

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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In the Matter of the
Application of
GEORGE SASSOWER, individually and
on behalf of the Westchester County
Grand Jury,

Index No.
16682-1992

Petitioner,
-against-
District Attorney CARL A. VERGARI;
Assistant N.Y.S. Attorney General
RONALD GOLDSTOCK; and Attorney
General ROBERT ABRAMS,

Assigned to:
Hon. KENNETH H.
LANGE

Respondents.
For Writs of Mandamus and Prohibitions
-----x

PETITIONER'S MEMORANDUM OF LAW

GEORGE SASSOWER
Petitioner, pro se
16 Lake Street,
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(914) 949-2169

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PRELIMINARY STATEMENT

1a. Petitioner intends, with the Court's permission, to submit additional papers on this matter after His Honor determines petitioner's recusal application, since petitioner's course, and the information he will publicly divulge before a grand jury presentation, will be dependent on the recusal decision.

b. The Administrative Office of this Court, and particularly FRED L. SHAPIRO, Esq., are familiar with the constitutional restraints placed on that office (Balogh v. H.R.B. Caterers, 88 A.D.2d 136, 452 N.Y.S.2d 220 [2d Dept.-1982]) and his lack of judicial authority.

c. In short, the Administrative Office has been and is a clearing center for "fixing" cases, particularly for fixing cases originating from without this Court.

2a. It must be noted that not a single fact asserted in petitioner's petition, or in petitioner's exhibits, has been disputed or controverted in any respect by any of the respondents, including Attorney General ROBERT ABRAMS, who has defaulted.

b. Presented to this Court is only a small portion of what is clearly the most scandalous situation of judicial corruption in American history, quantum leaps more egregious than the misconduct of Chief U.S. Circuit Court Judge MARTIN T. MANTON of the Second Circuit which led to his conviction and incarceration (United States v. Manton, 107 F.2d 834 [2nd Cir.-1938]).

3. The relief requested in petitioner's three (3) causes of petition are as follows:

a. "Respondent Vergari should be mandated under a Writ of Mandamus to present petitioner's communication to the Westchester County Grand Jury in a manner that comports with the 'appearance of justice', together with such other relief as will vindicate petitioner's right, the right of the Westchester County Grand Jury, and the public right." [emphasis supplied]

b. "Respondent Goldstock should be mandated under a Writ of Mandamus to present petitioner's communication, and other information of the petitioner, in a manner that comports with the 'appearance of justice' and protects petitioner's confidentiality, to the various grand juries mentioned heretofore of the criminal racketeering [enterprise corruption] activities, mandated to execute a consent under NY Penal Law §460.60[4], or where his consent is otherwise required by law, together with such other relief as will vindicate petitioner's right, the right of the various grand juries, and the public right." [emphasis supplied]

c. "A writ of prohibition must be issued enjoining Attorney General Abrams under 'color [pretense] of law' from representing himself and others, at state cost and expense, in Westchester County where the interests served are private and are contrary to legitimate sovereign interests, together with such other lawful relief as may be applicable in the premises." [emphasis supplied]

POINT I

RESPONDENTS, VERGARI and GOLDSTOCK, ARE APPEARING IN THIS COURT IN THEIR PRIVATE CAPACITIES

Although this proceeding was brought against District Attorney Vergari and Assistant Attorney General Goldstock in their official capacities, their appearance is in a personal capacity (Hafer v. Melo, U.S. , 112 S.Ct. 358 [1991]; Kentucky v. Graham, 473 U.S. 159 [1985]), since they do not seek to vindicate sovereign or governmental interests, financial or otherwise, but personal interests.

As a sua sponte proposition, no American Court can accept or tolerate an attorney representing conflicting interests, or the more egregious situation of a governmental attorney betraying his governmental-employer (Wood v Georgia, 450 U.S. 261, 265 n. 5 [1981]).

POINT II

RESPONDENTS' MOTIONS MUST BE DENIED IN THEIR ENTIRETY

Respondents' motions which requests dismissal of petitioner's entire petition must be denied, if any cause of petition is valid (Advance Music v. American Tobacco, 296 N.Y. 79, 84; Stoehr v. Sattler, 18 A.D.2d 683, 236 N.Y.S.2d 16 [2nd Dept.]).

Since neither of the responding respondents attacked petitioner's third cause of petition, their motions to dismiss the entire petition must be denied entirely denied.

POINT III

PETITIONER'S PETITION IS ONE OF COMMUNICATION WITH THE GRAND JURY, NOT AN APPLICATION TO PROSECUTE.

Since the respondents have no legitimate argument against petitioner's right to communicate with the Grand Jury, and the right of the Grand Jury to receive petitioner's information, they have deliberately transmogrified petitioner's petition as one which requested that respondents' prosecute Attorney General Abrams.

Matter of Grand Jury Application (617 F. Supp. 199 [SDNY-1985]), is one of many cases, wherein the distinction between the right of a private citizen to communicate with the grand jury and the absence of the citizen's right to demand a prosecution.

POINT IV

PETITIONER'S THIRD CAUSE OF PETITION MUST BE GRANTED

Attorney General Abrams, in this County, in litigation involving petitioner, has always advanced private interests which were contrary to the legitimate interests of the state sovereign.

Attorney General Abrams, in this Court and in this County, has been defrauding the State of New York, monetarily and otherwise. Such misconduct must be enjoined.

Instructively, Attorney General Abrams has disregarded the prohibition of the Eleventh Amendment of the U.S. Constitution by a similar practice in the Federal Courts. Such practices by Attorney General Abrams are criminal, reprehensible and void (Hans v. Louisiana, 134 U.S. 1 [1890]).

CONCLUSION

THE PETITION SHOULD BE GRANTED, IN ALL RESPECTS

Dated: October 27, 1992

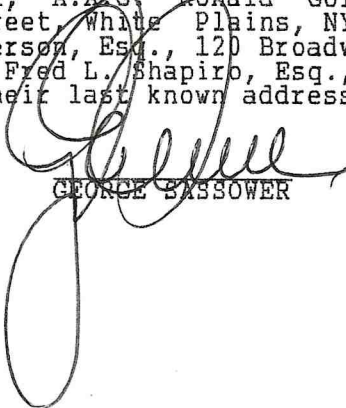
Respectfully submitted,

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16 Lake Street,
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(914) 949-2169

CERTIFICATION OF SERVICE

On October 28, 1992 I served a true copy of this Affidavit -- Memorandum of Law by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to Carl A. Vergari, Att: Joseph M. Latino, Esq., 111 Grove Street, White Plains, NY 10601; A.A.G. Ronald Goldstock, Att: Martin C. Aronchick, Esq., 143 Grand Street, White Plains, NY 10601; Attorney General Robert Abrams, Att: Abigail Peterson, Esq., 120 Broadway, New York, NY 10271; Hon. Angelo J. Ingrassia, Att: Fred L. Shapiro, Esq., 111 Grove Street, White Plains, N.Y. 10601 that being their last known addresses.

Dated: October 28, 1992



GEORGE BASSOWER