

GEORGE SASSOWER

16 LAKE STREET

WHITE PLAINS, N. Y. 10603

914-949-2169

January 13, 1989

Grievance Committee
Ninth Judicial District
900 Ellison Avenue,
Westbury, New York 11590

Re: District Attorney Denis Dillon
262 Old Country Road,
Mineola, New York 11501

Robert Rivers, Esq.
50 Clinton Street
Hempstead, New York 11550
20 Vesey Street
New York, New York 10007

Gentlemen:

1a. I bring to your attention a most egregious violation of the law, as well as the Code of Professional Responsibility, by the above.

b. As background, enclosed please my letter of January 11, 1989, which has been extensively distributed to members of the media (Exhibit "A").

2a. As of January 1988, Robert Rivers, Esq., clearly knew that Dennis F. Vilella, for good cause, had effectively discharged him, and desired the return of his monies, so that he could obtain other counsel.

b. The Office of District Attorney Denis Dillon knew of such effective discharge on February 23, 1988 when they searched, read, and seized my papers, which contained, inter alia, letters of Mr. Vilella to me and notes on some of his telephone conversations.

c. Thereafter, by letter dated March 18, 1988, Assistant District Attorney Matthew D. Sansverie enlisted the help of Robert Rivers, Esq. to intercede and communicate with Mr. Vilella with respect to my representation of Mr. Vilella in the federal courts.

d. By letter dated March 20, 1988, in compliance with the aforementioned request of Mr. Sansverie, Mr. Rivers wrote to Mrs. Rosemary Vilella, Mr. Vilella's spouse, which letter included the following statement:

"As I have explained to you before, I must have an affidavit, signed and in writing, that your husband is withdrawing himself from the [federal] civil suit now being handled by Mr. Sassower. If this is done, we may be able to expedite his appeal based on hardship grounds."

e. Thereafter, in April 1988, when I learned that Mr. Rivers had submitted a manifestly feckless application to the Appellate Division which omitted, inter alia, the fictitious nature of these crimes, I believed it my duty to advise the court of same.

f. In addition to mailing a copy of my affidavit of April 26, 1988 (Exhibit "B") to the Appellate Division, I mailed copies to District Attorney Denis Dillon and Robert Rivers.

g. Exhibit "B" is a copy of a second copy of such affidavit, as submitted by the Office of Denis Dillon, which Dillon's Office also sent to Robert Rivers, Esq.

h. At this point in time, and by reason thereof, there was absolutely no doubt in my mind that Robert Rivers, Esq. was operating in conspiratorial consort with the Office of Denis Dillon, as Mr. Vilella had repeatedly complained to me during the preceding months.

i. Notwithstanding such clear evidence, I made no attempt to interfere with the Vilella-Rivers relationship, vel non, in the Appellate Division.

j. On July 29, 1988, Robert Rivers, Esq., purportedly acting on behalf of Mr. Vilella filed his Brief in the Appellate Division, which omits the many strong points mandating a reversal, including the fictitious nature of these crimes and other acts of misconduct of the Dillon office.

3a. On December 22, 1988, I was at the Appellate Division and heard the arguments of Mr. Rivers and Mr. Dillon's assistant.

b. Seated only a few feet away, I also heard some of the private remarks made between them, just prior to oral argument.

4a. Thereafter, the initial statement made by Mr. Rivers was that the Court should not permit me to make any statement, and Mr. Dillon's assistant nodded in agreement. I did not.

b. Not a single statement was made by Mr. Rivers or Mr. Dillon's assistant about the fictitious nature of these crimes, the effective concealment of the hospital records from the grand and petite jurors by the Dillon Office, or any other of the several points which mandated a reversal, as a matter of law.

c. Nor did Mr. Rivers nor Mr. Dillon's assistant make any mention to the Court about the lack of Mr. River's authority to represent Mr. Vilella.

d. In short, it was about the most depraved betrayal of a purported client by an attorney that I have ever witnessed in my extensive legal practice in almost 40 years at the bar.

5. I wish to emphasize that no one disputes the ultimate decisive fact, to wit, the crimes for which Mr. Vilella was indicted and convicted simply never occurred -- no one -- not even by any member of the "Dillon Gang"!

6a. I can find only one reported incident which I find analogous to the conduct of the above.

b. In William L. Shirer's, The Rise and Fall of the Third Reich, he describes the judicial proceedings following the July 20, 1944 attempt on Hitler's life, as follows (Bloody Vengeance, p. 1071):

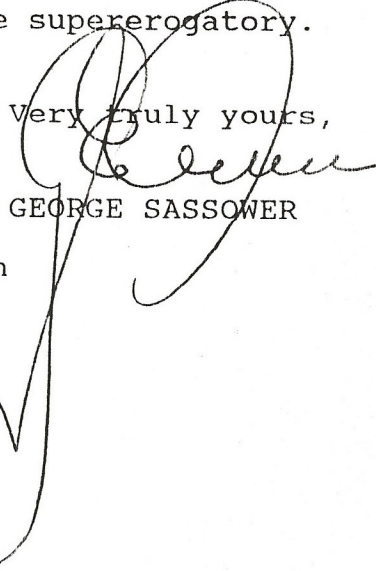
"The court-appointed defense lawyers were more than ludicrous. Their cowardice, as one reads the transcript of the trial, is almost unbelievable. Witzleben's attorney, for example, a certain Dr. Weissmann, outdid the state prosecutor and almost equalled [Judge] Freisler, in denouncing his client as a 'murderer' as completely guilty and as deserving the worst punishment."

c. At least, it could be said, Field Marshal Erwin von Witzleben did not have to pay his court-appointed attorney for essentially the same type of perfidious representation that Mr. Rivers, operating in tandem with the "Dillon Gang", was giving Mr. Vilella!

d. The above statement confirms that even lay persons clearly understand that in a civilized legal society an attorney is supposed to represent his client, not betray him, by working in concert with the public prosecutor.

e. To say more would be supererogatory.

Very truly yours,


GEORGE SASSOWER

cc: District Attorney Denis Dillon
Robert Rivers, Esq.
Peter J. Grishman, Esq.
Mr. Dennis F. Vilella
Mrs. Rosemary Vilella

GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N. Y. 10603

914-949-2169

January 11, 1989

"BLOWING THE WHISTLE ON NEWSDAY!"

Dear Sir:

1a. For more than seventeen (17) months, Newsday has actually known that Mr. Dennis F. Vilella was being tried, was convicted, and has been incarcerated for crimes that never occurred, but published the story, as "unusual" only because Mr. Vilella, a layman, opted to defend himself, without aid of an attorney.

b. While District Attorney Denis Dillon and his assistants effectively concealed the medical records of the Community Hospital of Glen Cove from the grand jury, the trial jury, judges, Newsday actually knew of the contents of such concealed hospital records, the decisive implications of same, and also concealed such information from the public and its readers.

c. As a result of such conscious and deliberate concealment by District Attorney Denis Dillon and Newsday, and only because of same, Mr. Vilella has been incarcerated for more than seventeen (17) months, at a cost to the taxpayer of approximately \$50,000 per annum.

2a. Vilella, a college graduate, married, with two (2) small children, leader of a boy scout group, and active in civic matters, was convicted and is presently incarcerated for a maximum term of twenty-five (25) years, for crimes which neither he nor anyone else committed, which I will now easily prove.

b. There is not a single rational person who has examined my dramatic evidence on the subject who controverts the conclusion that Vilella, was convicted of "phantom" and "fictitious", crimes -- crimes that simply never occurred!

3a. Vilella was indicted for, and thereafter convicted of, attempted murder and first degree assault with "a tire iron", with no lesser counts charged or submitted to the jury.

b. The uncorroborated testimony of THERESA NAPPI ["Nappi"], the alleged victim, before the Grand Jury, and thereafter before the Trial Jury, was that she had been struck "about 20 times" (p. 91-92), with "a tire iron" (p. 91), "violently" (p. 102), "with everything [Vilella] had to hit [her] (p. 102), on [her] head and [her] hands, protecting [her]self" (p. 91), after which she was removed to the Community Hospital at Glen Cove.

4a. The concealed hospital records reveal that on the day that Nappi was admitted to the aforementioned hospital, which was shortly after the alleged "violent" assault, her head was x-rayed (Exhibit "A") and a Cat Scan performed (Exhibit "B").

(1) In haec verba, the aforementioned x-ray report (Exhibit "A") reads:

"Skull shows no evidence of fracture. Sutures and vascular markings are normal. Sella turica is regular in appearance. Petrous pyramids and sphenoid wings are intact. IMPRESSION: Normal examination of the skull."

(2) In haec verba, the aforementioned Cat Scan report (Exhibit "B") reads:

"CT scan non-contrast of the brain was performed. No shift of midline structures is seen. No subdural collection is identified. No blood in the white or grey matter is seen. Soft tissues of the brain fail to demonstrate any gross soft tissue swelling. IMPRESSION: See above report."

(3) The Hospital Trauma Assessment Record, also made the same day Nappi was admitted, reveals normal pupils, normal leg and hand reactions and movements, and the highest possible non-coma score.

(4) The hospital consultation report, also concealed, states:

"coherent ... no overt thinking disorder. She [Nappi] is cooperative and fairly verbal. No auditory trouble ..., no delusions. ... Sensories intact. Short term memory good. ... Insight good."

(5) Indeed, a review of the entire hospital record reveals an absence of any traumatic bruises on Nappi's skull -- none whatsoever!

(6) Furthermore the concealed hospital records reveals that there was absolutely no treatment rendered to Nappi for any skull fracture injuries, contrary to the express assertions of Dillon's assistant to the trial jury.

b. Would any Grand Juror have indicted, or Trial Juror convicted, for this "repeated", "violent", "tire iron" assault, had they seen the aforementioned concealed hospital records?

c. What would the citizens of Nassau County have thought, said, and done had Ms. Robin Topping and her superiors at Newsday, published not concealed the truth?

5a. The uncorroborated description of this alleged, "phantom" assault, as testified by Nappi at the Vilella trial-- in full --is as follows:

(1) On direct:

"Q What did he hit you with?
A A tire iron
Q How many times did he hit you?
A About eight or twelve.
Q What parts of your body did the
blows land?
A My head and my hands, protecting
myself. [SM-91] ...
Q Please continue.
A And then he hit me some more.
Q What did he hit you with?
A The tire iron.
Q Back in the van again?
A Yes.
Q How many times did he hit you the
second time?
A About six or seven. [SM-92]

Q What were your injuries?
A I sustained six skull fractures.
..." [SM-93]

(2) Nappi's testimony, cross-examined by Vilella, a pro se defendant, -- in full -- reads as follows:

"Q Mrs. Nappi, you testified that I hit you in the van approximately eight to ten times or six to ten times?

A About that. [SM-98] ...

Q Mrs. Nappi, you were hit, you said, again six to ten times in the van?

A I said anywhere from eight to twelve times.

Q Eight to twelve times in the van? you opened the door and ran out? ... [Y]ou came behind me and dragged me back in the van.

Q Would you say you're a strong person?

A I do, but not when you're hit twelve times in the head with a tire iron when you're not expecting it. [SM-101]

Q ... You say somewhere in the Grand [Jury] Minutes I covered your mouth.

A You hit me from behind in the van and you kept hitting me and hitting me and then I somehow got out of the van and I screamed, and I couldn't do anything. You came behind me and dragged me back. I couldn't fight you. I wasn't expecting you to hit me. ... When you're hit like that and you don't know what's coming, you can't do anything. You don't have the strength to do anything, not the way you were hitting me.

Q Would you describe to the Court how it was that I was hitting you?

A Violently with everything you had to hit me.

Q Could you show us, please? [SM-103]

A Show you? You took the thing and hit me.

Q Which way? Just go through the motions.

A I didn't see the first hit because I was under the blanket, but I saw afterwards because I protected myself from it.

Q Show us the second hit.
 A You stood over me and hit me like
 this (Indicating)
 Q With the tire iron?
 A With the tire iron that looks
 similar to that.
 THE COURT: For the purpose of the record, did
 he raise his hand up over his head with the tire iron?
 THE WITNESS: No, not all the way down over his
 head. ...
 THE COURT; ... So he raised his hand halfway
 up to the head and struck down with the tire iron?
 THE WITNESS: Right. ...
 Q Were they tapping motions or you
 say violent?
 A Violent." [SM-103-4]

b. On October 9, 1987, at sentencing, more than two
 (2) months after the verdict of "guilt" had been rendered by a
 Trial Jury -- a jury which had been deceived of the true nature
 of the hospital records -- the following was stated:

"MR. [Ass't D.A.] LITTMAN:... This was a
 particular brutal, unprovoked assault on a woman. We
 recommend that the maximum sentence be imposed. [SM-6]

THE COURT: According to the
 victim, she was struck 8 to 15 times altogether with
 what Mr. Littman described as a tire iron. She
 suffered five skull fractures. ...

...
 THE COURT: ... I heard the evidence
 and that's in the medical records and it's found in the
 evidence and the Court feels that a jury could very
 well have based upon the evidence before it, have
 returned this verdict. There is no question that this
 was a brutal beating and one of the most heinous
 matters outside of actual murder that this Court has
 seen." [SM-11]

c. Clearly, unless Nappi had mystical survival
 powers which far exceeded that of the legendary Rasputin, in view
 of the hospital records, these crimes were simply never committed
 by Vilella, a very powerfully built 38 year old male, nor any
 other adult.

6a. For his appeal, Vilella retained ROBERT RIVERS,
 Esq. ["Rivers"], who as will here briefly and partially be
 demonstrated, was corrupted by Dillon's Office to betray his
 client.

b. Initially, in the filings at the Appellate Division, neither the "Dillon Gang" nor Rivers forwarded the Nappi hospital record.

c. There is nothing, in the Briefs filed at the Appellate Division, to indicate the fictitious nature of these Vilella crimes, as will here be shown.

7a. In full, the Rivers' Brief with respect to the injuries to Lady Rasputin and references to the hospital Report, are as follows:

"Based upon Ms. Nappi's allegations, medical records and testimony that Ms. Nappi was assaulted by someone, Appellant was convicted of attempted murder in the second degree and assault in the first degree. [p. 4]. ... In the instant case the record shows that the only evidence that the prosecution presented that indicated that the Appellant committed the crimes in question was the testimony of the victim ... [p. 14]. [T]he testimony she gave to the grand jury where she indicated that after the assault she remembered nothing until she woke in the hospital ... there may have [been] another person who assaulted Ms. Nappi ... The remaining evidence presented by the prosecution merely indicates that the victim was indeed assaulted by someone, not necessarily by the Appellant, that the victim sustained serious injuries [p. 14-15]." [emphasis supplied].

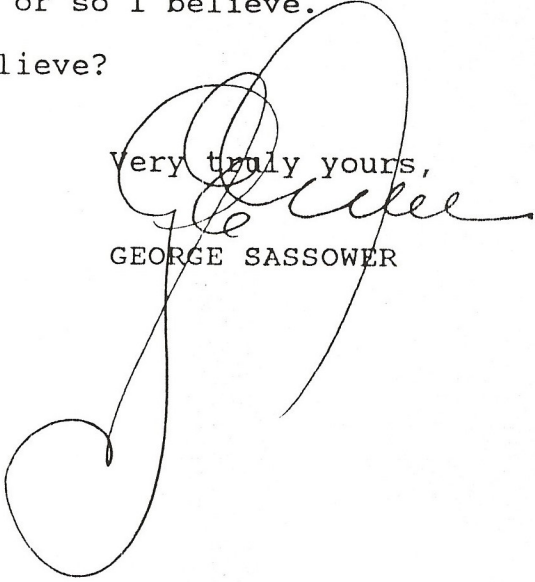
b. All the statements in Dillon's Brief on the same subject read as follows:

"[D]efendant began to hit her with a tire iron. He hit Nappi 'about eight or twelve' times in the head and on her hands. ... Nappi managed to get out of the van, but defendant 'came behind me and covered my mouth and pulled me back in the van ... and then he hit me some more ... with the tire iron' [p. 2]. ... Dr. Peter Sordi ... observed five skull fractures [p. 3]. ... [D]efendant struck her 'about eight or twelve' times with a tire iron on her head and hands ... Nappi managed to get out of the van to try to seek help, but defendant 'came behind me and covered my mouth and pulled me back in the van.' Defendant 'then hit me some more' with the tire iron. ... As a result of this attack, Nappi suffered five skull fractures. ... The only remaining question was the identity of the assailant. ... [p. 7]." [emphasis supplied].

8a. The public has a right, from the media, to know how Newsday reports the news, or so I believe.

b. What do you believe?

Very truly yours,


GEORGE SASSOWER

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL DEPT.

-----X
PEOPLE OF THE STATE OF NEW YORK,
Plaintiff-Respondent,
-against-
DENNIS F. VILELLA,
Defendant-Appellant..
-----X

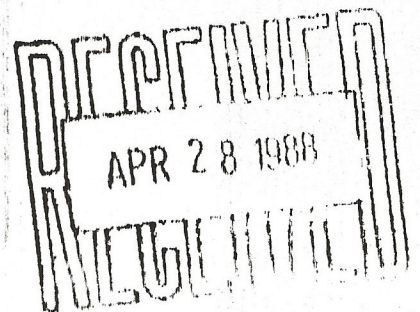
Motion 4/29/88

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

GEORGE SASSOWER, Esq., first being duly sworn,
deposes, and says:

That affidavit is intended to conclusively demonstrate that the crimes for which the defendant-appellant was indicted, convicted and is presently is incarcerated (1) never occurred -- these crimes are simply "phantom", and (2) the "scrub each others back" scenario that exists between the District Attorney's Office and the purported representative of the defendant, evidenced by their concealment of such fact from this Court and the public.

1a. Except for the Community Hospital of Glen Cove records, there is no medical evidence presented to the Grand Jury to support the indictment of DENNIS F. VILELLA ["Vilella"].



-1-
Exhibit "B"

b. The grand jury indictment, dated September 15, 1986, charged Vilella with attempted murder and first degree assault of THERESA NAPPI ["Nappi"], with a "tire iron".

c. The hospital X-Ray Report, rendered the same day that Nappi was admitted, reads as follows:

"Skull shows no evidence of fracture. Sutures and vascular markings are normal. Sella turcica is regular in appearance. Petrous pyramids and sphenoid wings are intact.

IMPRESSION: Normal examination of the skull. /s/ L. Tizol, M.D" [emphasis supplied]

d. Also that same day a "Trauma Assessment Report" was issued, and Nappi attained the highest possible "[Non-]Coma Score", with her eye, arm, leg and other functions reacting normally.

In short, Nappi's "[Non-]Coma Score" could not possibly have been higher before this repeated "tire iron" violent assault, than it was on the day she was hospitalized, allegedly after this allegedly lethal attack.

e. Indeed, the hospital report does not reveal that Nappi had any bruises on the superior aspect of her skull, the site where she was allegedly repeatedly assaulted with a "tire iron".

f. In view of Nappi's testimony that she was "violently" assaulted by Vilella, approximately 20 times, with a "tire iron", with all the strength that Vilella had, her power of survival clearly exceeded that of the legendary Rasputin!

g. One week later, on August 4, 1986, Orbital Tomograms were taken, and the Report reads as follows:

There are undisplaced fractures involving the mid aspect of the floor of the orbit as well as the frontal bone at the mid aspect of the superior orbital ridge. /s/Julio C. Baez, M.D." [emphasis supplied].

h. Thus, in view of the coached and patently perjurious testimony of "Lady Rasputin", Assistant District Attorney, J. KENNETH LITTMAN ["Littman"] perceived it as his personal function the task of deceiving the Grand Jury into not examining the Hospital Record.

2a. The minutes of the Grand Jury clearly reveals the Nappi-Littman deceptive scenario employed by them in securing a "tire iron" indictment against Vilella, as well as the effective genesis of the "six (6) fictional skull fractures".

b. Nappi's initial medical testimony before the Grand Jury reads as follows:

"Q. [Mr. Littman].
your skull?

A. [Nappi].

Were there any injuries to

Six skull fractures."

c. An obvious skeptical Grand Jury recalled "Lady Rasputin", and the relevant colloquy reads as follows:

Q [Grand Juror]. You recounted a number of injuries to your skull. Did I understand you to say you had six fractures of the skull?

A [Nappi] Yes. And the orbits and my sinuses and my cheekbone.

Q [Grand Juror] The cheekbones also were involved?

A [Nappi] Yes.

Q [Grand Juror] I see. Thank you.

MR. LITTMAN: Understand, members of the Grand Jury, you have the medical records before you. However, in the interest, obviously, of saving your time, I had the witness relate which injuries she sustained. You may of course examine them. That's why they're in evidence. Anything else for this witness? (No response by the Grand Jurors.)."

d. The aforementioned colloquy between a Grand Juror and Lady Rasputin, reveals that such juror simply could not comprehend how Nappi survived such "violent" "tire iron" assaults.

e. Undoubtedly, if the Grand Jurors knew that these six (6) skull fractures were "phantom", as evidenced by the hospital X-Ray report, that there was an absence of bruises in Nappi's superior skull area, and that she attained the maximum Non-Coma Score, neither Vilella nor anyone else would have been indicted for the fictitious crimes of a "tire iron" attempted murder and assault!

f. Littman was clearly not interested in "saving time" of the Grand Jury in having Nappi testify about her alleged injuries, but in aborting any inspection of the hospital record by the members of such indicting body.

3a. Littman intended to conceal his and his other acts of misconduct before the Grand Jury and elsewhere by an acceptable plea bargain arrangement with Vilella's former attorney.

b. However, Vilella who insisted that he was innocent, absolutely would not entertain any arrangement wherein he would have to plead guilty, no matter how generous the offer, and so advised his former attorney.

c. Littman was thereafter also clearly informed by your deponent of Vilella's position on the matter.

d. Thus Littman opted to continue his egregious course of misconduct at trial, although he actually knew the alleged crimes were fictitious, and towards that end he needed the trial assistance of Dr. PETER SORDI ["Sordi"], as well as the trial judge.

4a. Nappi's uncorroborated trial testimony was that she was struck "about 20 times" (p. 91-92), with "a tire iron" (p. 91), "violently" (p. 102), "with everything you [Vilella] had to hit me" (p. 102), on "[her] head and [her] hands, protecting [her]self" (p. 91).

b. On direct, the only association between the commission of the crimes charged, and the evidence, was contained in a single "yes" answer by Dr. Sordi, to a leading and suggestive question by Littman:

"Q [Littman] Dr. Sordi, I show you People's 3 in Evidence. Take that in your hand, please. Doctor, in your professional opinion, could the item now in evidence as People's 3, the tire iron, have made the injuries which you observed in the hand and skull of Theresa Nappi?

A

Yes."

c. Dr. Sordi, as well as Littman, were clearly playing "fast and loose" with the trial jury, since the absence of any bruise marks at the site of the repeated impacts conclusively revealed that no such "tire iron" assaults ever occurred.

d. Unquestionably, as Dr. Sordi must have recognized, if Nappi's testimony were true, she would have been dead, or had a "crushed", "depressed", and "splintered" skull, with very extensive brain damage.

e. Dr. Sordi by his false "yes" testimony deliberately attempted to conceal that Nappi, who had no brain damage, had no hematomas to her skull either!

f. This was not simply an oversight for Dr. Sordi mentioned as part of his testimony such insignificant injuries as "a bruise on her right shoulder" and a "bruise on her right forearm."

5a. On cross-examination by Vilella, who was neither a doctor nor a lawyer, Dr. Sordi was evasively deceptive.

b. It was quite evident that Vilella was trying to have Dr. Sordi testify as to whether Nappi's injuries could have been the result of a so-called "tire-iron assault", which was specifically set forth in haec verba, as part of the indictment against him.

c. Such cross-examination was as follows:

"THE WITNESS: It would take a considerable amount of force to create a fracture.

Q Are you saying that the tool behind you was the tool that was involved in this?

A Am I saying that's the tool? Specifically, no.

Q Could it have been something else?

A It could have been something else.

Q Like what?

A Like what? I would imagine that the tool that made these fractures would have to be fairly small in size. Baseball bat, for example, would probably be too big to create these injuries, considering the lacerations that are involved. A baseball bat, for example, would leave big welts, big hematomas, black and blue marks, if you wish, around the area and wouldn't cut the skin quite so neatly, so it would have to be something small and solid, firm, probably metal?

Q Are you saying -- are you saying that there is something else besides that tool that could have been used?

A Sure."

d. One simply does not have to be a surgeon, as is Dr. Sordi, to know that such alleged "tire iron" assaults would have left, at a minimum, "big welts", "big hematomas", "black and blue marks", "around the area", substantially similar to a baseball bat assault.

e. In its totality, by evading and/or playing "fast and loose" with the truth, Dr. Sordi, aided and abetted by Littman, created a totally false impression with the trial jury, as was their intention.

6a. The concealment of the Hospital Record from the eyes of the trial jury, although marked into evidence, was a masterpiece of deliberate and intentional deception, and a detailed description at this point would serve no useful purpose.

b. Obviously, no juror nor any rationale person would have accepted this "tire iron" assault fiction had the pertinent reports in the Hospital Record not been concealed!

c. Decisive is the fact that District Attorney DENIS DILLON ["Dillon"], Littman, Assistant District Attorney MATTHEW D. SANSVERIE ["Sansverie"], and Dr. Sordi are unable in the federal litigation in the Eastern District of New York, or elsewhere, to produce any person who would testify that such testified assault to "Lady Rasputin" could have possibly have occurred in view of the concealed documents in the hospital record.

7. In summation, Littman said (SM 458-466):

"I submit to you that what the defendant said [to Nappi] ... was the truth ... I say that because if you look at the photos and you consider Dr. Sordi's testimony, the amount of blows, the force with which they were administered shows a ... great deal of violence. ... She described how she was hit something like eight to twelve times ... Dr. Sordi stated quite clearly the extent of her injuries. He beats her some more. ... You hit them repeatedly with the force that Dr. Sordi said would be necessary, and he said it would

be great force to fracture the skull in five different places, five different places. ... It's fairly obvious. You repeatedly beat somebody in the head and fracture the skull. ... the defendant did, in fact, repeatedly beat her in the head with a tire iron, with the intent to kill her ... beat her and cause serious physical injury with a dangerous instrument, the tire iron."

8a. The sentencing minutes of October 9, 1987 -- more than three (3) months after the trial had terminated -- reveals the following (pp. 6, 10, 11):

"MR. LITTMAN: ... This was a particularly brutal, unprovoked assault on a woman.

... THE COURT: ... According to the victim, she was struck 8 to 15 times altogether with what Mr. Littman described as a tire iron. ... She suffered five skull fractures and also injured the middle finger of her left hand, probably deflecting the defendant's blows ... I heard the evidence and that's in the medical records" [emphasis supplied].

b. Littman did not introduce the hospital record, nor any part of it into evidence, on the trial of the matter, and clearly deponent, as a citizen had the right, indeed the obligation, of advising the Court of true facts as set forth in such hospital record.

c. Consequently, the following took place, outside the presence of the jury (p. 340-344):

"MR. SASSOWER: I want to give the documents to Your Honor.

THE COURT: ... Mr. Vilella, if you want to give those documents to the Court, you may, but Mr. Sassower ... is not recognized by this Court and has no relationship to this Court. If he wants to give you documents and you want to give me the documents, that's okay, ... Well now, what do you want to do with the documents? You want to deliver them to the Court and have the Court take a look at them?

MR. SASSOWER:

Yes.

MR. VILELLA:

Yes, Your Honor.

THE COURT: You can hand them up to the Court. You may, Mr. Vilella. ... Your Honor, these are records from the hospital given to me by Mr. Littman.

THE COURT: May I see them, please? Are these the only two documents you want the Court to look at? ... Show me all the documents you want the Court to look at.

MR. VILELLA: Yes, Your Honor. Your Honor, I would also like these two documents submitted into evidence. Two more documents submitted by the hospital and given to me by Mr. Littman. ...

THE COURT: .. You're asking to have offered into evidence the entire hospital record?

MR. VILELLA: Yes, Your Honor.

...

THE COURT: What is the objection?

MR. LITTMAN: ... Unless it's offered to be a prior inconsistent statement, it should have been done when the witness was on the stand. Whatever purpose does it have other than bolster whatever has been said?"

d. The entire hospital record was received into evidence, and while the jury's attention was not directed to the significant pages, the trial judge, Hon. JOSEPH HARRIS, did read those pages very closely for about five (5) minutes, and knew these "skull fractures" were "phantom".

e. In any event, in affirment's post trial "amicus affirmation", and other post trial papers, which now are made the subject of a criminal charge against deponent, His Honor's attention was drawn to the aforementioned X-Ray Reports and Trauma Assessment Record.

f. Thus, the trial judge was well aware that the "five skull fractures", were "phantom", that no bruises were present, and the Non-Coma score at maximum.

9a. On March 17, 1988, affirmant received a telephone call from Mrs. ROSEMARY VILELLA, Vilella's spouse, who had been informed by ROBERT RIVERS, Esq. ["Rivers"], who purportedly represents Vilella in the state, not federal, proceeding, to the effect that he had received a telephone call from Assistant District Attorney MATTHEW D. SANSVERIE ["Sansverie"], which he intended to return the following day.

b. The following day, March 18, 1988, Mrs. Rosemary Vilella informed affirmant of such Sansverie-Rivers conversation, as relayed to her by Mr. Rivers.

c. Since affirmant was, once again, arrested that evening, during the long ride from Westchester County to Nassau County, it was not difficult confirming some of the main elements of such Sansverie-Rivers conversation, which was freely and voluntarily given by Detectives KENNETH M. COZZA ["Cozza"] and F. LULENSKI ["Lulenski"], as part of the general conversation.

d. In any event, on April 8, 1988, deponent received a copy of a letter written by Sansverie to Rivers, dated March 18, 1988, which in relevant part reads as follows:

"As per our telephone conversation of March 18, 1988, regarding the above civil action [Cohen & Vilella v. Littman, USDC EDNY], enclosed please find a copy of the summons and complaint served on the Nassau County District Attorney's Office [Sansverie is a party defendant in such action]. By way of background, please be advised that George Sassower claims to represent Mr. Cohen and Mr. Vilella and that the filing of this summons and complaint was authorized by Mr. Cohen and Mr. Vilella ... I would ask that you ascertain from Mr. Vilella whether he truly authorized this action and whether he fully understands that he may be liable for costs of defending this suit if the Federal Court finds the complaint to be frivolous and without merit.

If you have any questions or information to offer regarding the above, please do not hesitate to call me. Thank you for your attention and courtesy in this matter." [emphasis supplied]

e. Mr. Rivers, on March 20, 1988, wrote to Mrs. Rosemary Vilella, partially as follows:

"Enclosed please find copies of the most recent papers we have received from the District Attorney's Office and the office of Mr. George Sassower.

This is possibly one of the reason why your husbands appeal is being held up. ...

As I have explained to you before, I must have an affidavit, signed and in writing, that your husband is withdrawing himself from the civil suit now being handled by Mr. Sassower. If this is done, we may be able to expedite his appeal based on hardship grounds.

Please call me to let me know what your decision is." [emphasis supplied]

f. As this Court is aware, there is simply no appeal papers which have been filed by Mr. Rivers, and therefore no "appeal is being held up".

Not can Mr. Rivers "expedite" an appeal which he has failed to perfect since October of 1987.

g. In the "ball notion" wherein Rivers enumerated the errors committed at nisi prius he omitted the most egregious, to wit., those not subject to any harmless error analysis (Delaware v. Van Arsdale, U.S. , 106 S.Ct. 1431, 1437) and/or those which exposed serious prosecutorial misconduct, thus possibly prejudicing subsequent federal relief.

h. Unquestionably the fact that the crimes under which Vilella was indicted and convicted were simply never committed by anyone; that Vilella was deprived of counsel of his choice, and thus opted to proceed pro se; and that his confidential material to his federal attorney was read and analyzed by the District Attorney's Office, are among his strongest arguments. Nevertheless, Rivers has chosen to omit same as part of his enumerated errors.

i. These Sansverie, through Rivers, solicitations, are totally unethical, unlawful, improper, and actionable.

WHEREFORE, as a citizen, respectfully prays that "right be done".


GEORGE SASSOWER

Sworn to before me this
26th day of April, 1988

Ralph Karz

*Not. Pub. St. 14
Comm. exp. 8/1/90*