

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

In the Matter of Stanley S. Cohen

370 F. Supp. 1166 (S.D.N.Y. 1973) · No. 72 Cr. 941 · Decided December 3, 1973

SUMMARY

The court found Stanley S. Cohen guilty of criminal contempt under 18 U.S.C. § 401(1) for persistent, willful, and obstructive misconduct while representing a defendant at a criminal trial. The opinion addresses the use of Federal Rule of Criminal Procedure 42(b), the required showing of intent and obstruction, and the limits on courtroom advocacy and attorney conduct. The court based its determination on the totality of repeated outbursts, defiance of courtroom orders, disruptive examination, and delays to the trial.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Edward Weinfeld
JURISDICTION	New York
DECIDED	December 3, 1973
DOCKET	72 Cr. 941
DISPOSITION	other
PROCEDURAL POSTURE	The respondent was prosecuted for criminal contempt after the trial judge cited him under Federal Rule of Criminal Procedure 42(b) for misconduct during a criminal trial. The matter was referred to another judge for notice and hearing, and the contempt proceeding was tried without a jury.
STANDARD OF REVIEW	The court independently evaluated the hearing testimony, witness demeanor, and the underlying criminal-trial transcript to determine whether the government proved the elements of criminal contempt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the Second Circuit and elsewhere, subject to controlling appellate and Supreme Court precedent.
PARTIES	United States

TOPICS

criminal procedure

PRACTICE AREAS

criminal contempt

criminal procedure

courtroom conduct

legal ethics

QUESTIONS PRESENTED

1. Whether the totality of defense counsel's conduct during the criminal trial constituted misbehavior within the meaning of 18 U.S.C. § 401(1) and Federal Rule of Criminal Procedure 42.
2. Whether the conduct materially obstructed and delayed the orderly progress of the trial and interfered with the trial judge's discharge of judicial duties.
3. Whether the respondent acted willfully, deliberately, and with intent to obstruct the administration of justice.
4. Whether the contempt proceeding could properly be determined by another judge through a nonjury hearing under Rule 42(b).

HOLDINGS

1. A pattern of repeated, defiant, disrespectful, and obstructive courtroom conduct by an attorney, considered in its totality, constitutes misbehavior punishable as criminal contempt when committed in the presence and hearing of the trial judge.
2. The government proved beyond a reasonable doubt that respondent's misbehavior materially interfered with and delayed the trial, interfered with the trial judge's judicial functions, and was willful, deliberate, and intended to obstruct the administration of justice.
3. An attorney's duty to represent a client vigorously does not authorize conduct that disregards court orders, disrupts the trial, or undermines courtroom decorum and the administration of justice.
4. A criminal contempt proceeding based on conduct occurring during a trial may be prosecuted on notice and hearing before another judge under Federal Rule of Criminal Procedure 42(b), rather than being summarily adjudicated by the trial judge.

KEY QUOTATIONS

"In sum, the evidence compels the conclusion that the government has established beyond a reasonable doubt the essential elements of the contempt charge" (1176-1177)

"Accordingly, respondent is found guilty as charged." (1177)

FACTUAL BACKGROUND

Stanley S. Cohen represented the defendant in a federal criminal trial involving false statements to a firearms dealer and conspiracy charges. Throughout the trial, Cohen repeatedly shouted, argued with witnesses and the court, disregarded instructions to sit down or moderate his voice, made unsupported accusations of judicial bias,

engaged in repetitious and badgering examination, caused recesses and sidebar conferences, arrived late, and used vulgar language. The conduct occurred over thirteen cited incidents and repeatedly delayed the trial and interfered with Judge Bonsal's ability to conduct the proceedings.

PROCEDURAL HISTORY

During the criminal trial of Stuart Cohen, defense counsel Stanley S. Cohen engaged in repeated loud, disrespectful, obstructive, and defiant conduct. Judge Dudley B. Bonsal issued a criminal-contempt citation on March 30, 1973, under 18 U.S.C. § 401(1) and Rule 42(b), and referred it for disposition by a different judge. After a nonjury hearing, Judge Weinfeld found respondent guilty beyond a reasonable doubt.

DISPOSITION

other

CASES CITED

- Mayberry v. Pennsylvania, 400 U.S. 455 (1971)
- Cooke v. United States, 267 U.S. 517 (1925)
- Frank v. United States, 395 U.S. 147 (1969)
- Bloom v. Illinois, 391 U.S. 194 (1968)
- Cheff v. Schnackenberg, 384 U.S. 373 (1966)
- In re Dellinger, 461 F.2d 389 (7th Cir. 1972)
- Offutt v. United States, 348 U.S. 11 (1954)
- Sacher v. United States, 343 U.S. 1 (1952)
- Fisher v. Pace, 336 U.S. 155 (1949)
- Clark v. United States, 289 U.S. 1 (1933)
- Illinois v. Allen, 397 U.S. 337 (1970)
- In re McConnell, 370 U.S. 230 (1962)
- United States v. Seale, 461 F.2d 345 (7th Cir. 1972)
- United States v. Sacher, 182 F.2d 416 (2d Cir. 1950), aff'd, 343 U.S. 1 (1952)
- Hallinan v. United States, 182 F.2d 880 (9th Cir. 1950)
- Ungar v. Sarafite, 376 U.S. 575 (1964)
- United States v. McCarthy, 196 F.2d 616 (7th Cir. 1952)
- United States ex rel. Porter v. Kroger Grocer & Baking Co., 163 F.2d 168 (7th Cir. 1947)
- United States v. Di Re, 332 U.S. 581 (1948)
- United States v. Conforti, 200 F.2d 365 (7th Cir. 1952)
- United States v. Beekman, 155 F.2d 580 (2d Cir. 1946)
- United States v. Harris, 458 F.2d 670 (5th Cir. 1972)
- In re Niblack, 476 F.2d 930 (D.C. Cir. 1973)

- Ex parte American Steel Barrel Co., 230 U.S. 35 (1913)
- United States v. Amick, 439 F.2d 351 (7th Cir. 1971)
- United States v. Anderson, 433 F.2d 856 (8th Cir. 1970)
- Rosen v. Sugarman, 357 F.2d 794 (2d Cir. 1966)
- Martin v. United States, 285 F.2d 150 (10th Cir. 1960)
- United States v. Johnson, 327 U.S. 106 (1946)
- Glasser v. United States, 315 U.S. 60 (1942)

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