

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MONTGOMERY BLAIR SIBLEY,

Plaintiff,

vs.

RICHARD W. ROBERTS AND ANGELA O.
CAESAR,

Defendants.

Case No.:16-cv-572 (RBW)

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND DECLARATORY JUDGMENT**

JURY TRIAL REQUESTED

_____ /

Plaintiff, Montgomery Blair Sibley (“Sibley”), sues Defendants Richard W. Roberts and Angela O. Caesar and states:

INTRODUCTION

1. By this lawsuit, Sibley seeks:
 - (i) Damages against the Defendants Richard W. Roberts and Angela O. Caesar under the First and Fifth Amendments to the United States Constitution as authorized in *Bivens v. Six Unknown Names Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) for the chilling of Sibley’s First and Fifth Amendment rights to access court, petition the government, publish and additionally, as to Defendant Roberts, denial of an impartial tribunal, and
 - (ii) A Declaratory Judgment to settle and afford relief from his uncertainty and insecurity with respect to his right, status, and other legal relations concerning the Verizon Wireless subpoena returns records obtained during his representation of Deborah Jeane Palfrey.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to: (i) 28 U.S.C. §1331, (ii) 28

U.S.C. §1343(a), (iii) 28 USC § 1367, (iv) 28 U.S.C. §2201 & §2202 and (iv) 42 U.S.C. §1983.

3. Venue in this district is proper under 28 U.S.C. §1391(b)(2) as a substantial part of the events or omissions giving rise to the claims herein occurred in the District of Columbia.

PARTIES

4. Plaintiff, Montgomery Blair Sibley, is a Citizen of the United States.

5. Defendant Richard W. Roberts, at all times relevant, was the Chief Judge of the United States District Court for the District of Columbia and is sued solely in his personal capacity.

6. Defendant Angela O. Caesar is the Clerk of Court for the United States District Court for the District of Columbia and is sued solely in her personal capacity.

GENERAL ALLEGATIONS

7. On **October 3, 2006**, a Civil Forfeiture Complaint in *United States of America v. 803 Capitol Street et al* was filed in the United States District Court for the District of Columbia and assigned Case 1:06-cv-01710. This civil suit sought the forfeiture of all of Deborah Jeane Palfrey's assets.

8. On **October 19, 2006**, Sibley filed Notice of appearance as counsel of record for Deborah Jeane Palfrey in *U.S. v. 803 Capitol Street*.

9. On **March 1, 2007**, Deborah Jeane Palfrey was indicted in the United States District Court for the District of Columbia in *U.S. v. Palfrey*, and is assigned Case Number: 07-cr-046.

10. On **September 10, 2007**, Sibley substitutes as counsel of record for Deborah Jeane Palfrey in *U.S. v. Palfrey*.

11. On **October 28, 2007**, Sibley files under seal his *Ex Parte* Application for Issuance of Subpoenas in *U.S. v. Palfrey* to a wide range of private and government entities.

12. On **November 13, 2007**, Judge Gladys Kessler grants Sibley's *Ex Parte* Application for Issuance of Subpoenas in *U.S. v. Palfrey*. Among the subpoenas requested by Sibley were five directed to telephone companies for the account information pertaining to eighty-three (83) escort agencies operating in the District of Columbia.

13. On **December 14, 2007**, one of the *ex parte* subpoenas authorized by Judge Gladys Kessler and served by the U.S. Marshall's Service to which Sibley had attached a list of 5,902 telephone numbers that had turned up in Deborah Jeane Palfrey's telephone records was answered by Verizon Wireless. That subpoena had sought the account holder information for each telephone number that appeared in Verizon Wireless' records on the day the call was made to Deborah Jeane Palfrey's escort service – Pamela Martin & Associates. The *ex parte* subpoena return from Verizon Wireless contained a CD with 815 account holders names, addresses, social security numbers, and home and business telephone numbers. Each name represented a former escort or client who had a cell phone number that had called Pamela Martin & Associates when that cell phone number was owned by that person. Additionally, Verizon Wireless provided to Sibley the account information for some forty (40) escort agency telephone numbers listed in the 2007 Verizon Yellow Pages as operating in the Metro D.C. area.

14. In or about **January 2016**, Sibley comes to believe that information contained in the Verizon Wireless subpoena return directly, and upon crowd-sourced analysis would, contain information relevant to the upcoming Presidential election. Given Sibley's First Amendment right and duty to publish matters of public concern singularly in his possession, Sibley

determined to exercise his right to engage in a free discussion of the importance of the Verizon Wireless records upon public events and public measures, and thus discharge his right and duty to bring the government and any person in authority to the bar of public opinion for just criticism upon their conduct in the exercise of the authority which the people have conferred and are preparing to confer upon them.

15. Accordingly, on **January 13, 2016**, Sibley deposited with Defendant Caesar in her capacity as Clerk of the U.S. District Court for the District of Columbia his “Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records” in *U.S. v Palfrey*.

16. On **February 4, 2016**, Defendant Roberts ordered Defendant Caesar to not file Sibley's Motion to Modify in *U.S. v Palfrey*. A copy of that Order is attached as Exhibit “A”. As a result, Defendant Caesar did not file the Motion to Modify.

17. On **February 7, 2016**, Sibley deposited with Defendant Caesar in her capacity as Clerk of the U.S. District Court for the District of Columbia his: (i) “Motion to Reconsider on an Expedited Basis the Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records” and (ii) “Motion to Disqualify Defendant Roberts” in *U.S. v Palfrey*.

18. On **February 16, 2016**, Defendant Roberts, without addressing the Motion to Disqualify, ordered Defendant Caesar to not file Sibley's Motion to Reconsider and Motion to Disqualify in *U.S. v Palfrey*. A copy of that Order is attached as Exhibit “B”. As a result, Defendant Caesar did not file the Motions to Reconsider and Disqualify.

FIRST CLAIM
DAMAGES FOR DENIAL OF ACCESS TO COURT, PETITION THE GOVERNMENT,
PUBLISH AND A FAIR TRIBUNAL
DEFENDANT ROBERTS

19. Sibley re-alleges paragraphs 1 through 18 and incorporates them herein by reference.

20. A chill of First Amendment-protected conduct constitutes a Constitutional injury-in-fact sufficient to establish irreparable harm.

21. By directing Defendant Caesar to refuse to file Sibley's: (i) Motion to Modify and (ii) Motion to Reconsider, Defendant Roberts wrongfully chilled Sibley in his exercise of his First Amendment rights to access court, petition the government, and publish.

22. By directing Defendant Caesar to not file Sibley's Motion to Disqualify in *U.S. v Palfrey* while ruling on the Motion to Reconsider, Defendant Roberts has violated Sibley's Fifth Amendment right to an impartial tribunal.

23. As such, Defendant Roberts violated Constitutional rights which were clearly established at the time of Defendant Roberts conduct. Additionally, Defendant Roberts orders were entered in retaliation for Sibley exercising his protected speech to the Judicial Conduct Commission.

24. Sibley has thereby been damaged by the actions of Defendant Roberts.

WHEREFORE, under the authority of *Bivens v. Six Unknown Names Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), Sibley demands judgement against Defendant Roberts personally for One Million dollars (\$1,000,000), nominal damages, punitive damages, costs and such other and further relief as the Court deems equitable and just.

SECOND CLAIM
DAMAGES FOR DENIAL OF ACCESS TO COURT, PETITION THE GOVERNMENT
AND PUBLISH
DEFENDANT CAESAR

28. Sibley re-alleges paragraphs 1 through 21 and incorporates them herein by reference.

29. A chill of First Amendment-protected conduct constitutes a Constitutional injury-in-fact sufficient to establish irreparable harm.

30. By refusing to file Sibley's Motion to Modify, Motion to Reconsider and Motion to Disqualify, Defendant Caesar wrongfully chilled Sibley in his exercise of his First Amendment rights to access court, petition the government, and publish.

31. Sibley has been damaged by such chilling by Defendant Caesar.

WHEREFORE, under the authority of *Bivens v. Six Unknown Names Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) Sibley demands judgement against Defendant Caesar personally for One Million dollars (\$1,000,000), nominal damages, punitive damages, costs and such other and further relief as the Court deems equitable and just.

THIRD CLAIM
DECLARATORY RELIEF

32. Plaintiff re-alleges paragraphs 1 through 21 and incorporates them herein by reference.

33. Sibley is presently in possession of the Verizon Wireless Subpoena return information which consists of a Excel Spreadsheet listing some 815 customers/contractors of Pamela Martin & Associates and/or Deborah Jeane Palfrey.

xx. The Docket in *U.S. v. Palfrey*, Case Number: 07-cr-046, is inaccurate and

incomplete. For example, the transcript of the hearing held in that matter on December 14, 2007, evidences a order quashing Sibley's *ex parte* subpoenas, yet the Docket reflects no entry of such an order. Likewise, that same transcript references two motions to quash by the government filed in December 2007, yet neither appear in the Docket.

xx. Accordingly, Sibley is uncertain and insecure with respect to his rights, status, and other legal relations to the Verizon Subpoena return as: (i) there may be un-docketed Orders concerning the Verizon Subpoena return and (ii) in all events, Sibley's First Amendment rights may over-ride such orders.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Declare that the subpoena returns from Verizon Wireless are not subject to any restraining orders issued in *U.S. v. Palfrey* and thus Sibley may do with them as he deems fit;
- C. Retain jurisdiction of this matter to enforce this declaratory degree if subsequently violated by Defendants; and
- D. Enter such other and further relief as the Court deems just and proper.

JURY TRIAL REQUESTED

Sibley requests a jury be empaneled to determine all issues of fact and law raised herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 9, 2016, a true and correct copy of the foregoing was served by U.S. First Class Mail upon: David Moskowitz, Assistant United States Attorney, counsel for Defendants, 2100 Jamieson Avenue, Alexandria, Virginia 22314.

MONTGOMERY BLAIR SIBLEY
402 King Farm Blvd, Suite 125-145
Rockville, Maryland, 20850
202-643-7232
montybsibley@gmail.com



By: _____
Montgomery Blair Sibley

U.S. District Court
District of Columbia (Washington, DC)
CRIMINAL DOCKET FOR CASE #: 1:07-cr-00046-RWR-1

Case title: USA v. PALFREY

Date Filed: 03/01/2007

Magistrate judge case number: 1:06-mj-00441-DAR

Assigned to: Chief Judge Richard W.
Roberts

Defendant (1)

DEBORAH PALFREY

also known as

JEANE PALFREY

also known as

JULIA

also known as

PAMELA MARTIN

represented by **A.J. Kramer**

FEDERAL PUBLIC DEFENDER FOR
THE DISTRICT OF COLUMBIA

625 Indiana Avenue, NW

Suite 550

Washington, DC 20004

(202) 208-7500

Fax: (202) 501-3829

Email: a._j._kramer@fd.org

TERMINATED: 05/21/2007

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Public Defender or

Community Defender Appointment

Montgomery Blair Sibley

MONTGOMERY BLAIR SIBLEY

4000 Massachusetts Avenue, NW

Suite 1518

Washington, DC 20016

(202) 248-3973

Fax: (202) 478-0371

TERMINATED: 01/16/2008

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Retained

Preston Burton

POE & BURTON PLLC

The Executive Building
1030 Fifteenth Street, NW
Suite 580 West
Washington, DC 20005
(202) 583-2500
Fax: (202) 583-0565
Email: pburton@poeburton.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

None

Highest Offense Level (Opening)

None

Terminated Counts

18:1962(c) - RACKETEERING -
PROSTITUTION; Racketeering Influenced
and Corrupt Organization.

(1)

18:1952(a)(3) and 2 - RACKETEERING -
TRANSPORTING IN AID OF; Travel in
Interstate Commerce in Aid of Racketeering
Enterprises and Aiding and Abetting.

(2-4)

18:1956(h) - LAUNDERING OF
MONETARY INSTRUMENTS;
Conspiracy to Launder Monetary
Instruments.

(5)

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Disposition

VERDICT VACATED Pursuant to Order
filed 5/20/08 - Jury Verdict of Guilty
Rendered.

VERDICT VACATED Pursuant to Order
filed 5/20/08 - Jury Verdict of Guilty
Rendered.

VERDICT VACATED Pursuant to Order
filed 5/20/08 - Jury Verdict of Guilty
Rendered.

Disposition

Plaintiff

USA

represented by **Catherine K. Connelly**
U.S. ATTORNEY'S OFFICE FOR THE
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ATTORNEY TO BE NOTICED

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U.S. DEPARTMENT OF JUSTICE
Fraud Section, Criminal Division
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Washington, DC 20530
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ATTORNEY TO BE NOTICED

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Email: wcowden@cowdenllc.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/16/2016	328	"LEAVE TO FILE DENIED per Prior Order" - Cover Letter and Two Attached Motions submitted by Montgomery Blair Sibley as to DEBORAH PALFREY. Signed by Chief Judge Richard W. Roberts on 02/11/16. (Attachments: # 1 Motion to Reconsider on an Expedited Basis the Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas But Never Made Public and Other Records, # 2 Motion and Affidavit to Disqualify Chief Judge Richard W. Roberts) This document is unavailable as the Court denied its filing. (mlp) (Entered: 02/16/2016)

02/04/2016	326	LEAVE TO FILE DENIED-Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas But Never Made Public and Other Records, by Montgomery Blair Sibley, as to DEBORAH PALFREY Pursuant to Order on 2/4/2016 Signed by Chief Judge Richard W. Roberts on 2/3/2016. This document is unavailable as the Court denied its filing. (hsj) Modified on 2/4/2016 (mlp) (Entered: 02/04/2016)
02/04/2016	325	ORDER as to DEBORAH PALFREY Denying the Motion to Modify Restraining Order to Permit the Release of Telephone Records. The Clerk's Office Shall Return the Motion to Montgomery Blair Sibley Along With A Copy of This Order. Signed by Chief Judge Richard W. Roberts on 2/3/2014. (hsj) Modified on 2/4/2016 (mlp) (Entered: 02/04/2016)
01/26/2016		ENTERED IN ERROR....PROBATION MINUTE ORDER: Concurring with the recommendation of the Probation Office as to DEBORAH PALFREY to transfer jurisdiction of the criminal case to the District of New Jersey. Signed by Chief Judge Richard W. Roberts on 1/26/15. (lcrwr1) Modified on 1/26/2016 (lcrwr1). (Docketed in the wrong case. Modified on 1/27/2016. zmlp) (Entered: 01/26/2016)
01/13/2016		Case as to DEBORAH PALFREY directly reassigned to Chief Judge Richard W. Roberts. Judge James Robertson is retired and no longer assigned to the case. (ztnr) (Entered: 01/13/2016)
02/04/2009	324	<p>TRANSCRIPT OF PROCEEDINGS in case as to DEBORAH PALFREY before Judge James Robertson of proceedings held on 04/07/08; Page Numbers: 1-46. Date of Issuance:2/4/09. Court Reporter/Transcriber Catalina Kerr, Telephone number 202.354.3258, Court Reporter Email Address : catykerr@msn.com.</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at ww.dcd.uscourts.gov.</p> <p>Redaction Request due 2/25/2009. Redacted Transcript Deadline set for 3/9/2009. Release of Transcript Restriction set for 5/5/2009.(Kerr, Catalina) (Entered: 02/04/2009)</p>
07/31/2008	323	TRANSCRIPT OF PROCEEDINGS in case as to DEBORAH PALFREY before Judge James Robertson of proceedings held on March 19, 2008; Page Numbers: 1 - 33. Date of Issuance:July 31, 2008. Court Reporter/Transcriber Rebecca Stonestreet, Telephone number 202-354-3249, Court Reporter Email Address :

Leave to file DENIED

per prior Order

Authenticity

Ch. U.S.D.S.

2-11-16

MONTGOMERY BLAIR SIBLEY

February 8, 2016

Via USPS Delivery Confirmation
Clerk's Office
United States Courthouse
333 Constitution Avenue, NW
Washington, D.C. 20001
202-354-3173

Re: *U.S. v. Palfrey*
Case No.: 07-046-JR

Greetings:

Please find enclosed an original and a copy for Chambers of: (i) Motion to Reconsider on and Expedited Basis the Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records and (ii) Motion and Affidavit to Disqualify Chief Judge Richard W. Roberts.

Respectfully, I trust you will not "conceal" these motions as was my "Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records" which was received on January 11, 2016, but not recorded on the docket in the above matter.

Indeed, I maintain that to Fail to promptly file my enclosed motions violates your oath and legal obligations. As you know, your oath pursuant to 28 USC §951 obligates you "truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court. . ." To fail to fully "record" the proceedings in the above matter which includes my motions, I submit violates that Oath and opens the Clerk to civil liability which you can be sure I will expeditiously pursue.

More importantly, Fed Rules Crim Proc R 49(d) "Filing" states in pertinent part: "A paper must be filed in a manner provided for in a civil action." Fed Rules Civ Proc R 79(a)(2) states in pertinent part: "Items to be Entered. The following items must be marked with the file number and entered chronologically in the docket: (A) papers filed with the

MontyBSibley@gmail.com
202-643-7232

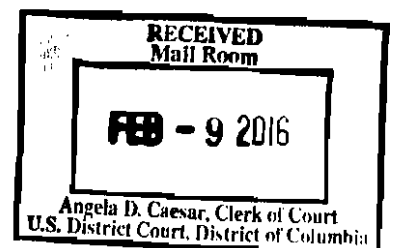
402 King Farm Blvd, Suite 125/145
Rockville, Maryland 20850

RECEIVED

FEB 16 2016

Clark, U.S. District & Bankruptcy
Courts for the District of Columbia

Exhibit "B"



Clerk's Office – United States District Court
February 8, 2016
Page 2

clerk; . . .".

Hence, absent Court order, there is no authority to delay filing my Motions. Pointedly, it is a felony under 18 USC § 2071(b) to: "willfully and unlawfully conceal [or] obliterate" any "paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States". For you to "conceal" my motions is, my estimation; a felony.

Accordingly, I look forward to promptly seeing the enclosed motions docketed on PACER upon receipt by your office.

yours,

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal stroke extending to the right.