 and entered July 1, 1985, and in addition to being fined.

b. The respondent, Hon. David B. Saxe, also without trial, allocution, or other fundamental rights, had convicted and sentenced, petitioner, George Sassower, Esq., to be incarceration for ten days, in addition to being fined, by order dated and entered the same day.

Petitioner, Sam Polur, Esq., was vindicated.

Petitioner, Hyman Raffae, was not served.

4a. On June 4, 1980, Puccini Clothes, Ltd., was involuntarily dissolved, and under the directions of Kreindler & Relkin, P.C. and its clients, its assets were massively dissipated.

b. In the years that followed repeatedly asserted, armed with the perjurious affidavits from its clients, Jerome H. Barr, Esq. and Citibank, N.A., denied the accusations of petitioners Hyman Raffe and George Sassower, Esq.

c. Kreindler & Relkin, P.C., was aided and abetted in this larceny of judicially entrusted assets by the firm of the law firm of ARUTT, NACHAMIE, BENJAMIN, LIPKIN & KIRSCHNER, P.C., a recipient of a portion such extensive larceny. In concealing such larceny, this law firm was acting contrary to the interests of its clients, who were third party defendants in a guarantee action brought by the clients of Kreindler & Relkin, P.C.

d. Kreindler & Relkin, P.C., was also aided and abetted by the receiver of Puccini Clothes, Ltd., LEE FELTMAN, Esq., and his usurper law firm, FELTMAN, KARESH & MAJOR, Esq. [22 NYCRR §660.24]. In failing to disclose the larceny and perjury engineered by Kreindler & Relkin, P.C., they suffered their judicial trust to have a judgment over by petitioner, Hyman Raffe.

e. To arrest the accusations of petitioners, Hyman Raffe and George Sassower, Esq., the receiver and his law firm requested the Court to appoint the firm of RASHBA & POKART as investigatory accountants.

Concealed from petitioners were the fact that Rashba & Pokart were the accountants for Kreindler & Relkin, P.C. and/or its clients. Indeed, after the decree of judicial dissolution, \$10,000 was unlawfully taken from Puccini by the Arutt firm, acting in concert with the Kreindler firm, laundered through its account, and \$6,200 paid to the Rashba firm in satisfaction of an invoice by Rashba to Kreindler. The Arutt firm kept \$3,200 as its laundering fee.

f. In November 1983, the first solid documented evidence of the larceny surfaced; this was followed in March of 1984 with documented evidence of the massive, but undetermined amount thereof; there were confessions from the Arutt firm in January 1984; the clients of Kreindler & Relkin, P.C., in April 1985; and from Donald C. Relkin, Esq., in April 1985.

g. Now, actively aided and abetted by various members of the judiciary, in terrorem tactics were resorted to against the petitioners, culminating in the sham, contrived, and unconstitutional convictions and incarcerations, without benefit of trial or any other fundamental rights, including a hearing on the denial of equal justice to the petitioners.

DOUBLE JEOPARDY:

5a. SAM POLUR, Esq.:

Sam Polur, Esq., was vindicated by decision of Hon. David B. Saxe, dated May 9, 1985, wherein he admitted serving a summons, and without a trial, convicted one month later, on June 9, 1985, without a trial, where he never admitted to any such service by Hon. Alvin F. Klein.

Both of the aforementioned Orders were signed on June 26, 1985 and entered on July 1, 1985.

b. HYMAN RAFFE:

Hyman Raffe, had been vindicated by, inter alia Hon. Martin Evans, by Order dated January 4, 1985, twice by Orders of the Appellate Division, by Orders of that Court dated May 21, 1985, in motions which originated in that Court.

c. GEORGE SASSOWER, Esq.:

By two Orders of the Appellate Division, dated May 21, 1985, by motions which originated in that Court, the matter of contempt was set down for a hearing, which thus far, have not been held.

This petitioner was also vindicated of criminal contempt by, inter alia, the Order of Mr. Justice Evans, dated January 4, 1985.

POINT I

A WRIT OF PROHIBITION SHOULD HAVE BEEN ENTERED
BASED ON INVIDIOUS AND SELECTIVE DISCRIMINATION AND/OR
DOUBLE JEOPARDY, OR A HEARING SHOULD HAVE
BEEN ORDERED

1a. Since none of the respondents or the private prosecuting attorneys in the underlying civil proceedings, controverted the allegations of invidious and selective prosecutions, an interim stay should have been issued on or about July 2, 1985 [which would have stayed the incarcerations], and then an Order entered, not denied, prohibiting the enforcement of the aforementioned Orders of criminal convictions. Alternatively, a hearing should have been ordered (Shelley v. Kraemer, 334 U.S. 1; Yick Ho v. Hopkins, 118 U.S. 356; Matter of 303 W. 42nd St. Corp. v. Klein, 46

N.Y.2d 686, 416 N.Y.S.2d 219; People v. Acme, 37 N.Y.2d 326, 372 N.Y.S.2d 590; People v. Goodman, 31 N.Y.2d 262, 338 N.Y.S.2d 97; People v. Walker, 14 N.Y.2d 901, 252 N.Y.S.2d 96; Matter of Dora P., 68 A.D.2d 719, 418 N.Y.S.2d 597; People v. Carter, 86 A.D.2d 451, 450 N.Y.S.2d 203 [2d Dept.]; People v. Drake, 92 A.D.2d 1011, 461 509 [3d Dept.]; Village v. Neiss, 96 A.D.2d 1146, 467 N.Y.S.2d 458 [4th Dept.]; People v. Utica Daw's, 16 A.D.2d 12, 225 N.Y.S.2d 128 [4th Dept.]).

b. The blithe disregard, by the Appellate Division of the requirement of "equal justice" to the petitioners, by the self-styled public prosecutors (Polo v. Stock, 760 F.2d 698 [6th Cir]), confirms the involvement of the Appellate Division in this judicial disregard of fundamental law requiring "equal protection", even when of constitutional magnitude imposed in haec verba by the XIV Amendment of the United States Constitution.

c. The judicial active involvement of the Appellate Division is further confirmed by State ex rel Sassower [Polur] v. Cunningham, wherein on July 29, 1985, that Court disregarded the 800 year old ukase concerning the traditional writ of habeas corpus ad subjiciendum, by concerning itself with the merits rather than the legality of the detention. The Court even made comment on the failure to "deny"!

d. It would be supererogatory to cite the Appellate Division's affirmance (without opinion) of the in absentia convictions of petitioners for non-summary criminal contempt and its disposition in this proceeding, in support of petitioners' contention of active judicial involvement as a participant in this outrage!

2a. Even before Ashe v. Swenson (397 U.S. 436), this Court in People v. Farson (244 N.Y. 413, 419, 419), stated:

"The principle is well settled that an acquittal or a conviction upon a charge that a continuing offense has been committed during a specified time will be a bar to another prosecution for a like offense for another specified time which includes any part of the time name in the first charge."

b. Vindication or setting the matter down for a hearing, generally signifies just another proceeding before, inter alia, Referee Donald Diamond in his non-public courtroom, where even the accused is not permitted to be present!

c. Where the judiciary is an active litigant (Judiciary Law §14), "double jeopardy", as well as other fundamental constitutional rights, including those imposed upon the states, simply do not exist.

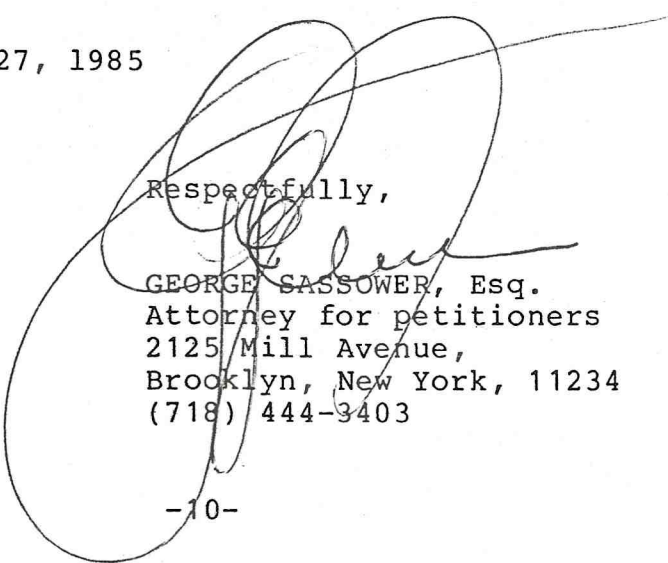
d. If a judicial tribunal cannot obey its oath of office, at least for "love" of constitution and country, it should have the personal integrity to "Edward VIII style", abdicate and resign (Taylor v. Hayes, 418 U.S. 488; Mayberry v. Pennsylvania, 400 U.S. 455).

CONCLUSION

THE ORDER SHOULD BE EXPEDITIOUSLY AND SUMMARILY
BE REVERSED, WITH COSTS.

Dated: September 27, 1985

Respectfully,


GEORGE SASSOWER, Esq.
Attorney for petitioners
2125 Mill Avenue,
Brooklyn, New York, 11234
(718) 444-3403

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

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In the Matter of the Application of
HYMAN RAFFE, GEORGE SASSOWER, Esq., and
SAM POLUR, Esq.,

Petitioners,

-against-

Hon. ALVIN F. KLEIN and Hon. DAVID B.
SAXE,

Respondents.

Pursuant a Writ of Prohibition and a Bill
In Equity.

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S I R S:

PLEASE TAKE NOTICE, that petitioners,
hereby appeal to the Court of Appeals from the Order of
the Appellate Division of the Supreme Court of the State
of New York, First Judicial Department, dated September
24, 1985, and each and every part thereof, including the
whole.

Dated: September 26, 1985

Yours, etc.,

GEORGE SASSOWER, Esq.
Attorney pro se.
2125 Mill Avenue,
Brooklyn, New York, 11234
717-444-3403

To: Hon. Robert Abrams
Kreindler & Relkin, P.C.
Feltman, Karesh & Major, Esqs.

Exhibit "A"

At a term of the Appellate Division of the Supreme Court
held in and for the First Judicial Department in the County of
New York, on September 24, 1985

Present—Hon. Theodore R. Kupferman, Justice Presiding
David Ross
John Carro
Arnold L. Fein
Betty Weinberg Ellerin, Justices.

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In the Matter of the Application of Hyman Raffé,
George Sassower, Esq., and Sam Polur, Esq., :

Petitioners, :

-against- :

Hon. Alvin F. Klein and Hon. David B. Saxe, 24182

Respondents. [M-3305]

Pursuant to a Writ of Prohibition and a
Bill in Equity. :

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The above-named petitioners having presented a petition to this
Court praying for an order, pursuant to Article 78 of the Civil Practice
Law and Rules, in the nature of a writ of prohibition, prohibiting respondent
from enforcing the two contempt orders entered on July 1, 1985 issued against
petitioners, and for other related relief,

And said proceeding having been argued by George Sassower of counsel
for petitioners Raffé and Sassower, by Sam Polur, petitioner pro se, by Donald
F. Schneider of counsel for the firm of Feltman, Karesh & Major, and by Michael
J. Gerstein of counsel for the firm of Kreindler & Relkin and on behalf of
Jerome Barr and Citibank, N.A.; and due deliberation having been had thereon,

It is unanimously ordered that the application be and the same
hereby is denied, and the petition dismissed, without costs and without dis-
bursements.

ENTER:

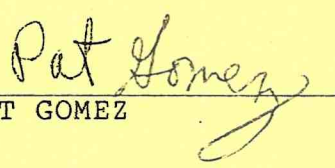
HAROLD J. REYNOLDS
Clerk.

STATE OF NEW YORK)
CITY OF NEW YORK)ss.:
COUNTY OF KINGS)

PAT GOMEZ, first being duly sworn, deposes,
and says:

I am over the age of 21, reside at 739 East
88th Street, Brooklyn, New York, 11236 and not a party
to this action.

That on the 27th day of September, 1985, I
served copies of the within Jurisdictional Statement by
depositing a copy of same in a Post Office Box in the
State of New York, addressed to Hon. Robert Abrams;
Feltman, Karesh & Major, Esqs.; and Kreindler & Relkin,
P.C., at their last known addresses.


PAT GOMEZ

Sworn to before me this
27th day of September, 1985



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