

U.S. CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT

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GEORGE SASSOWER,
Plaintiff,

CCA2d 93-7173
NDNY 93 CV 177 [FJS]

vs.

N.Y.S. Attorney General ROBERT ABRAMS, Proceeding #1
Defendant.
-----X
-----X

IN THE MATTER OF A GRAND JURY
APPLICATION BY GEORGE SASSOWER
INDIVIDUALLY AND ON BEHALF OF
THE JURY FOR THE NORTHERN DISTRICT
OF NEW YORK,

CCA2d 93-7172
NDNY 93 CV 178 [FJS]

Petitioner,
FOR A GRAND JURY PRESENTATION
CONCERNING THE CRIMINAL ACTIVITIES
OF ROBERT ABRAMS, ATTORNEY GENERAL
OF THE STATE OF NEW YORK, AND FRANCIS
T. MURPHY, PRESIDING JUSTICE OF THE
APPELLATE DIVISION, STATE OF NEW YORK,
FIRST JUDICIAL DEPARTMENT.
-----X

Proceeding #2

PETITION FOR A REHEARING, WITH AN EN BANC REQUEST, AND DEMAND

1a. Petitioner, as part of this petition, demands access of the original documentation which reveals the identity of the panel rendering the Order of August 4, 1993 (Exhibit "A"), and the similar documentation with respect to the dispositions of petitioner's other matters in this Court since 1991.

b. Petitioner asserts the edict of the then U.S. Circuit Court Judge JON O. NEWMAN ["Newman"] of December 3, 1990 in Sassower v. Mahoney (916 F.2d 709, CCA No. 88-6203 [2d Cir.-1990]) was pretext, criminally motivated, in order to unconstitutionally deny petitioner access to this Court, under any and all circumstances, even when the relief requested, as here, is indisputably clear, irresistibly and constitutionally compelling, and the prime beneficiary is an innocent party or

entity (Puerto Rico Aqueduct v. Metcalf, 506 U.S. , 113 S.Ct. 684 [1993]; Ford Motor Co. v. Dept. of Treasury, 323 U.S. 459 [1945]; Farid v. Smith, 850 F.2d 917 [2nd Cir.-1978]).

2a. Unless shown to the contrary, petitioner assumes that the Order of August 4, 1993, and similar orders, were ministerially entered at the instance of a clerk of this Court, under the general instructions given by Chief Judge Newman and/or former Chief U.S. Circuit Court Judge THOMAS J. MESKILL ["Meskill"], that all relief requested by petitioner, should be denied, without exception.

b. Although petitioner has standing for the relief sought herein, the prime intended beneficiary of Amendment XI of the U.S. Constitution is the state and its treasury, and it is the state that is being unconstitutionally victimized by Chief Judge Newman and the disposition made herein.

3a. In Petition #1, the essential aspects of the relief sought by petitioner, in his unopposed application for a preliminary injunction in the District Court, was:

"ORDERED, that N.Y. State Attorney General ROBERT ABRAMS, be and he is hereby restrained from defending himself and others, at state cost and expense, in money damage actions in the federal courts of the Second Circuit, or engaging in any activities in the federal forum which cause an economic burden to the state, as being violative of Amendment XI of the U.S. Constitution and a fraud on the state treasury; and it is further

ORDERED, that N.Y. State Attorney General ROBERT ABRAMS, be and he is hereby restrained from defending himself and others under 'color of law', at state cost and expense, in personal-capacity money damage actions in the New York State courts, as being legally unauthorized ...".

b. In Petition #2, the essential relief sought by petitioner, in his unopposed application for a preliminary injunction at the District Court, was:

"ORDERED, that petitioner be permitted to present himself to the next available full term of the Grand Jury in order to make his presentation of the criminal activities of ROBERT ABRAMS and FRANCIS T. MURPHY, as they relate to this district ...".

4a. U.S. District Court Judge FREDERICK J. SCULLIN ["Scullin"], sua sponte consolidated Petition #1 and Petition #2 for the purpose of denying petitioner's applications.

b. Judge Scullin rendered his disposition, fully aware of his statutory infirmity (28 U.S.C. §455(b)(3)) since, as U.S. Attorney in Sassower v. Mahoney (supra), the same essential issues were involved, and U.S. Attorney Scullin "expressed an opinion concerning the merits" (Liljeberg v. Health Services, 486 U.S. 847 [1988]).

5a. The constitutional invalidity of the representation of Attorney General Abrams in the federal courts in money damage tort litigation, at state cost and expense, has been beyond significant controversy for 200 years, and the compelling constitutional merit of petitioner's petition need not be belabored.

b. However the perfidious cooperation of Attorney General Abrams, qua statutory fiduciary of many judicial trusts, such as PUCCINI CLOTHES, LTD. ["Puccini"], is crucial to the criminal racketeering activities of the judiciary and its cronies, and consequently the constitutional prohibition is blithely ignored by a corrupted Second Circuit.

c. Admitted by Appellate Division Presiding Justice FRANCIS T. MURPHY ["Murphy"] in Sassower v. Abrams (SDNY 92-08512 [PKL]):

" 9. You know that you have been charged with aiding and abetting the larceny of the judicial trust assets of Puccini, extortion, of receiving 'pay-offs', and other criminal activities.

10. You are aware that Abrams, is a co-defendant with you, in this action.

11. You have solicited and/or accepted the legal representation of Abrams, although the same Assistant Attorney General is representing Abrams.

12. You have little doubt that the conduct of Attorney General Abrams's, and that of his office, in this matter is unethical and/or criminal.

13. You have little doubt that a federal judge who ignores a manifest Eleventh Amendment violation, and the conflicting representation by Abrams, has been compromised and/or corrupted." [emphasis supplied]

6. Denial to petitioner of access to the grand jury, at bar, is nothing less than an obstruction of a criminal investigation of the conduct of Attorney General Abrams and his co-conspirators.

7a. The modus operandi, of the Puccini criminal racketeering operation as practiced by the New York-Second Circuits courts, is to enter orders and/or publish decisions which lack subject matter and/or personal jurisdiction, and/or are the product of fraud and corruption, and then, by denying access to the courts, preventing remedial action.

b. In most instances, the prime victims, as here, are innocent third parties.

8a. Judge Newman issued his "permission edict" in Sassower v. Mahoney (supra), although none of petitioner's adversaries, in Puccini or any other case, could demonstrate a single instance wherein petitioner engaged himself in any "frivolous" procedure since he was admitted to the Bar in 1949, or advance any rational reason for petitioner to undertake a frivolous procedure.

b. By reason of Sassower v. Mahoney (supra), including the action therein by Judge Newman: (a) DENNIS F. VILELLA ["Vilella"] remains incarcerated for crimes never committed by anyone; (b) the assets of the Estate of EUGENE PAUL KELLY ["Kelly Estate"] were unlawfully dissipated by a Surrogate for his own personal benefit, leaving nothing for the beneficiaries; and (c) the Puccini racketeering enterprise, including the extortion payments being made by HYMAN RAFFE ["Raffe"] are permitted to continue unabated.

c. While petitioner has standing and suffers injuries by the misconduct of the New York-Second Circuit judiciary as set forth in Sassower v. Mahoney (supra), the real victims are Vilella, the Kelly beneficiaries, Raffe, and the federal and state government.

9a. While petitioner, the Kelly beneficiaries, Raffe will eventually be afforded restitution, the same is not true for Vilella.

b. Exhibit "B" is the complete testimony of the victim of a vicious "tire iron" assault, along with the concealed hospital X-Ray and CAT Scan records.

c. Obviously, had such "tire iron" assault occurred, as testified by the victim, the X-Ray and CAT Scan results could not have been negative.

d. Legally stated, there is no corpus delicti for this "phantom" crimes.

e(1) Unlike the federal courts (Whitmore v. Arkansas, 495 U.S. 149 [1990]), in the state courts anyone can make application for a writ of habeas corpus.

(2) Petitioner's nexus with the Vilella case is such that even in the federal courts he would have standing (Whitmore v. Arkansas, supra).

(3) Nevertheless, in order to retaliate against petitioner, Chief Judge Newman, as in every other instance, denied relief to petitioner, resulting in Vilella's continued incarceration, at taxpayer's cost and expense.

WHEREFORE, it is requested that the relief requested herein be granted in all respects.

Dated: August 17, 1993

GEORGE SASSOWER
Appellant, pro se
16 Lake Street,
White Plains, NY 10603
914-949-2169

CERTIFICATION OF SERVICE

On August 17, 1993 I served a true copy of this Petition by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to Robert Abrams and Comptroller Carl McCall, the Capitol, Albany, New York 11224 and U.S. Attorney Gary L. Sharpe, U.S. Courthouse, 100 S. Clinton Street, Syracuse, New York 13260, that being their last known addresses.

Dated: August 17, 1993

GEORGE SASSOWER

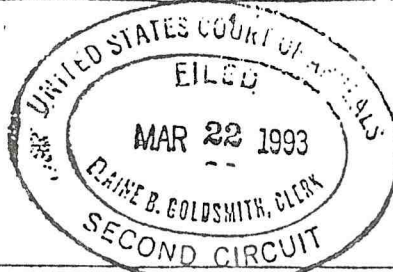
United States Court of Appeals
FOR THE SECOND CIRCUIT

Each motion must be
accompanied by a
supporting affidavit.

SASSOWER.

Abrams.

Use short title



93-7172/7173

Docket Number

NOTICE OF MOTION

state type of motion

for leave, Consolidation.
I.F.P. etc.

MOTION BY: (Name, address and tel. no. of law firm and of attorney in charge of case)

OPPOSING COUNSEL: (Name, address and tel. no. of law firm and of attorney in charge of case)

GEORGE SASSOWER
16 Lake Street
Ite Plains, NY 10603-3352

see inside

Has consent of opposing counsel:

- A. been sought? ☐ Yes ☒ No
B. been obtained? ☐ Yes ☒ No
Has service been effected? ☒ Yes ☐ No
Is oral argument desired? ☐ Yes ☒ No

(Substantive motions only)

Requested return date:

(See Second Circuit Rule 27(b))

Apr 13, 1993

Has argument date of appeal been set:

- A. by scheduling order? ☐ Yes ☒ No
B. by firm date of argument notice? ☐ Yes ☒ No
C. If Yes, enter date: _____

Judge or judge whose order is being appealed:

Judge SOULIN

Brief statement of the relief requested:

leave to file, consolidate, recussa, 28 USC 1915, 28 USC 1254(2) cert

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL

Has request for relief been made below? ☐ Yes ☐ No
(See F.R.A.P. Rule 8)

Would expedited appeal eliminate need for this motion? ☒ Yes ☐ No

If No, explain why not:

Will the parties agree to maintain the status quo until the motion is heard? ☐ Yes ☒ No

Complete Page 2 of this Form

By: (Signature of attorney)

Appearing for: (Name of party)

Appellant or Petitioner:
☐ Plaintiff ☐ Defendant
Appellee or Respondent:
☐ Plaintiff ☐ Defendant

Signed name must be printed beneath

Date 3/22/93

A TRUE COPY
ELAINE B. GOLDSMITH, Clerk

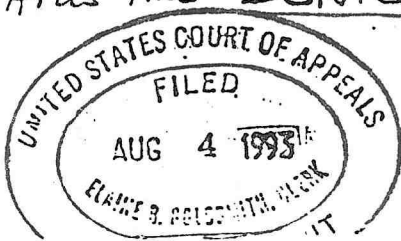
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ORDER

BY Kathy Brown
Deputy Clerk

IT IS HEREBY ORDERED that the ABOVE REFERENCED APPEALS BE CONSOLIDATED FOR THE PURPOSES OF the motion be and it hereby is granted denied

ENTERING THIS ORDER, AND THE MOTIONS FOR LEAVE TO APPEAL AND FOR PAUPER STATUS ARE DENIED.



SO ORDERED:

FOR THE COURT,

Elaine B. Goldsmith, Clerk

By Kathy Brown, Operations Mgr.

Exhibit 4

alleged assault, is In full, [the victim's] trial testimony, concerning the as follows: 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]
Ms. testimony of the event, in full, on cross-examination,
conducted by Vilella, a pro se defendant, reads as follows:
Q Mrs. , 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. , 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? ... [You 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]

St. Andrews Lane • Glen Cove, New York 11542

NEVIN H. GRAY, M.D.
SCOTT R. CHYNE, M.D.

HOSPITAL

7/27/86
Skull

EN5011466 9
#096008

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.

L. Tizol, MD

7/27/86
CAT scan brain

EN5011466 9
#096008

CI 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.

L. Tizol, MD

Exhibit B