

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION

-----X  
:  
UNITED STATES OF AMERICA : Criminal Action  
: No.: M4113-03  
v. :  
:  
ELENA SASSOWER, :  
:  
Defendant. :  
:  
-----X

Washington, D.C.  
April 14, 2004

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The above-entitled action came on for judgment trial before The Honorable BRIAN HOLEMAN, Associate Judge, in Courtroom Number 218.

APPEARANCES:

On behalf of the Government:

JESSIE LIU, Esquire  
AARON MENDELSON, Esquire  
Assistant United States Attorney

On behalf of the Defendant:

ELENA SASSOWER, Pro Se  
MARK GOLDSTONE, Esquire  
Attorney Adviser

EVA B. RAMOS  
OFFICIAL COURT REPORTER

Telephone: 879-1074

1 THE COURT: Very well. Mr. Mendelsohn, how  
2 long do you anticipate your opening statement to take?

3 MR. MENDELSON: No more than 10 minutes, Your  
4 Honor.

5 THE COURT: Very well. Ms. Sassower, your  
6 opening statement estimate?

7 MS. SASSOWER: I would estimate about 15  
8 minutes.

9 THE COURT: Very well.

10 MS. SASSOWER: Fifteen - 20 minutes .

11 THE COURT: Well, --

12 MS. SASSOWER: No more than fif, I believe it's  
13 15 minutes.

14 THE COURT: Very well. I would just say to you  
15 that I can't imagine -- the opening statement, the  
16 purpose of it is to give essentially a summary of the,  
17 of what you believe that the evidence will show. I  
18 believe that at the outside, 15 minutes will allow you  
19 to do that.

20 MS. SASSOWER: I believe that my statement will  
21 be 15 minutes. I, it's not in full written form as some  
22 of it is notes, but I anticipate around 15 minutes. I  
23 do wish to address the point of the information.

24 THE COURT: Yes.

25 MS. SASSOWER: Yesterday, you permitted the

1 government to amend the information. Now, it was my  
2 intention and it remains my intention to offer the  
3 information into evidence.

4 Now, is there a superseding information that  
5 will be signed by some persons as the prior information  
6 of May 23rd was signed by a -- it, it was not signed by  
7 Officer Jennings, but it was signed by the U.S.  
8 attorney, the Assistant U.S. Attorney whose name is not  
9 even legible.

10 Is there going to be some formal document?

11 MS. LIU: Your Honor.-

12 MS. SASSOWER: I'm happy to submit that in  
13 evidence as well.

14 THE COURT: Ms. Liu.

15 MS. LIU: Your Honor, pursuant to your  
16 instructions, I have typed up a new copy of the  
17 information in which the language conforms now, I  
18 believe, to the statute under which Ms. Sassower is  
19 charged.

20 I want to bring to the Court's attention that  
21 there are certain places in the old information where  
22 the word "and" was used where the statute actually says  
23 "or".

24 THE COURT: Very well.

25 MS. LIU: So I have made those changes.

1 I am giving a copy to Ms. Sassower now. It has not been  
2 signed. I'm happy to sign it now in open court if that  
3 is what you wish.

4 THE COURT: Go ahead and sign it. And whether  
5 or not it's ultimately admissible will be an issue that  
6 I will address at the time that it's offered.

7 MS. SASSOWER: May I have a moment to compare  
8 the original information of May 23rd, Your Honor?

9 THE COURT: Certainly. You can compare it all  
10 the way up until the time that you seek to offer it into  
11 evidence.

12 MS. SASSOWER: Excuse me?

13 THE COURT: I said you can com, make the  
14 comparison all the way up until the time that you seek  
15 to offer it into evidence.

16 MS. SASSOWER: Now I object, Your Honor. I  
17 object strenuously to a superseding information that  
18 bears a date of May 23rd, 2003, when it was not amended,  
19 the Court did not --

20 The, the notion of superseding the original  
21 information was not even put forward by the government  
22 until yesterday when it was granted immediately by the  
23 Court.

24 But it should bear yesterday's date, not today's  
25 date, and possibly -- I'm sorry. It should bear

1 yesterday's date, not a date of May 23rd, 2003 and  
2 possibly it should be bearing today's date, not even  
3 yesterday's date.

4 This is not, this is a perjured, false document  
5 just by virtue of its date. I object.

6 THE COURT: Very well, your objection is noted  
7 for the record. Please be seated.

8 MS. SASSOWER: Would the Court care to rule on  
9 this date being placed on, on the document?

10 THE COURT: Ms. Sassower, I have no --

11 MS. SASSOWER: This is a false date. She  
12 didn't even enter the case until December, and this  
13 application --

14 THE COURT: Well, --

15 MS. SASSOWER: -- to revise -

16 THE COURT: Ms. -

17 MS. SASSOWER: -- the information was not  
18 proffered until yesterday.

19 THE COURT: Ms. Sassower, yesterday I gave you  
20 specific instructions at the bench as to how we were  
21 going to proceed. Now I'm going to do so in open court  
22 so that everyone is clear, there's no misunderstanding,  
23 and the record is made.

24 You will address me when I call on you. If I  
25 have not recognized you, you will not speak. I will

1 rule from the bench and any objection that you have will  
2 be noted for the record.

3 I've given you this instruction several times  
4 and it's difficult for me to understand at this point  
5 whether you simply don't understand the significance of  
6 your not following my orders or whether you're doing so  
7 intentionally.

8 So, I am telling you now that your failure to  
9 follow my directives will have consequences. Please be  
10 seated.

11 MS. SASSOWER: May I be heard, Your Honor?

12 THE COURT: Be seated. You may not be heard on  
13 this issue. I'm giving you instruction on how this  
14 court and this trial will be run. I hope I've made  
15 myself clear.

16 MS. SASSOWER: May I be heard, Your Honor?

17 THE COURT: Please be seated. No, I will not  
18 recognize you on this issue. Now --

19 THE CLERK: Your Honor, that's just to let me  
20 know that they're all here.

21 THE COURT: Very well. I'm gonna step off for  
22 five minutes, I'll be right back.

23 (Recess)

24 THE COURT: Very well. A preliminary matter  
25 came to my attention just before or after we adjourned

1 but before I actually left the courtroom yesterday and I  
2 want to address that issue right now.

3 Juror Number 149, I believe he sits in seat  
4 number nine, has expressed to my staff that he might  
5 know Ms. Sassower. I don't know the context.

6 We, my staff informed him not to, not to speak  
7 with anyone else about this and we would address the  
8 issue this morning. So, the same juror also expressed  
9 that he had a job interview today in Williamsburg,  
10 Virginia.

11 So it's difficult for me to determine at this  
12 point whether the information that's being communicated  
13 is being communicated for purposes other than notifying  
14 us that he in fact does have a reason to believe that he  
15 knows Ms. Sassower.

16 My intention at this point is to have the  
17 juror come in and I will question him on the specifics  
18 of his knowledge or not of Ms. Sassower, and we will  
19 proceed from there. Government, I'll hear from you on  
20 this.

21 MR. MENDELSON: Your Honor, it does seem  
22 appropriate to question the, juror number 149 a little  
23 further and see where that leaves us after this.

24 THE COURT: Very well.

25 MR. MENDELSON: We do have another issue. And

1 that is, for expediency, we would be happy to change the  
2 date on the superseding information to reflect today's  
3 date since we did submit it to the Court today.

4 THE COURT: Very well. That's, that's fine on  
5 that issue. And during my brief recess from the bench,  
6 it occurred to me, as I thought about the information  
7 itself, the information in this case is not evidence.

8 It's a charging document. It's not admissible  
9 as evidence in this case. I appreciate your willingness  
10 to proceed with dating it, the amended information for  
11 today's date, and accept your offer to do that.

12 As far as its admissibility is concerned, it  
13 won't be admitted into evidence in this case for any  
14 reason. All right. Now with regard to the issue of the  
15 juror number 149

16 (Bench Conference)

17 THE COURT: Very well. Counsel, let's allow  
18 the court reporter to get set up. Are you ready? Very  
19 well, good morning.

20 JUROR NO. 9: Good morning.

21 THE COURT: It was brought to my  
22 attention after we adjourned but before I left the  
23 courtroom yesterday, that you stated to Ms. Franklin  
24 that you might know Ms. Sassower. Would you please  
25 elaborate on that please?



1 JUROR NO. 9: Yeah. I, for about five years  
2 I've worked in the media and I was on the Hill  
3 constantly. And I mean I don't know her, I mean I, it  
4 just seems like I recognize her.

5 I was on the Hill a lot of hearings all over  
6 House, Senate side in the Capitol Building constantly  
7 for about five years.

8 THE COURT: Very well. So let me make sure  
9 that I understand this correctly. You might recognize  
10 her in terms of her stature or facial features or her  
11 hair.

12 JUROR NO. 9: Uh-huh.

13 THE COURT: That combination. But in terms of  
14 actually knowing her, --

15 JUROR NO. 9: No.

16 THE COURT: You do not know her.

17 JUROR NO. 9: No.

18 THE COURT: All right. And yesterday, I asked  
19 a question with regard to having heard about Ms.  
20 Sassower. That was, essentially that was my first  
21 question.

22 JUROR NO. 9: Uh-huh.

23 THE COURT: Had you heard about this  
24 case, had you heard about Ms. Sassower? And you didn't  
25 indicate that you had heard about her.

1 JUROR NO. 9: No.

2 THE COURT: So, it's my understanding, as  
3 we stand here now and having heard this information, she  
4 may look familiar to you.

5 JUROR NO. 9: Just as the day went on when I  
6 was watching, it just --

7 THE COURT: She may look familiar to you. But  
8 you don't know her personally and you don't know  
9 anything else about her other than what you found out  
10 here in the courtroom, is that correct?

11 JUROR NO. 9: That's correct.

12 THE COURT: Very well. All right. I think  
13 that that satisfies me as far as our inquiry is  
14 concerned.

15 Given what you've just told to me, I assume that  
16 the fact that you might recognize her would not have any  
17 bearing on your ability to be fair and impartial in this  
18 case?

19 JUROR NO. 9: No.

20 THE COURT: Very well. Please step, step back  
21 toward the table for just a minute, back toward that  
22 table, yes.

23 (Juror not present.)

24 THE COURT: Yes.

25 MS. SASSOWER: I am perplexed that he thinks he

1 might recognize me because in truth, the only time I was  
2 at a congressional hearing other than May 22nd, 2003 was  
3 June 25th, 1996. Now I imagine he was not on the Hill  
4 at that time?

5 THE COURT: And what would be -- I understand  
6 you're saying that the only time that you would have  
7 been there would have been on those two occasions. What  
8 is the point?

9 MS. SASSOWER: Not on the Hill. I was on the  
10 Hill but not at --

11 THE COURT: Lower your voice please.

12 MS. SASSOWER: Not at any congressional  
13 hearing.

14 THE COURT: Very well. Then he believes that  
15 he recognizes you. but it would --

16 MS. SASSOWER: It would be an error on  
17 his part.

18 THE COURT: Very well. Anything further?

19 MS. LIU: No, Your Honor. We don't see any  
20 reason why this juror should be excused. It sounds as  
21 though he could be perfectly fair and impartial.

22 THE COURT: Very well.

23 MR. GOLDSTONE: Is this the juror who also has  
24 a job interview today?

25 THE COURT: Well, he's not -- he was instructed

1 on that issue that he has jury service, so I assume  
2 that's not an issue.

3 MR. GOLDSTONE: Nothing further, thank you..  
4 (Open Court)

5 THE COURT: Thank you very much. Please  
6 return to the jury room. Very well. We will -- we can  
7 have the jury brought in.

8 (Thereupon, the jury was brought into the  
9 courtroom at 10:20 a.m.)

10 THE COURT: Very well. Good morning, ladies  
11 and gentlemen.

12 THE JURY: Good morning.

13 THE COURT: All right. You will find out that  
14 every now and then I'm called on to address a legal  
15 matter. And so it was easier to have you remain in the  
16 juryroom rather than call you out to tell you that I had  
17 to handle something else and then escort you back.

18 So I appreciate the fact that you were here when  
19 I asked you to be here and ready to go. It was brought  
20 to my attention when we parted yesterday, that some of  
21 my instructions on the specific issue of the information  
22 may have been unclear or incorrect.

23 What I'm going to do right now is, I'm going to  
24 state just that snippet of my rather lengthy  
25 instructions that I gave you yesterday. I'm gonna give

1 you that information over again so that I can make sure  
2 that it is in fact correct.

3 After I give you, after I restate that part of  
4 my preliminary instructions, then we will, we will  
5 proceed with the opening statements of the government  
6 and Ms. Sassower, if she chooses to give one at this  
7 time.

8 Very well. As I already informed you,  
9 this is a criminal case and it was begun by the United  
10 States against Ms. Sassower. The charging document is  
11 called an information, and I'll read that document to  
12 you in a minute.

13 But before I do that, I want to tell you what an  
14 information is and what it is not. You must understand  
15 that the information in this case is not evidence.

16 An information is only a legal word that is used  
17 for a formal document to charge a person with a crime in  
18 order to bring that person to trial.

19 You must not think of the information as any  
20 evidence of, of the guilt of Ms. Sassower and you may  
21 not draw any inference of guilt because Ms. Sassower has  
22 been formally charged.

23 Now, let me tell you what the information  
24 charges in this case. It charges that on or about May  
25 22nd, 2003, within the District of Columbia, Elena

1 Sassower willfully and knowingly uttered loud,  
2 threatening, or abusive language or engaged in  
3 disorderly or disruptive conduct upon the United States  
4 Capitol's grounds or within any of the Capitol Buildings  
5 with intent to impede, disrupt, or disturb the orderly  
6 conduct of any session of the Congress or either House  
7 thereof, or the orderly conduct within any such Building  
8 of any hearing before or in any deliberations of any  
9 committee or subcommittee of the Congress or either  
10 House thereof..

11 Very well. That concludes the preliminary  
12 instruction and the reading of the information. We will  
13 now have our opening statement from the government. Mr.  
14 Mendelsohn.

15 MR. MENDELSON: Thank you, Your Honor. Ladies  
16 and gentlemen, we are fortunate to live in one of the  
17 world's greatest cities. Every day tens of thousands of  
18 people come to our nation's Capitol.

19 Some come to work in our city. Some come to  
20 visit our museums and our monuments. Some come to lobby  
21 our government. Some come to march on the National  
22 Mall. This city welcomes all those who come to the city  
23 to express their views to their government.

24 Yet, everyone who comes here to express their  
25 views must follow certain rules and procedures. Because

1 our government, indeed our democracy, can function  
2 successfully only if we, as citizens, follow the rules.  
3 In this case, you will learn that the  
4 defendant, Elena Ruth Sassower, came to Washington, D.C.  
5 to express her views, but she did not, she did not  
6 follow the rules.

7 She decided that the best way to express her  
8 views was to break the law. And she broke the law by  
9 loudly disrupting a United States Senate Judiciary  
10 Committee hearing in the U.S. Capitol's Dirksen Building  
11 on May 22nd, 2003.

12 Now, what exactly happened in this case?  
13 Special Agent Deborah Lippay works in the Threats  
14 Assessment Unit for the United States Capitol police.  
15 She's worked on the force for over five years.

16 She will tell you that on May 20th, 2003, she  
17 was contacted by Senator Clinton's office regarding the  
18 defendant and the defendant's opposition to a certain  
19 judicial nomination.

20 Now Special Agent Lippay will tell you that the  
21 hearing for that judicial nomination was set for May  
22 22nd, 2003, two days later.

23 The Senator' staff was concerned that the  
24 defendant might attend and disrupt the hearing, even  
25 though she hadn't been officially invited to speak at

1 the hearing.

2 Now it's the procedure of the Threats Assessment  
3 Unit of the U.S. Capitol police to follow up on concerns  
4 of Senate offices, to contact the involved citizen and  
5 to inform that citizen of the rules and procedures of  
6 the U.S. Senate.

7 So on May 21st, 2003, the next day, Agent  
8 Lippay, who had never heard of Elena Sassower nor ever  
9 spoken with Elena Sassower before May 20th 2003,  
10 contacted the defendant. She called the defendant.

11 And during the phone call, the defendant began  
12 to speak loudly at Agent Lippay and she wouldn't let  
13 Agent Lippay speak.

14 In fact, during the call the defendant  
15 continuously interrupted Agent Lippay when Agent Lippay  
16 tried to explain the rules and procedures of the U.S.  
17 Senate to the defendant.

18 The defendant told Agent Lippay that she  
19 was going to attend the Judiciary Committee hearing the  
20 next day, May 22nd, 2003, but she won't tell Agent  
21 Lippay whether or not she planned to disrupt that  
22 hearing.

23 Finally, the defendant demanded, she demanded to  
24 speak with Agent Lippay's supervisor. So Agent Lippay  
25 transferred the call to Detective William Zimmerman.



1 Detective Zimmerman also works in the Threats Assessment  
2 Unit for the U.S. Capitol police.

3 He is a 21-year veteran of the force. He will  
4 tell you that he got on the phone with the defendant and  
5 he told her that she was welcome to attend the Judiciary  
6 Committee hearing the next day, just as any member of  
7 the public is welcome to attend an open hearing.

8 But, but he warned the defendant that if she  
9 disrupted the hearing, she would be subject to arrest.  
10 As a result of these conversations, Agent Lippay passed  
11 this information along to the other members of the U.S.  
12 Capitol police by preparing a flyer with information  
13 about the defendant.

14 This flyer was shown to the members of the U.S.  
15 Capitol Police the following day, May 22nd, 2003, at  
16 roll call. One of the officers who saw that flyer was  
17 Officer Roderick Jennings.

18 Officer Roderick Jennings is a 14-year veteran  
19 of the United States Capitol police. Officer Jennings  
20 was assigned to maintain orderly conduct in the  
21 Judiciary Committee hearing room that afternoon.

22 The hearing was held in Room 226 of the United  
23 States Capitol's Dirksen Building. And you will see  
24 pictures of this hearing room and what it looks like.  
25 It isn't a large room and it contains seating for about

1 fifty people.

2           The hearing began that day at 2:00 p.m. During  
3 the hearing the senators asked questions of the official  
4 witnesses and the judicial nominees in attendance that  
5 day. And the witnesses and the nominees answered those  
6 questions and gave testimony.

7  
8           And during the hearing, the room was absolutely  
9 silent except for the testimony of the witnesses, the  
10 nominees and the senators.

11           About 40 people sat in the audience  
12 attending the hearing, including the defendant. Officer  
13 Jennings saw the defendant sitting in the back row of  
14 the hearing room, and he recognized her from the flyer  
15 that he'd seen that morning at roll call.

16           Just after 3:30 p.m., Officer Jennings noticed  
17 that the presiding chair of the committee, Senator Saxby  
18 Chambliss, was beginning to wrap up the hearing.

19           So Officer Jennings opened the doors of the  
20 hearing room in anticipation of the audience leaving the  
21 room, and that's when he heard the defendant start to  
22 shout. Just before Senator Saxby Chambliss adjourned  
23 the hearing, the defendant began to shout.

24           Senator Chambliss demanded that order be  
25 restored. He instructed the audience to remain seated,

1 and he banged his gavel to try to restore order. But  
2 the defendant continued to shout.

3           Officer Jennings then approached the defendant,  
4 who was now standing and pointing her finger towards the  
5 front of the room.

6           Officer Jennings tried to escort the defendant  
7 out of the room, but she was grasping onto her chair  
8 refusing, refusing to leave.

9           Finally, with the help of United States  
10 Capitol police Sergeant Kathleen Bignotti, Officer  
11 Jennings was able to escort the defendant out of the  
12 room and place her under arrest for disruption of  
13 Congress.

14           Now this Senate Judiciary Committee  
15 hearing was also videotaped. So you will be able to see  
16 and hear for yourselves what happened in the hearing  
17 room on May 22nd, 2003 with your own eyes and ears.

18           Finally, ladies and gentlemen, you may hear  
19 evidence in this case that the defendant was opposed to  
20 a certain judicial nomination.

21           This case, however, is not about that judicial  
22 nominee. It's not about the judicial nomination  
23 process, or even about the defendant's right to  
24 criticize that nominee.

25           The right to protest causes is a long-standing

1 American tradition and there are many ways, many ways to  
2 express one's views in a lawful and orderly manner.

3 This case is simply about a defendant who chose  
4 not to do that. This case is about a defendant who  
5 refused to follow the rules and who refused, refused to  
6 take no for an answer.

7 This case is about a defendant who loudly  
8 disrupted a United States Senate Judiciary Committee  
9 hearing after being warned not to do so. And in doing  
10 so, the defendant violated the laws of our country that  
11 are meant to protect us and our democracy.

12 So in the end, ladies and gentlemen, we have a  
13 simple request. We ask that you apply the law in this  
14 case to the evidence in this case, and we ask that you  
15 hold the defendant responsible for her actions and find  
16 her guilty as charged.

17 THE COURT: Thank you, Mr. Mendelsohn.  
18 Ms. Sassower, do you choose to make an opening  
19 statement?

20 MS. SASSOWER: I do indeed.

21 THE COURT: Please.

22 MS. SASSOWER: Ladies and gentlemen of the  
23 jury, my name is Elena Ruth Sassower and I am the  
24 criminal defendant charged with disruption of Congress.

25 As you know, I am acting pro se, which means I

1 am representing myself. Since I am not a lawyer, Mr.  
2 Goldstone is assisting me as my attorney adviser. The  
3 reason I am representing myself is because this is a  
4 case about fundamental citizen rights.

5 And in such a case, I felt it appropriate for  
6 one citizen to speak directly to other citizens. You  
7 are not here today because you have nothing else to do.  
8 You all have busy lives and you have taken time from  
9 your work responsibilities and your family obligations  
10 to be here.

11 It is after all, your civic responsibility,  
12 living in a country whose founding document, our  
13 Constitution, begins with the words that the founders  
14 wrote large, "We The People" - the source of all power.  
15 So too, I am here because of my civic  
16 responsibility, not because I had nothing else to do  
17 on May 22nd, 2003 or because it was easy for me to  
18 travel from New York to be in Washington, D.C. at  
19 the Senate Judiciary Committee hearing on that  
20 date.

21 Now, as you have been advised by the Court,  
22 nothing that is said in this opening statement whether  
23 by the prosecution, Mr. Mendelsohn, or by me, is  
24 evidence.

25 The evidence comes from the witness stand. I

1 promise you that this criminal defendant will be  
2 embracing her right to take the witness stand in her  
3 defense.

4 Therefore, it would be wasteful and  
5 disrespectful of your time and that of the Court to make  
6 a lengthy opening statement which is not evidence.  
7 Better to reserve it to when I can speak under oath.

8 However, I will tell you and I will prove to you  
9 over the course of the next few days that the criminal  
10 charge against me is not just bogus but malicious.

11 Apart from everything else, the evidence will  
12 show that the Senate Judiciary Committee's public  
13 hearing to confirm New York Court of Appeals Judge  
14 Richard C. Wesley to the Second Circuit Court of  
15 Appeals, was already over, was already gaveled adjourned  
16 when I, as coordinator and co-founder of the non-  
17 partisan, non-profit citizens' organization, Center for  
18 Judicial Accountability, rose on behalf of the citizens  
19 of New York and of the Second Circuit to respectfully  
20 request to testify with citizen opposition to Judge  
21 Wesley's confirmation to the Second Circuit Court of  
22 Appeals.

23 This, based on his documented corruption as a  
24 judge on New York's highest state court, the New York  
25 Court of Appeals.

1           The evidence will also show that at the Senate  
2 Judiciary Committee, if not at every other committee of  
3 the Senate and the House, it is unprecedented,  
4 unprecedented to arrest a citizen for respectfully  
5 requesting to testify at a public committee hearing,  
6 even when it is not over.

7           Indeed, on June 25th 1996, the Senate Judiciary  
8 Committee's hearing to confirm another judicial nominee  
9 was not over, was not adjourned, when at that time I  
10 rose from my seat to respectfully request to testify  
11 with citizen opposition.

12           The evidence will show that the response of  
13 Capitol police in 1960, 1996 was not to arrest me when  
14 the Senate Judiciary Committee's presiding chairman  
15 called for order, but rather to instruct me that if I  
16 said another word I would be removed. I remained at the  
17 hearing.

18           Obviously, Capitol police have guidelines. They  
19 have rules, they have procedures for responding to  
20 disorderly conduct. That is how it should be. You  
21 don't take extreme steps to restore order unless lesser  
22 measures are inadequate.

23           The evidence will show that here, the police  
24 knew that there was no reason to arrest me, none at all,  
25 that I was a cooperative, conscientious, law-abiding

1 person, that I would, as in 1996, obey a directive not  
2 to say another word.

3           The evidence will show that Capitol police on  
4 May 22nd, 2003 not only proceeded to arrest me, in face  
5 of the 1996 precedent and in face of its knowledge that  
6 I was a cooperative, conscientious, law-abiding person,  
7 but also with knowledge that, unlike 1996, when prior to  
8 the hearing and in response to my telephone and written  
9 requests to testify at that time, I had received a  
10 letter signed by Senate Judiciary Committee Chairman  
11 Orrin Hatch, that I would not be permitted to testify  
12 this time in 2003, I had gotten no letter from Senator  
13 Hatch saying that I could not testify in response to  
14 my repeated telephone and written requests to be  
15 permitted to testify in opposition to Judge Wesley's  
16 confirmation.

17           In arresting me, Capitol police knew that I had  
18 received no verification whatsoever that Chairman Hatch  
19 and Ranking Member Patrick Leahy, his Democratic  
20 counterpart on the committee, or any other senators of  
21 the Senate Judiciary Committee, were personally,  
22 personally aware of the Center for Judicial  
23 Accountability's citizen opposition to Judge Wesley and  
24 request to testify, as opposed to the <sup>staff</sup>~~knowledge~~ of  
25 underlings, ~~underlings~~.



1           They knew, the Capitol police knew, that the  
2 only way for me, on behalf of the citizens of New York,  
3 ~~of~~ <sup>and</sup> the citizens of the Second Circuit, which is New York,  
4 Connecticut and Vermont, to ensure the awareness, the  
5 personal awareness of the documentary evidence of Judge  
6 Wesley's unfitness and our request to testify, was for me  
7 to do so at the Senate Judiciary Committee hearing.

8           Capitol police also knew that it was my  
9 contention that they had no authority to arrest me for  
10 respectfully requesting to testify at the Senate  
11 Judiciary Committee hearing, unless they were so  
12 directed to do so by the presiding chairman.

13           The evidence will show that this was effectively  
14 conceded by Capitol police when they put the name of  
15 Senator Saxby Chambliss as the complainant on the arrest  
16 reports.

17           THE COURT: Excuse me. Move further please.

18           MS. SASSOWER: Yet the evidence will show that  
19 when Capitol police removed me from the Senate Judiciary  
20 Committee hearing room on May 22nd, 2003, I asked  
21 Chairman Chambliss if he was directing that I be  
22 arrested. He wouldn't respond, just as seconds  
23 earlier he wouldn't respond to my respectful request  
24 to be permitted to testify in opposition to Judge  
25 Wesley, based upon documentary

1 evidence of his corruption in office as a New York Court  
2 of Appeals Judge.

3           The evidence will also show that minutes later  
4 when Senator Chambliss exited from the back door of the  
5 Senate Judiciary Committee hearing room, I was there in  
6 the hallway in handcuffs.

7           And as he passed I asked him again, are you  
8 directing me to be arrested? Do you wish me to be  
9 arrested?

10           THE COURT: Excuse me. Move further please.

11           MS. SASSOWER: It's part of the tape, Your  
12 Honor.

13           THE COURT: Please proceed.

14           MS. SASSOWER: The answer to that question, as  
15 any question, is either yes or no, but Senator Chambliss  
16 wouldn't respond. Why not?

17           If he believed I should be arrested and was  
18 directing me to be arrested, there was no reason for him  
19 not to have responded. <sup>T</sup>That he did not do so when I was  
20 taken out of the hearing room, when I was in the hallway  
21 outside, reflects his guilty knowledge that there was no  
22 justification for my arrest.

23           We have a Sixth Amendment right to confront our  
24 accusers. During this trial you will not hear from  
25 Senator Chambliss, the supposed complainant for my

1 arrest, because the prosecution has not seen fit to call  
2 him as a witness in support of this shameful, shameful,  
3 disgraceful, outrageous charge against me.

4 And my subpoena of him was quashed. But he  
5 could have chosen to testify upon my subpoena.

6 THE COURT: Ms. Sassower.

7 MS. SASSOWER: Now before concluding, I want to  
8 just highlight for you specifically some of the  
9 evidence. The tape, thank God there's a tape. Thank  
10 God there's a tape.

11 Because unless there was a tape, what happened  
12 in the hearing room would be he said/she said. And why  
13 would you believe me? I don't wear a badge, supposedly  
14 people who wear badges and swear the oaths of office to  
15 protect the people who are doing their job.

16 It would be he said/she said. But the videotape  
17 establishes what took place exactly and that the arrest  
18 documents, the prosecution documents underlying this  
19 bogus charge are false, materially false and misleading.

20 THE COURT: Do you have anything further, Ms.  
21 Sassower?

22 MS. SASSOWER: Yes, yes.

23 THE COURT: Then please get to it or sit down  
24 and we'll begin the trial.

25 MS. SASSOWER: No reason to, Your Honor,

1 I have yet to conclude. As to these prosecution  
2 documents, --

3 THE COURT: Excuse me. Escort the jury to the  
4 juryroom. I have to address a legal matter. I'm gonna  
5 have you step back to the juryroom.

6 (Thereupon, the jury returned to the jury  
7 room at 10:53 a.m.)

8 THE COURT: Very well. Throughout the pendency  
9 of this case, both at hearings preliminary to trial,  
10 during jury selection and during trial, I have afforded  
11 you the opportunity to present your case as a pro se  
12 defendant.

13 And in so doing, I have probably allowed you  
14 more latitude than I have ever allowed a lawyer who  
15 appeared in front of me. You have repeatedly violated  
16 my directives.

17 You have repeatedly sought to inject your views  
18 into this case where injection of same is inappropriate  
19 and not pertinent to the charges against you.

20 I specifically gave you instruction to move  
21 along in this case when you're giving your opening  
22 statement.

23 The statements with regard to subpoenas having  
24 been quashed, inappropriate. That's a matter that was  
25 taken care of prior to trial. It is no longer an issue.

1 MS. SASSOWER: He didn't -

2 THE COURT: You are, you are well aware  
3 of the witnesses who will be permitted to testify. The  
4 charging document, I have previously ruled, informed the  
5 jury yesterday during preliminary instructions and  
6 informed you this morning, that the charging document  
7 number one, has been received as amended, and number  
8 two, is not evidence in this case.

9 MS. SASSOWER: Those are not the underlying  
10 prosecution documents.

11 THE COURT: Very well. Ms., --

12 MS. SASSOWER: So the arrest, arrest report --

13 THE COURT: Ms. Sassower, I've, --

14 MS. SASSOWER: The event report, the  
15 supplemental report.

16 THE COURT: I've also instructed you -

17 MS. SASSOWER: The citation release report.

18 THE COURT: -- to be silent when I'm addressing  
19 you.

20 MS. SASSOWER: And the Gerstein.

21 THE COURT: Now, it is clear to me and to  
22 anyone in this room that you don't intend to follow my  
23 instructions because you have not done so thus far.

24 And it is difficult for me to determine at  
25 this juncture whether that failure to follow my

1 instructions is borne out of your intent to disregard my  
2 orders or whether there is some mental defect that will  
3 not allow you to appreciate the consequences of your  
4 failure to do so.

5           Therefore, Ms. Sassower, I am ordering you now  
6 to be seated and we will await the presence of the  
7 United States marshal. Please be seated.

8           MS. SASSOWER: For what purpose?

9           THE COURT: You're going to be stepped back.

10          MS. SASSOWER: I'm going to be what?

11          THE COURT: You are going to be stepped back.

12          MS. SASSOWER: What does that mean?

13          THE COURT: Please -- you will find out soon  
14 enough. Please be seated.

15          MS. SASSOWER: Thankfully the press is --

16          THE COURT: Very well.

17          MS. SASSOWER: Thank you. May the record  
18 reflect --

19          THE COURT: No.

20          MS. SASSOWER: -- that I have moved --

21          THE COURT: No.

22          MS. SASSOWER: -- for this Court's  
23 disqualification for demonstrated actual bias --

24          THE COURT: There is -

25          MS. SASSOWER: --and brought a mandamus

1 proceeding which, as a matter of law, had to be granted.

2 THE COURT: Very well. We're in recess. Call  
3 me when the, when --

4 MS. SASSOWER: And this latest --

5 THE COURT: -- the marshal gets here. We're in  
6 recess.

7 MS. SASSOWER: -- is a demonstration --

8 THE CLERK: We'll stand in brief recess until  
9 return of court.

10 MS. SASSOWER: -- of why this Court should not  
11 be presiding.

12 (Thereupon, the court recessed at 10:55 a.m.)

13 (Thereupon, the court reconvened at 11:17 a.m.)

14 THE CLERK: Recalling our trial case, United  
15 States vs. Elena Sassower, M4113-03.

16 THE COURT: Very well. Please be seated. As I  
17 articulated before I left the bench, there seems to be  
18 repeat violations of my verbal instructions and  
19 directives to Ms. Sassower as she proceeds to represent  
20 herself. We now have a marshal present.

21 Ms. Sassower, we're going to move beyond the  
22 opening statements and into the trial evidence of this  
23 case. I'm gonna give you the opportunity at this point  
24 to have Mr. Goldstone represent you as lead counsel in  
25 your case. Are you rejecting that opportunity?

1 MS. SASSOWER: Absolutely.

2 THE COURT: Very well.

3 MS. SASSOWER: At every point I have been  
4 without my, within my rights.

5 THE COURT: Very well. You've rejected the  
6 opportu, you've re, you've --

7 MS. SASSOWER: May I respond to the Judge's --

8 THE COURT: No. If, if you are rejecting the  
9 opportunity, that is the sole answer that I need. Then,  
10 then that being the case, we will proceed with the trial  
11 with the marshals present.

12 If you violate my order, if you comport  
13 yourself in a manner that is disruptive of this court  
14 proceeding, I assure you that you will be stepped back.  
15 This is the only warning that I will give you. Do you  
16 understand?

17 MS. SASSOWER: May I make a statement for the  
18 record?

19 THE COURT: No, you may not. You either  
20 understand or you don't. Do you understand?

21 MS. SASSOWER: I have heard you.

22 THE COURT: Very well.

23 MR. GOLDSTONE: Your Honor, --

24 THE COURT: Yes.

25 MR. GOLDSTONE: Ms., Ms. Sassower does have



1 additional portions of her opening statement which I  
2 believe would comport with the Court's order.

3           And I would respectfully request that she be  
4 allowed to continue with that, number one. And that the  
5 jurors be advised that there was a legal issue that the  
6 Court needed to address, and that we're gonna continue  
7 with the opening statement.

8           THE COURT: Mr. Goldstone, first of all, let  
9 me, let me address an issue of protocol that I believe I  
10 previously addressed. And I respect you as a member of  
11 the bar and what you're trying to do in the zealous  
12 representation of your, of your client.

13           Your client has chosen to represent herself.  
14 She's opted to have you as an adviser and has  
15 specifically rejected the opportunity to have you serve  
16 as lead counsel.

17           Any requests, such as you just articulated, are  
18 to be made through Ms. Sassower. That's number one.  
19 The record is clear. There will be no mistake about  
20 that.

21           With regard to the merits of your request, I am  
22 inclined to allow that, with the understanding that the  
23 ruling that I just gave obviously applies to the further  
24 rendering of her opening statement. Namely, that she  
25 will address what the evidence is intended to show.

1 Any order by me from the bench that she move to  
2 another topic or complete her statement will be complied  
3 with forthwith. There will be no further warnings.

4 MS. SASSOWER: Thank you.

5 THE COURT: There will be no response from you.  
6 I am giving you a directive.

7 MS. SASSOWER: I -

8 THE COURT: Please sit. With regard to my  
9 instructions to the jury, obviously they have no  
10 understanding of what took place in their absence.

11 I informed them before they left that I had to  
12 address a legal matter and I will simply say to them  
13 that, you know, the legal matter has been resolved.  
14 We'll continue with the opening statement.

15 MR. GOLDSTONE: Thank you, Your Honor.

16 THE COURT: Very well.

17 MS. LIU: Your Honor, may we address one very  
18 brief issue?

19 THE COURT: Yes.

20 MS. LIU: It concerns the Drew evidence which  
21 Your Honor has already ruled on. I noticed that on her  
22 opening statement, Ms. Sassower made reference to that  
23 earlier incident.

24 Our question now is we have instructed our  
25 witnesses to be very careful about not mentioning that

1 incident in 1996 and we're certainly prepared to  
2 continue doing that.

3 But given the fact that Ms. Sassower has  
4 already waived it and in fact has, we believe,  
5 mischaracterized the incident to suggest that she was  
6 not actually arrested in connection with her disruption  
7 in 1996, may we instruct our witnesses that they may now  
8 make reference to it?

9 THE COURT: I think you raised a good point.  
10 And certainly the, the manner in which it was raised by  
11 -- well, the fact that it was raised at all and the  
12 manner in which it was raised gives the Court some  
13 concern.

14 I believe, however, that my instruction as to  
15 what is and what is not evidence was clear to the jury.  
16 The statements made prior to the presentation of  
17 evidence simply is not evidence.

18 So Ms. Sassower theoretically can promise  
19 whatever it is that she chooses to promise. The  
20 question is one of delivery, quite frankly.

21 So my ruling is as follows: we will maintain  
22 the, my current ruling on the Drew evidence. Namely,  
23 that it would be used only in rebuttal, that on the  
24 government's case-in-chief, that the 1996 arrest will  
25 not be used for any purpose.

1           And to the extent that the defense seeks to  
2 introduce evidence of that 1996 arrest, for whatever  
3 purpose it deems appropriate, then certainly the 1996  
4 arrest is fair game for rebuttal.

5           MS. SASSOWER: May I be heard?

6           THE COURT: No, you may not, not on this issue.  
7 Please, please be seated. Now --

8           MS. SASSOWER: It's a complete  
9 misrepresentation of the facts in the record, totally.

10          THE COURT: Ms., Ms., Ms. Sassower, you're  
11 either going to follow my directives or you're not.  
12 We're about to bring the jury in.

13          (Thereupon the jury returned to the courtroom  
14 at 11:26 a.m.)

15          THE COURT: Very well. Thank you for your  
16 indulgence as I addressed a, a legal matter. We will  
17 hear the conclusion of Ms. Sassower's opening statement.  
18 Ms. Sassower.

19          MS. SASSOWER: Thank you, Your Honor. Contrary  
20 to Assistant U.S. Attorney Mendelsohn's representation  
21 at length that Officer Roderick Jennings was the  
22 arresting officer, the evidence will show that he is not  
23 the arresting officer. That that is a false deceit.

24          Officer Jennings had nothing to do with the  
25 decision to arrest me. The arresting officer, the true

1 arresting officer was Sergeant Bignotti who had a  
2 single-minded, fixed determination to arrest me,  
3 notwithstanding the precedent of the 1996 hearing of  
4 which she was personally aware because she was there  
5 back in 1996.

6 The evidence will show Sergeant Bignotti's own  
7 malicious motive to arrest me, quite apart from any  
8 direction she received beforehand from Capitol police,<sup>or</sup>  
9 Senate Judiciary Committee,

10 <sup>6</sup> Because in 1996, I had filed a serious and  
11 substantial police misconduct complaint against Sergeant  
12 Bignotti, arising from her role in arresting me in the  
13 hallway outside the Senate Judiciary Committee about a  
14 half an hour after the Senate Judiciary Committee's  
15 confirmation hearing had ended on that date, an arrest  
16 that was for a trumped-up, trumped-up disorderly conduct  
17 charge.

18 You will see introduced in evidence the police  
19 misconduct complaint. And you will see introduced in  
20 evidence my contemporaneous, not after the fact,  
21 contemporaneous written protest as soon as I became  
22 aware that Officer Jennings was being turned into the  
23 cover and it was being pretended that he was the  
24 arresting officer.

25 Now the third area of evidence that I want to

1 highlight to you now in my opening statement, after the  
2 video, after the contemporaneous writings of me that the  
3 arresting officer was Bignotti not Jennings, and the  
4 police misconduct complaint that I filed against  
5 Bignotti in 1996, you will see extraordinary  
6 correspondence of May 21st addressed to Detective  
7 Zimmerman and addressed to Senator Schumer and Senator  
8 Clinton, the home state senators of New York, and  
9 addressed to Senate Judiciary Committee Chairman Hatch  
10 and Ranking Member Leahy.

11 All this correspondence, extraordinary  
12 correspondence of May 21st, the day before the hearing,  
13 reporting the call that I had received from Capitol  
14 police, from, from Special Agent Lippay and Detective  
15 Zimmerman, and what they had said and what they had  
16 threatened me with, <sup>my</sup> and begging and pleading that I did  
17 not wish to be arrested. Because all that I sought to  
18 do was to request to be permitted to testify because  
19 there was no evidence at all that the Senate Judiciary  
20 Committee <sup>and</sup> ~~with~~ the home state senators were <sup>at</sup> all even  
21 knowledgeable of this matter. This matter being the  
22 evidence of Judge Wesley's corruption and my request to  
23 testify.

24 In conclusion -- oh, this must-read May 21st  
25 correspondence establishes resoundingly there was no

1 intent. The crime for which I am charged requires two  
2 things. It requires the act of dis, of disruption of  
3 Congress.

4 But you will see from the video what actually  
5 took place and you will see that it is as I say, there  
6 was no act. But then beyond that, there was no intent.

7 And you will see that for a certainty by the  
8 May 21st correspondence and the correspondence before  
9 May 21st to which that related. And the correspondence,  
10 and likewise, my memo of May 22nd.

11 And you might say to yourself, wait a minute,  
12 the hearing was May 22nd, how did she write a memo on  
13 May 22nd? And, and, and then how is she in Washington?

14 Because I stayed up all night to write a memo  
15 that was faxed and e-mailed in the wee hours of May  
16 22nd, reciting through those some of the events, the  
17 horrifying events that I had reported, tried to report  
18 to the supervisory personnel in Senator Schumer's  
19 office, Senator Clinton's office, the Senate Judiciary  
20 Committee, about what was going on at the Senate  
21 Judiciary Committee by the staff, the underlings, the  
22 underling staff. <sup>And I</sup> Couldn't get any supervision for the  
23 most outrageous, obscene, indefensible conduct.

24 So the May 22nd memo, although it's the date of  
25 the hearing, recites what I was already talking about to

1 Capitol police, to Senator Schumer, Senator Clinton,  
2 Senate Judiciary offices. Okay.

3 In conclusion, you will see that I met the  
4 highest standard of advocacy, of professionalism. There  
5 was no rule I broke. There's nothing that I didn't do  
6 that wasn't right and proper and good and honest.

7 And you will see from the correspondence what  
8 came back at me. You will see that the problem is not  
9 just that there's no respect for the request to testify  
10 in opposition to federal judicial nominees, there's no  
11 investigation, there's no review.

12 When John and Jane Q. Public calls up the Senate  
13 Judiciary Committee in advance of hearings and says  
14 look, the nominee is unfit, I can give you the  
15 evidence.

16 And hey, I will give you the evidence, I am  
17 giving you the evidence, nobody is home, nobody calls  
18 back. No, there's no interview by counsel. There's no  
19 request for further clarification. It goes into a black  
20 hole. You don't hear from them. They hold the hearing,  
21 you can't testify. Okay.

22 Well, finally, before concluding my statement,  
23 I, I want to pause for something extraordinary <sup>that</sup> happened  
24 yesterday. You were selected to be on this jury.

25 And I must say it is an awesome thing to see



1 the care and the precision that went into assuring that  
2 each and every one of you would be fair and impartial.

3 That you had no biases, no prejudices, no self-  
4 interest, no motives that would impede you from deciding  
5 the facts and the evidence and applying the facts and  
6 the law. It was glorious. And what this shows —

7 Now from your own personal experience, you know  
8 that you can't even get to the merits of the case unless  
9 you have a fair and impartial tribunal. That's  
10 recognized. Know please that the basis of the  
11 opposition to Judge Wesley was the evidence, the  
12 documentary evidence --

13 MS. LIU: Objection, Your Honor.

14 THE COURT: Sustained. Anything further, Ms.  
15 Sassower?

16 MS. SASSOWER: Oh, yes. The basis will be in  
17 evidence, the basis will be in evidence and whether or  
18 not I'm precluded from presenting it will come out  
19 during this trial. Thank God it will.

20 THE COURT: Very well, very well. We will  
21 proceed --

22 MS. SASSOWER: The elementary proposition --

23 THE COURT: Excuse me, excuse me.

24 MS. SASSOWER: I --

25 THE COURT: Please be seated. We will proceed