

No.: \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**In re: MONTGOMERY BLAIR SIBLEY**

**Applicant.**

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**APPLICATION FOR A STAY OF RESTRAINING ORDER**

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**TO THE HONORABLE JOHN G. ROBERTS, JR.  
CHIEF JUSTICE OF THE SUPREME COURT  
AND CIRCUIT JUSTICE FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Applicant Montgomery Blair Sibley (“Sibley”), pursuant to Rules 22 and 23 of this Court and 28 U.S.C. §§ 1651(a) and 2101(f), respectfully requests a stay of the May 10, 2007, Restraining Order prohibiting his First Amendment political speech. A stay from this Honorable Court is necessary as Sibley’s fundamental and First Amendment rights are being trampled on by the District and Circuit Courts causing immediate and irreparable harm to Sibley by:

- (i) The refusal of the District Court Clerk to file Sibley's Motions for Modification of the Restraining Order;
- (ii) The order by a curiously-immediately-thereafter-resigning Chief District Court Judge Roberts ordering the Clerk not to file Sibley's Motions for Modification of Restraining Order; and
- (iii) The refusal of the Circuit Court for the District of Columbia to rule upon Sibley's Petition for Mandamus and related Petitions for over two weeks.

#### **FACTUAL BACKGROUND**

- October 3, 2006 Civil Forfeiture Complaint in *United States of America v. 803 Capitol Street et al* filed and assigned Case 1:06-cv-01710-RMC. This civil suit sought the forfeiture of all of Deborah Jeane Palfrey's assets for operating an escort service named Pamela Martin & Associates.
- October 19, 2006 Sibley files Notice of appearance as counsel for Deborah Jeane Palfrey in *US v. 803 Capitol Street*.
- March 1, 2007 Deborah Jeane Palfrey indicted in *US v. Palfrey*, Case Number: 07-cr-046.
- May 10, 2007 Judge Gladys Kessler in *US v. Palfrey* issues a Restraining Order which states in pertinent part: "In order to insure that the Defendant and her counsel in her civil cases have clear notice of what action is prohibited, the Court is ordering both the Defendant and her agents and attorneys, including counsel in her civil cases, **Montgomery Blair Sibley**, to not release, further distribute, or otherwise provide to any person or organization the phone records of Pamela Martin & Associates and/or the phone records of

Deborah Jeane Palfrey.” A copy of the Order is attached as Exhibit “A”.

- Sept. 10, 2007 Sibley substitutes as counsel of record for Deborah Jeane Palfrey in *US v. Palfrey*.
- October 28, 2007 Sibley files under seal his *Ex Parte* Application for Issuance of Subpoenas in *US v. Palfrey* to a wide range of government and private entities.
- Nov. 13, 2007 Judge Gladys Kessler grants Sibley’s *Ex Parte* Application for Issuance of Subpoenas in *US v. Palfrey*. Among the subpoenas requested by Sibley were five (5) directed to telephone companies for the account information pertaining to eighty-three (83) escort agencies operating in the District of Columbia.
- Dec. 11, 2007 The U.S. Marshal’s Service effects service of the *Ex Parte* subpoenas.
- Dec. 14, 2007 Verizon Wireless responds to the *Ex Parte* subpoena to which Sibley had attached a list of 5,902 telephone numbers that had turned up in Deborah Jeane Palfrey’s telephone records. 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.
- May 1, 2008 Deborah Jeane Palfrey found dead by her mother, Blanche Palfrey in Tarpon Springs, Florida.
- January 2016 Sibley comes to believe that information contained in the sealed-from-the-public Verizon Wireless records 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, thus discharging 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.

- Jan. 13, 2016 Sibley deposits with the 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*.
- Feb. 4, 2016 Chief Judge Roberts orders the Clerk to not file Sibley’s Motion to Modify in *U.S. v Palfrey*. The Clerk returns to Sibley the Motion to Modify leaving no record of what Sibley sought to file.
- Feb. 7, 2016 Sibley deposited with the Clerk 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 Chief Judge Roberts” in *U.S. v Palfrey*.
- Feb. 16, 2016 Chief Judge Roberts, without addressing the Motion to Disqualify, orders the Clerk to not file Sibley’s Motion to Reconsider and Motion to Disqualify in *U.S. v Palfrey*. Again, the Clerk returns to Sibley the Motion to Reconsider and Motion to Disqualify leaving no record of what Sibley sought to file.
- March 9, 2016 Sibley files with the Circuit Court for the District of Columbia his: *Petition for Writs of Mandamus, Prohibition, and Procedendum Ad Justitium to the United States District Court*

*for the District of Columbia And Request for Expedited Briefing and Oral Argument.* The Petition sought (i) a writ of mandamus directing the Clerk to file Sibley's Motion to Modify Restraining Order, (ii) a Motion to Expedite and (iii) other relief. The case is assigned Docket No: 16-3007. To date – sixteen (16) days later – the Circuit Court has refused to rule upon that Petition.

March 16, 2016 Chief Judge Roberts resigns his position as a U.S. District Court Judge

### LEGAL ARGUMENT

The relief sought herein is not available from any other court or judge as Sibley has sought such relief from both the District Court and Circuit Court and has been denied even the right to file his Motion to Modify the Restraining Order.

Four points thus now compel this Court to immediately release Sibley from the May 10, 2007, Restraining Order which bars Sibley from releasing the Verizon Wireless Subpoena response:

**FIRST: SIBLEY FIRST AMENDMENT RIGHTS ARE BEING IMPROPERLY RESTRAINED**

In *Wood v. Georgia*, 370 U.S. 375, 391-392 (1962), this Court stated:

[T]he purpose of the First Amendment includes the need . . . to protect parties in the free publication of matters of public concern, to secure their right to a free discussion of public events and public measures, and to enable every citizen at any time to bring the government and any person in authority to the bar of public opinion by any just criticism upon their conduct in the exercise of the

authority which the people have conferred upon them.

Here, Sibley is plainly being prohibited by Court Order from making “just criticism” upon the conduct of public officials. Accordingly, the Restraining Order must be stayed so that Sibley can – without fear of being held in contempt of court – release and records – and make “just criticism”.upon – the Verizon Wireless Subpoena return.

**SECOND: TIME IS OF THE ESSENCE**

Given the significance of (i) the upcoming political primaries and caucuses, (ii) the looming Republic and Democratic Conventions – July 18 and July 25 respectively – and (iii) the potential impact of the presently-sealed-from-the-public record Sibley seeks to release upon those electoral deliberations, expedited resolution of this Application is incumbent upon this Court. *Accord: Walters v. Nat'l Ass'n of Radiation*, 473 U.S. 305, 351 (1985)(“This Court has not hesitated to exercise this power of swift intervention in cases of extraordinary constitutional moment and in cases demanding prompt resolution for other reasons.”); *United States v. Nixon*, 418 U.S. 683, 686-687(1974)(“We granted both the United States' petition for certiorari before judgment and also the President's cross-petition for certiorari because of the public importance of the issues presented and the need for their prompt resolution”).

**THIRD: SIBLEY’S ASSERTED RIGHT IS NOT TRIVIAL**

It is beyond cavil that: “voting is of the most fundamental significance under our constitutional structure.” *Illinois Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979). Here, by this Court allowing the pocket judicial veto of refusing filing of Sibley’s Motion to Modify the Restraining Order to keep the relevant Verizon Wireless Subpoena return information sealed from public view by denying Sibley a hearing, deprives the People of the information they may deem material to the exercise of their electoral franchise.

**FOURTH: THE INTEGRITY OF THE JUDICIAL SYSTEM IS COMPROMISED BY DELAY**

The delay by this Court in resolution of this Application – in hindsight<sup>1</sup> – will appear to many to intentionally favor one Presidential candidate over others by protecting that candidate from the release of the Verizon Wireless Subpoena return records Sibley maintains are relevant to this Presidential election cycle. Such a result will further erode the faith of the People in a fair and impartial judiciary.

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<sup>1</sup> To be clear, if Sibley is not allowed to file his Motion to Modify the Restraining Order and thereafter does not promptly receive a fair and impartial hearing on that Motion, he will justifiably consider the Restraining Order void as a result of being denied such a hearing by the District Court, Circuit Court and now this Court. In that event, Sibley will simply release publicly the Verizon Wireless Subpoena Return records containing the names and addresses of eight hundred fifteen (815) Washington D.C. clients of the D.C. Madam’s escort service.

**CONCLUSION**

WHEREFORE, Sibley respectfully requests that this Court stay the May 10, 2007, Restraining Order prohibiting Sibley's First Amendment political speech.

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

A handwritten signature in black ink, appearing to read "M. Blair Sibley", written in a cursive style.

By: \_\_\_\_\_  
Montgomery Blair Sibley



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

<b>UNITED STATES OF AMERICA,</b>	:	
	:	
v.	:	<b>Criminal No. 07-46 (GK)</b>
	:	
<b>DEBORAH JEANE PALFREY,</b>	:	
	:	
<b>Defendant.</b>	:	

**ORDER**

On March 19, 2007, the Government filed an *Ex Parte* Application for a Temporary Restraining Order and a Protective Order, and Request for a Hearing. On March 22, 2007, the Court granted the original Application and issued an Order ("March 22, 2007 Order") after determining that there were "reasonable grounds to believe that harassment of an identified witness exists or that such an order is necessary to prevent such harassment." March 22, 2007 Order at 1. The Court ordered that Defendant "and her agents and attorneys shall not act, or cause any act to be done, to further the civil action . . . and shall not engage in any other similar acts or actions against Government witnesses, agents and investigators." *Id.* On May 9, 2007, the Government filed an *ex parte* Supplement<sup>1</sup> to its Application ("Supplement") in order to clarify and extend its original request.

On May 6, 2007, approximately six weeks after issuance of the original March 22, 2007

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<sup>1</sup> The Government also filed a Motion to Seal this Supplement. Because the Court is clarifying its March 22, 2007 Order in light of evolving developments, there is no need to seal either the Government's Supplement or this Order. This Order will be before the Court at the May 21, 2007 Status Conference.

Temporary Restraining Order, Defendant's lawyer in her civil cases<sup>2</sup> sent a letter to Attorney General "Alberto Gonzalez [sic]" and emailed a copy to the Assistant United States Attorneys assigned to this case. In that letter, Defendant's civil counsel gave the Attorney General of the United States an ultimatum; he "insist[ed]" that the Attorney General undertake the immediate interview and appointment of a Special Counsel, and that he identify the "career Justice Department prosecutor" mentioned in a recent ABC News report as well as "what, if any, role that individual played in the investigation and prosecution of [Defendant]." Supplement Ex. A at 2. The letter-writer threatens that, if the Attorney General does not comply and notify Defendant's civil counsel of his response within five days after the date of the letter, by May 11, 2007, the prior "limited distribution" of the telephone records from Defendant's business to ABC News and the Washington Independent Writers Association "will change." *Id.* at 2-3. Specifically, the letter-writer states that "the reporting will be much more extensive as all of the years of the escort service telephone records will be released and . . . the 'standards and practices' committees of the recipient organizations, journalists and internet bloggers who will receive these records have decidedly different professional standards than that of ABC News." *Id.* at 2.

Although Defendant's lawyer in her civil cases does not spell out exactly what steps he and his client will take if the Attorney General of the United States does not respond to his ultimatum within the prescribed five-day time frame, the clear inference to be drawn is that there will be a wholesale release of all telephone records possessed by Ms. Palfrey.

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<sup>2</sup> Counsel for Defendant in her civil cases has conceded, presumably accurately, that he "cannot appear in the Criminal Case as he does not possess the requisite expertise to make a LcrR 44.5(b) certification." Petition for Writs of Mandamus, Proceadendum Ad Justicium, Certiorari and Prohibition at 10, *In Re Deborah Jeane Palfrey*, No. 07-5107 (D.C. Cir. Apr. 9, 2007).

Because of the ultimatum contained in the letter sent to the Attorney General, the Court agrees with the Government that Defendant's civil counsel is threatening action that would violate this Court's March 22, 2007 Order. In order to ensure that the Defendant and her counsel in her civil cases have clear notice of what action is prohibited, the Court is ordering both the Defendant and her agents and attorneys, including counsel in her civil cases, Montgomery Blair Sibley, to not release, further distribute, or otherwise provide to any person or organization the phone records of Pamela Martin & Associates and/or the phone records of Deborah Jeane Palfrey.

Because this matter was decided *ex parte*, it may be revisited at the Scheduling Conference scheduled for May 21, 2007, where Ms. Palfrey will be represented by recently appointed, highly experienced counsel who has actively prosecuted and defended numerous criminal cases.

**WHEREFORE**, it is this 10th day of May, 2007, hereby

**ORDERED**, that Defendant and her agents and attorneys, including her civil counsel, Montgomery Blair Sibley, shall not release, further distribute, or otherwise provide to any person or organization the phone records of Pamela Martin & Associates and/or the phone records of Deborah Jeane Palfrey.

  
Gladys Kessler  
United States District Judge

**Copies via ECF to all counsel of record**

and by fax to:

Montgomery Blair Sibley  
(202) 478-0371