

MONTGOMERY BLAIR SIBLEY

February 8, 2016

Via USPS Delivery Confirmation #:9405511899563334013692

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

Clerk's Office – United States District Court
February 8, 2016
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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 "Monty B. Sibley". The signature is fluid and cursive, with the first name "Monty" being the most prominent.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Criminal Case Number: 07-cr-046-RWR

PLAINTIFF,

**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**

VS.

DEBORAH JEANE PALFREY,

DEFENDANT.

_____ /

Montgomery Blair Sibley (“Sibley”) moves this Court to Reconsider its February 4, 2016, Order Denying Sibley’s Motion to Modifying the Restraining Orders in this matter which have, since 2007, restrained him from releasing certain information he obtained in this matter pursuant to a subpoena issued in this matter but heretofore never publicly revealed and other records, and for grounds in support thereof states as follows:

I. BACKGROUND

- | | |
|------------------|---|
| October 3, 2006 | Civil Forfeiture Complaint in <i>United States of America v. 803 Capitol Street et al</i> filed and assigned Case 1:06-cv-01710-RMC. This civil suit sought the forfeiture of all of Deborah Jeane Palfrey’s assets. |
| October 19, 2006 | Sibley files Notice of appearance for Deborah Jeane Palfrey in <i>US v. 803 Capitol Street</i> . Additionally, Sibley is retained by Blanche Palfrey, mother of Deborah Jeane Palfrey as the Government is threatening to seize Blanche Palfrey's assets as well. |
| March 1, 2007 | Deborah Jeane Palfrey indicted in <i>US v. Palfrey</i> , Case Number: 07-cr-046. |
| May 6, 2007 | Sibley, in <i>US v. 803 Capitol Street</i> , writes Attorney General Alberto Gonzalez requesting the appointment of a Special Counsel in <i>US v. 803 Capitol Street</i> as Brian Ross of ABC News stated that: “The phone records trace back to thousands of men, including a career Justice Department prosecutor. ” Sibley further indicates that he will release the remainder of the telephone records of Deborah Jeane |

Palfrey's Escort service if negotiations do not commence to resolve the pending cases. A copy of that letter is attached hereto as Exhibit "A".

- May 10, 2007 Judge Gladys Kessler in *US v. Palfrey* issues a Temporary 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 "B".
- May 21, 2007 Preston Burton files Notice of Appearance for Deborah Jeane Palfrey in *US v. Palfrey*
- September 10, 2007 Sibley substitutes for Preston Burton 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 entities. The basis for the subpoenas was Sibley's desire to establish the defense to the indictment of Deborah Jeane Palfrey that: (i) she was being selectively prosecuted and (ii) that there existed a segment of the escort industry that does not violate the law. Additionally, Sibley raises the defense that at all times relevant to the Indictment, Prostitution was legal in the District of Columbia.
- November 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: (i) five directed to telephone companies for the account information pertaining to eighty-three (83) escort agencies operating in the District of Columbia. (ii) the Federal Bureau of Investigation, (iii) the Department of State – Diplomatic Security Service, (iv) the Internal Revenue Service Criminal Investigation Division, (v) the United States Postal Inspection Service, (vi) the Office of the Director of National Intelligence, the Central Intelligence Agency, (vii) the Defense Intelligence Agency, (viii) the National Security Agency, (ix) the Department of State - Bureau of Intelligence and Research, (x) sixteen local D.C. law enforcement agencies and (xi) the White House.

- November 28, 2007 For reasons never made public, *US v. Palfrey* is reassigned to Judge James Robertson from Judge Gladys Kessler.
- December 11, 2007 The U.S. Marshall's Service affects service of the *Ex Parte*, subpoenas.
- December 13, 2007 The Government in *US v. Palfrey* files its Omnibus Motion to Quash Subpoenas Issued Pursuant to Defendant's *Ex Parte* Application and Motion for Reconsideration of the Court's November 13, 2007 Memorandum Opinion Granting in Part Sibley's Motion for Issuance of *Ex Parte* Subpoenas.
- December 14, 2007 Judge Robertson holds a 10:00 a.m. status hearing. At that hearing, the following exchanges took place:

THE COURT: Now, the next part of this the next thing I want to turn to is the subpoenas duces tecum that the defense is issuing. And these are being issued *ex parte*, and the defense is entitled to some protection of its own about who it's subpoenaing, but Mr. Sibley, **I have to tell you that I have received inquiries from two or three of the persons and institutions that you've served**, and then there is one motion to quash that I think everybody is aware of – two motions to quash. Well, the so called omnibus motion I have not received. When did you file that? (Emphasis added).

MR. SIBLEY: Your Honor, I would ask the privilege of approaching the Court and answering that question *ex parte*.

THE COURT: I'll hear you at the bench.

(Whereupon, an *EX PARTE* BENCH CONFERENCE was held on the record, transcribed under separate cover.)

(END BENCH CONFERENCE.)

THE COURT: The government's omnibus motion to quash was filed yesterday; there is another motion to quash that was filed a day or two ago. Mr. Sibley points out, quite correctly, that he hasn't really had an opportunity to respond to them yet. I think the right thing to do is to pass that issue. But, but a number of the subpoenas that have been issued have been issued returnable tomorrow.

MR. SIBLEY: Correct, Your Honor. It was an odd date, but. . .

THE COURT: I don't know what kind of an order you would call a temporary quashal order, but I'm quashing all of the subpoenas until we get an opportunity to decide on the government's motion to quash. So it's a quash without prejudice. The subpoenas remain in effect, but the return date is off. (Emphasis added).

MS. CONNELLY: Your Honor, if I could just seek clarification on one issue, which in fact is in our under seal motion, although this subpoena was not pursuant to the Court's November 13th under seal order. . . . **The government's omnibus motion addresses that White House subpoena, but I would like to be able to let them know, is that also being temporarily quashed at this point?** (Emphasis added).

THE COURT: Yes, everything is temporarily quashed until I look at your omnibus motion. . . .

December 14, 2007

While Sibley was at court with Judge Robertson, one of the *ex parte* subpoenas authorized by Judge Gladys Kessler had been answered by Verizon Wireless, to which Sibley had attached a list of 5,902 telephone numbers that had turned up in Deborah Jeane Palfrey's telephone records. The 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. Stated another way, Sibley now had 815 new leads who had not, heretofore, been identified through the telephone records by anyone. As such, Sibley had the ability – and the demonstrated intention – to bring a parade of former clients, companies and government agencies in front of the jury to establish either that: (a) no sex was had, or (b) that if sex for money was involved, then “Why Just Jeane?” in both *US v. Palfrey* and *US v. 803 Capitol Street*.

January 22, 2008

Preston Burton substitutes for Sibley and files his Second Notice of Appearance for Deborah Jeane Palfrey in *US v. Palfrey*. Sibley turns over to Preston Burton a copy of his entire file in *US v. Palfrey* but, pursuant to direction from Deborah Jeane Palfrey, maintains the

original file for use in *US v. 803 Capitol Street* in which he is still counsel of record and to assist Preston Burton in *US v. 803 Capitol Street*.

- March 7, 2008 Without being allowed discovery, a hearing or an impartial tribunal, Sibley is suspended for three years from the practice of law by the Florida Supreme Court for allegedly failing to pay child support in 2002.
- March - April 2008 Jury Trial of Deborah Jeane Palfrey in *US v. Palfrey*. Preston Burton raises as her sole defense: “She's like a taxi dispatcher. You called her up, she sent the taxi there, and what happened after that was between the driver and the customer. That's what she did.” Preston Burton does not call a single witness for the defense of Deborah Jeane Palfrey.
- April 15, 2008 Jury Verdict of Guilty rendered as to Deborah Jeane Palfrey in *US v. Palfrey*.
- April 23, 2008 Deborah Jeane Palfrey emails Preston Burton and Montgomery Blair Sibley stating: “Preston: considering the fact that I have just been railroaded – I welcome any and all help from anyone, at this juncture. . . I mean no disrespect to you, but my mother and I are down here in Florida devastated beyond anything which I believe you can comprehend. The injustice here is akin to a flat-out lynching. If anything, [Judge] Robertson should have dismissed the criminal indictment (permanently) and simultaneously done the same for the civil case, in light of Couvillion's behavior. **Had it not been for Blair's “papering” efforts several months ago**, we never would have discovered Couvillon’s criminal action. No doubt, the Alexandria discovery was a fluke. I only can imagine how much other improper and downright illegal acts she undertook in the course of the investigation to ‘get me’. -Jeane”.
- April 30, 2008 Deborah Jeane Palfrey receives from Preston Burton a packet of documents that she was required to fill out and return as part of the pre-sentence investigation that is conducted by the probation department. The papers had questions about where Deborah Jeane Palfrey would prefer to be incarcerated. She calls Sibley and requests that whatever happens, he see that her full story is told and justice be done.
- May 1, 2008 Deborah Jeane Palfrey found dead by her mother, Blanche Palfrey in Tarpon Springs, Florida.

- May 2, 2008 In *US v. Palfrey*, Preston Burton, without prior notice to Sibley, who was still the counsel of record for Deborah Jeane Palfrey in *US v. 803 Capitol Street*, asks Judge Robertson in *US v. Palfrey*, for an order: “that [Preston Burton] be authorized to contact the [Deborah Jeane Palfrey]’s family and representatives of her Estate in connection with matters related to the criminal and civil forfeiture proceedings before the Court.” With uncharacteristic haste, Judge Robertson entered his order granting Preston Burton’s request.
- May 4, 2008 At the funeral of Deborah Jeane Palfrey in Florida, Preston Burton, presenting the May 2, 2008, issued order in *US v. Palfrey* induces Blanche Palfrey to have Preston Burton represent Deborah Jeane Palfrey’s estate in the *US v. 803 Capitol Street*.
- May 5, 2008 Unaware of the events of May 2nd and May 4th, Sibley files a motion to substitute his client Blanche Palfrey for Deborah Jeane Palfrey in *US v. 803 Capitol Street*.
- May 21, 2008 Without notice or an opportunity to be heard, Sibley is Temporarily Suspended from the D.C. Bar thus preventing him from further appearance as counsel of record in *US v. 803 Capitol Street*.
- June 9, 2008 Blanche Palfrey, as the presumptive Executor for the Estate of Deborah Jeane Palfrey, moves the Court to substitute Preston Burton, for Montgomery Blair Sibley as counsel of record in *US v. 803 Capitol Street*.
- November 18, 2009 Stipulation of Settlement by Blanche Palfrey and United States of America Approved by Court in *US v. 803 Capitol Street*

II. SIBLEY’S RETENTION OF THE RECORD IN *US v. 803 CAPITOL STREET* AND *US v. PALFREY* IS AUTHORIZED

Pursuant to D.C. Ethics Opinion 283 – Disposition of Closed Client Files: “A lawyer who is entrusted with the property of a current or former client has certain ethical obligations with respect to its disposal: . . . (2) other client property may, based on the former client’s direction, be delivered to the former client, stored or destroyed.” Assuming *arguendo* that the returns of subpoenaed records are “client property”, Sibley has done no more than he was explicitly directed by Deborah

Jeane Palfrey. Accordingly, the Court's February 4, 2016. Order denying to Sibley the right to file his "Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records" was premised on a misunderstanding by the Court of the full record in this matter and thus is due to be reconsidered.

III. SIBLEY'S FIRST AMENDMENT RIGHTS AND THE PUBLIC INTEREST DEMAND MODIFICATION OF THE RESTRAINING ORDERS

Sibley is scheduled to teach a course on Privacy Law at Northern Virginia Community College starting on February 17, 2016. As part of that course, Sibley will be discussing the privacy implications arising out of the instant case including, the issues arising from the perspective of the customers of Deborah Jeane Palfrey's escort service, the private and public agencies that received subpoenas and the national security issues involved. Accordingly, utilization of the Verizon Wireless subpoena response would be valuable as a teaching aid in this regard as it highlights the lack of privacy in commercial sex behavior and the proof of Sibley's proposition that we do not have a *justice system* but *just-a-system* geared to protecting the empowered from the claims of the disempowered.

Noteworthy is that: (i) since 2007 there has not been a major escort service prosecution by the federal government in the District of Columbia yet (ii) brazenly advertising in the 2016 Yellow Pages are twenty-two (22) escort services which have been operating with impunity since the 2007 prosecution of Deborah Jeane Palfrey. A copy of the 2016 Washington D.C. Yellow Pages is attached as Exhibit "C".

This apparent disparate treatment of the Deborah Jeane Palfrey's escort service raises a public policy rationale for the release of such information regarding public and or quasi-public actors

as Sibley believes that within that presently sealed-from-the-public record contains the answer to the question: Was Defendant Deborah Jeane Palfrey's prosecution politically-motivated and is this Court part-and-parcel of keeping that knowledge from the public? As John F. Kennedy famously said: "The very word 'secrecy' is repugnant in a free and open society; and we are as a people inherently and historically opposed to secret societies, to secret oaths, and to secret proceedings."

Moreover, Sibley has reason to believe that information contained in the sealed-from-the-public record in this matter may, directly or upon crowd-sourced analysis, contain information relevant to the upcoming Presidential election.

IV. THIS COURT MUST EXPEDITE RESOLUTION OF THIS MOTION AS TIME IS OF THE ESSENCE

Hence, given the significance of that election and the potential impact of the sealed-from-the-public record, expedited resolution of this motion is incumbent upon this Court. *Accord: Wood v. Georgia*, 370 U.S. 375, 391-392 (1962)("[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."); *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”).

V. CONCLUSION

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 keeping the relevant Verizon Wireless information sealed from public view – particularly during this election cycle – deprives: (i) Sibley of his First Amendment Right of Publication and (ii) the People of the information they may deem material to the exercise of the People’s electoral franchise by continuing what is in essence a “secret proceeding” for no legitimate public purpose.

WHEREFORE, Sibley respectfully requests an order modifying the Restraining Orders to permit the use and/or public release by him of: (i) the records received from Verizon Wireless and (ii) upon a showing of good cause and after judicial review, such other documents contained in the materials seized by the government and/or received pursuant to other subpoenas issued in this matter and/or *US v. 803 Capitol Street*.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served by U.S. Priority Delivery Confirmation #9405511899563334018284 mail upon: Channing D. Phillips, United States Attorney for the District of Columbia, 555 4th St., N.W., Washington, D.C. 20530 this February 8, 2016.

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



By: _____
Montgomery Blair Sibley

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

DEBORAH JEANE PALFREY,

DEFENDANT.

Criminal Case Number: 07-cr-046-RWR

**ORDER ON 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**

_____/

THIS MATTER, having come on to be heard on Montgomery Blair Sibley's 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 the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED, that the motion is granted. Sibley may release as he deems fit any and all records in his possession related to this matter.

DONE AND ORDERED in Chambers, Washington, D.C. this ____ day of _____,
2016.

By: _____
United States District Judge

CENTER FOR FORFEITURE LAW

1629 K Street, Suite 300
Washington, D.C. 20006

MONTGOMERY BLAIR SIBLEY
202-508-3699
202-478-0371 (E-FAX)
SIBLEY@CIVILFORFEITURE.COM

ADMITTED TO PRACTICE:
FLORIDA
NEW YORK
DISTRICT OF COLUMBIA

May 6, 2007

Via FedEx #8617-4631-8049
and email c/o AUSAs Daniel Pearce Butler, Catherine K. Connelly, William
Rakestraw Cowden

Alberto Gonzalez, Attorney General
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: *Second Request for Appointment of Special Counsel*

Greetings:

I represent Deborah Jeanne Palfrey, a/k/a the "D.C. Madam" who (i) has been indicted by your office in a matter assigned Criminal Case Number: 07-046-GK and (ii) has had all her assets seized in a civil forfeiture matter in Case No.: 1:06-CV-01710-GK.

On March 1, 2007, FedEx delivered (Tracking #8581-1680-3504) to your office my request pursuant to 28 C.F.R. §600.1 for the appointment of a Special Counsel for the above matters. In that letter I indicated that "given the broad spectrum of customers [of the escort service] it is a mathematical certainty that in time [Justice] Department employees will be identified as customers of the service and subpoenaed in either the civil matter, the criminal matter, or both." To date, I have yet to receive a response to that letter.

In the interim, approximately 20% of the telephone records of the escort service were turned over to Brian Ross of *ABC News*. As you are doubtlessly aware, last Friday, Brian Ross, in the publically available transcript of his *20/20* report, is quoted as stating: "The phone records trace back to thousands of men, *including a career Justice Department prosecutor.*"

Moreover, consider the math: If 20% of the telephone records produced one "*career Justice Department prosecutor*", then 100% of the telephone records will very likely produce at least another four (4) "*career Justice Department prosecutors.*" Moreover, this discounts the possibility that if one *Akin/Gump* law firm employee was an escort for the service, it is as likely that your "law firm" has similarly situated employees who also worked as escorts for the service. Do not assume

Exhibit "A"

Alberto Gonzalez, Attorney General
Office of the Attorney General
May 6, 2007
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that the records seized from my client identified all of the women who worked for the service at one time or another.

Finally, please note that Brian Ross also reported that: “[t]here are NASA officials; at least five military officers, including the commander of an Air Force intelligence squadron” and “[t]he phone numbers also track back to Georgetown mansions and prominent CEOs, officials at the World Bank and the International Monetary Fund and **lobbyists both Republican and Democratic.**”

Given that the person who ordered an escort was not necessarily the person who received the services provided by the escort, the highlighted phrase ought to make you ponder the misogynist wisdom of prosecuting my client for a victimless crime when significant **men** of power are walking on crimes of much greater significance to the Republic. Moreover, given that pre-9/11, an appreciable part of the clientele of the service were Arabs, national security interests may also be at issue: *Profumo/Ivanov »Tobias?*

As of present, (i) *ABC News* received copies of 75% of the 2002-2006 telephone records of the escort service and (ii) confirming the recent *Boston Globe* report – a group of veteran investigative journalists associated with the *Washington Independent Writers Association* are researching the 1997-1999 telephone records of the escort service.

This limited distribution will change in seven (7) days and when it does: (i) the reporting will be much more extensive as all of the years of the escort service telephone records will be released and (ii) 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*.

Thus, I must insist that you take the following steps:

1. To restore public confidence in your office, demand that Brian Ross identify to you that “*career Justice Department prosecutor*” and then you publically detail, what, if any, role that individual played in the investigation and prosecution of my client; and
2. Under 28 C.F.R. §600.1, undertake the immediate interview and appointment of a Special Counsel for the above matters.

My client is prepared to withhold further distribution of copies of the telephone records pending *confidential* settlement negotiations with yourself or your designee – other than the presently

Alberto Gonzalez, Attorney General
Office of the Attorney General
May 6, 2007
Page 3

assigned AUSAs who are demonstratively not trustworthy in this regard – if these steps are taken and communicated to me by May 11, 2007.

In my mind, failure to do so will simply confirm to the world that your office wields its considerable power without thought or concern of the damaging consequences upon the public and the real public interests at issue.

Yours,

A handwritten signature in black ink, appearing to read "M. Blawie" or similar, written in a cursive style.

**Chambers of Gladys Kessler
United States District Judge
United States District Court for the District of Columbia
United States Courthouse, Room 6333
333 Constitution Avenue, NW
Washington, DC 20001-2802
Office No: (202) 354-3440
Fax No.: (202) 354-3442**

DATE: May 10, 2007

TO: Montgomery Blair Sibley
(202) 478-0371

FROM: Chambers of Gladys Kessler

Total Number of Pages (including cover sheet): 4

NOTE: PLEASE CALL **Candice** IF YOU DID NOT RECEIVE ALL PAGES.

REMARKS:

Exhibit "B"

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

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

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* Supplement¹ 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

¹ 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 cases² 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.

² 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, Proceudendum 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

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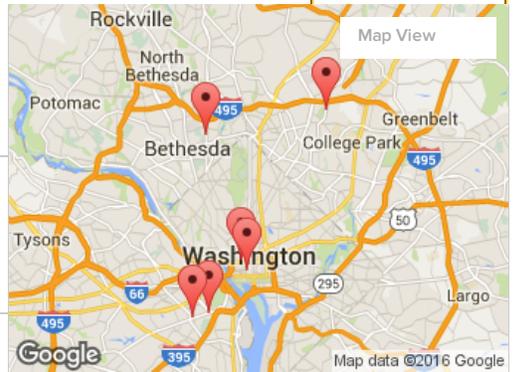
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**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

DEBORAH JEANE PALFREY,

DEFENDANT.

Criminal Case Number: 07-cr-046-RWR

**MOTION AND AFFIDAVIT TO DISQUALIFY
CHIEF JUDGE RICHARD W. ROBERTS**

_____ /

Montgomery Blair Sibley (“Sibley”) pursuant to 28 U.S.C. § 455(a)¹ moves for an order disqualifying Chief Judge Richard W. Roberts in this matter, and states:

I. LEGAL ARGUMENT

It is beyond dispute that “[a] fair trial in a fair tribunal is a basic requirement of due process. Fairness, of course, requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness.” *In re Murchison*, 349 U.S. 133, 136 (1955). As such, the stringent rule of preventing even the probability of unfairness “that may sometimes bar trial by judges who have no actual bias and who will do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way [justice must satisfy the appearance of justice.” *Offutt v. United States*, 348 U.S. 11, 14 (1955).

II. FACTUAL BASIS FOR MOTION TO DISQUALIFY

Sibley, in support of his motion to disqualify Chief Judge Richard W. Roberts and pursuant to 28 U.S.C. §1746 under penalty of perjury states:

¹ § 455. Disqualification of Justice, Judge, or Magistrate Judge. (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

1. Based upon my belief that the Court cannot render fairness and impartiality in my case, I ask that it immediately remove itself from all related matters to this Case.

2. First, though this Court has knowledge of its own docket, it denied Sibley's Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records even though Sibley is patently subject to a restraining order in this matter. As such, and by the very terms of that Restraining Order and the law, Sibley has the right to be heard on his motion to modify that Restraining Order.

3. As a result of being denied the right to be heard by Chief Judge Richard W. Roberts upon the immaterial ethical issue as to how many angels-are-dancing-on-the-head-of-a-pin, Sibley has filed a Judicial Complaint against Chief Judge Richard W. Roberts alleging, *inter alia*, felonious behavior which has been assigned Judicial Complaint No. DC-16-90005. *See*: February 6, 2016, letter from the Office of the Circuit Executive attached hereto as Exhibit "A".

4. Moreover, this is not the first time Sibley has accused Chief Judge Richard W. Roberts of felonious behavior. In *U.S. v. Duke*, Criminal Case No: 88-cr-00145 (DAR), Sibley alleged that Chief Judge Richard W. Roberts was an accessory-after-the-fact to the felonious behavior of Magistrate Judge Deborah A. Robinson. In particular in *U.S. v. Duke*, Sibley alleged to Chief Judge Richard W. Roberts the following:

- a. On or about **April 26, 1983**, in the District of Columbia, one or more unknown co-conspirators set off a bomb at the National War College, Fort McNair.
- b. On or about **August 18, 1983**, in the District of Columbia, one or more unknown co-conspirators set off a bomb at Computer Center Building at the Washington Navy Yard.
- c. On or about **November 7, 1983**, in the District of Columbia, one or more unknown co-conspirators set off a bomb inside the United States Capitol.

- d. On or about **April 20, 1984**, in the District of Columbia, one or more unknown co-conspirators set off a bomb at the Officer's Club in the Washington Navy Yard.
- e. On **May 24, 1985**, Defendant Elizabeth Duke ("Duke") was arraigned in Philadelphia upon an indictment charging her with involvement in the aforementioned bombings. On **July 24, 1985**, Duke was released on bail by U.S. District Court Judge Louis Heilprin Pollak. After failing to appear in Court as ordered, on **October 15, 1985**, the government moved to revoke Duke's bail and a bench warrant for her arrest as a fugitive was issued the same day.
- f. On **May 11, 1988**, Duke – along with her co-conspirators Laura Whitehorn, Linda Evans, Marilyn Buck, Susan Rosenberg, Timothy Blunk, and Alan Berkman² – was re-indicted for acts of violence against the United States, including the aforementioned bombing of the United States Capitol on **November 7, 1983** and several other government buildings in Washington, D.C. *See* Press Release attached hereto as Exhibit "B". On **June 2, 1988**, Judge Harold H. Greene of this Court issued a bench warrant for Duke.

² The Black Liberation Army and May 19th Communist Movement had organized the October 20, 1981, Brinks robbery in Nanuet, New York, in which \$1.6 million was taken from a Brink's armored car. In a shootout shortly after the heist, two police officers were killed. A witness told a grand jury that Berkman had treated one of the holdup group's members for a gunshot wound. Indicted as an accessory after the fact, Berkman jumped bail and went underground. On the run, Berkman and Elizabeth Ann Duke were arrested on May 23, 1985, near Doylestown, Pennsylvania. Their car was found to have a pistol and shotgun, as well as the key to a storage site that held 100 pounds of dynamite. During his years on the run in the 1980s, court papers alleged, he was involved with groups that had staged seven bombings of military and other government facilities, though charges related to the bombings were later dismissed. Berkman was convicted for his participation in the supermarket robbery, the proceeds of which, prosecutors alleged, had been used to buy the dynamite. Berkman served eight years of a 10-year sentence.

Whitehorn, Evans and Buck plead guilty to conspiracy and destruction of Government property. Whitehorn also agreed to plead guilty to fraud in the possession of false identification documents. Whitehorn was sentenced to 20 years in prison and Evans to an additional five years after completing a 35-year sentence being served for illegally buying guns. Buck was already serving 17 years on other convictions, and was later sentenced to a 50-year term for the Brinks holdup and other armed robberies during which two police officers were killed.

Susan Rosenberg and Timothy Blunk, plead guilty to eight counts each of possessing explosives, weapons and fake identification cards. Rosenberg's was pardoned by President Clinton in 2001 and Blunk was paroled in 1997.

- e. Some twenty-one (21) years later, on **June 17, 2009**, Article I Magistrate Judge Deborah A. Robinson of this Court held a hearing at which the government made an Oral Motion to Dismiss Indictment and Quash Arrest Warrant as to Duke which was granted by Magistrate Judge Deborah A. Robinson. A copy of the Order Dismissing the Indictment is attached hereto as Exhibit “C”. After much trouble, a transcript of the Hearing was obtained by Sibley and is attached hereto as Exhibit “D”. Notably, that transcript reveals that no factual basis was presented to the Magistrate Judge Deborah A. Robinson to justify dismissing the Indictment.
- f. Here, as the Transcript and Order reveal, the government failed to proffer – and Magistrate Judge Deborah A. Robinson did not detail – any reasons to dismiss an indictment against the fugitive, domestic terrorist, indicted-United-States-Capitol-bombing Defendant, Elizabeth Duke. Indeed, though Magistrate Robinson signed the Order stating: “for the reasons set forth in the government’s motion and for good cause shown”, clearly, there were no “reasons set forth” nor “good cause shown” to justify the granting of the government’s motion to dismiss the Indictment.
- g. More importantly, Article I Magistrate Judge Robinson signed the June 17, 2009, Order claiming to be an Article III judge. This is a Felony: 18 U.S.C. § 912 - “Officer or employee of the United States” states in pertinent part: “Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, . . . shall be fined under this title or imprisoned not more than three years, or both.
- h. Though advised of all this, Chief Judge Richard W. Roberts refused to take any action to address the behavior of Magistrate Judge Deborah A. Robinson.

5. For the reasons aforesaid, I believe that Chief Judge Richard W. Roberts impartiality might reasonably be questioned in regards to my pending contemporaneously filed “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 as such considerations of due process and 28 U.S.C. § 455(a) obligate Chief Judge Richard W. Roberts to disqualify himself from any further involvement in this matter.

IV. CONCLUSION

WHEREFORE, Sibley requests that Chief Judge Richard W. Roberts disqualify itself from further involvement in this matter.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.



Dated: February 8, 2016

Montgomery Blair Sibley

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served by U.S. Priority Delivery Confirmation #9405511899563334018284 mail upon: Channing D. Phillips, United States Attorney for the District of Columbia, 555 4th St., N.W., Washington, D.C. 20530 this February 8, 2016.

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



By: _____
Montgomery Blair Sibley

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Criminal Case Number: 07-cr-046-RWR

PLAINTIFF,

**ORDER ON MOTION TO DISQUALIFY CHIEF
JUDGE RICHARD W. ROBERTS**

VS.

DEBORAH JEANE PALFREY,

DEFENDANT.

_____ /

THIS MATTER, having come on to be heard on Montgomery Blair Sibley's Motion to Disqualify Chief Judge Richard W. Roberts, and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED, that the motion is granted.

DONE AND ORDERED in Chambers, Washington, D.C. this ____ day of _____,
2016.

By: _____
United States District Judge

OFFICE OF THE CIRCUIT EXECUTIVE

UNITED STATES COURTS OF THE
DISTRICT OF COLUMBIA CIRCUIT

Elizabeth H. Paret
202.216.7340 Phone
202.273.0331 Fax

E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001

February 3, 2016

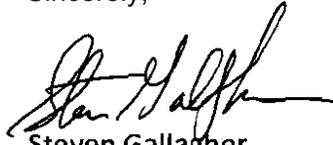
Montgomery Sibley
402 King Farm Blvd.
Suite 125/145
Rockville, MD 20850

Re: Judicial Complaint No. DC-16-90005

Dear Mr. Sibley:

Your complaint dated January 31, 2016, alleging judicial misconduct by a United States judge was filed on February 3, 2016 and has been assigned Judicial Complaint No. DC-16-90005. Please use this number on any future correspondence pertaining to your complaint.

Sincerely,



Steven Gallagher
Deputy Circuit Executive

Exhibit "A"



U.S. Department of Justice

United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St. N.W.
Washington, DC 20001*

May 11, 1988

PRESS RELEASE

Jay B. Stephens
United States Attorney
for the
District of Columbia

United States Attorney Jay B. Stephens today announced that a federal grand jury has returned an indictment charging seven individuals with acts of violence against the United States, including bombing the United States Capitol on November 7, 1983 and several other government buildings here in Washington, D.C.

In announcing the indictments Mr. Stephens stated, "Let this be a warning to those who seek to influence the policies of the United States Government through violence and terrorism that we will seek unrelentingly to bring them to justice. Those who attack our sacred institutions of government and seek to destroy the symbols of our democratic system ultimately will have to pay the price."

Exhibit "B"

The grand jury returned a five-count indictment charging seven individuals -- Laura Whitehorn, Linda Evans, Marilyn Buck, Susan Rosenberg, Timothy Blunk, Alan Berkman and Elizabeth Duke -- with participation in a far-reaching conspiracy to bomb various government and private buildings and with involvement in the bombings of the United States Capitol and three Washington area military facilities -- the National War College at Fort McNair, the Computer Center at the Washington Navy Yard, and the Washington Navy Yard Officer's Club.

The indictment charges that the defendants and their co-conspirators were part of a secret organization which described itself as a "communist politico/military organization" and which operated under the names Revolutionary Fighting Group (RFG), Armed Resistance Unit (ARU) and the Red Guerrilla Resistance (RGR).

The indictment charges that as part of their program of "armed propaganda" the defendants and their co-conspirators also placed and detonated explosives at four locations in New York City -- the FBI's office in the Federal Building on Staten Island, the Israeli Aircraft Industries Building, the South African Consulate, and the Patrolmen's Benevolent Association. They also allegedly surveilled other bombing targets, including the Old Executive Office Building in Washington and the United States Naval Academy in Annapolis.

According to the indictment, the defendants and their co-conspirators made extensive use of aliases and false identification to evade surveillance and detection by law

enforcement authorities. The indictment charges that to support their efforts, the defendants obtained rifles, shotguns, handguns, bullet proof armor, and combined time-delay firing mechanisms and explosives into operable bombs. In addition, the indictment charges that the defendants funded their operations, in part, through theft and armed robbery.

Mr. Stephens praised the cooperative efforts of the District of Columbia Metropolitan Police Department, the Bureau of Alcohol, Tobacco and Firearms, and the Federal Bureau of Investigation, who in December, 1983 formed the Metropolitan Area Terrorist Task Force to investigate the series of bombings in the District of Columbia. The Task Force has coordinated its efforts with the Joint Terrorist Task Force in New York City, and the FBI and ATF offices in Philadelphia and Baltimore. The case is being handled by Assistant United States Attorneys Rhonda C. Fields and Margaret Ellen.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

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Criminal No. 88-00145 (DAR)

v.

ELIZABETH DUKE,

Defendant.

FILED

JUN 17 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

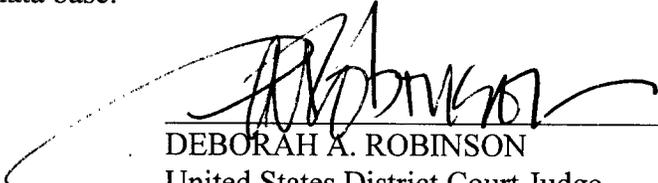
ORDER

Upon consideration of the government's oral Motion to Dismiss Indictment and Quash Arrest Warrant and the record herein, for the reasons set forth in the government's motion and for good cause shown, it is this 17th day of June 2009,

ORDERED that the above case is dismissed without prejudice, and it is

FURTHER ORDERED that the arrest warrant issued for the defendant in this case is hereby quashed, and it is

FURTHER ORDERED that the United States Marshals Service cancel and/or withdraw the warrant from the NCIC data base.


DEBORAH A. ROBINSON
United States District Court Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	
	.	
Plaintiff,	.	CR No. 88-0145
	.	
v.	.	
	.	
ELIZABETH DUKE,	.	Washington, D.C.
	.	Tuesday, June 17, 2009
Defendant.	.	
.....	.	

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE DEBORAH A. ROBINSON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:	M. JEFFREY BEATRICE, ESQ. U.S. Attorney's Office 555 Fourth Street, NW Room 4104 Washington, DC 20530 (202) 353-8831
---------------------	---

Transcribed By:	BRYAN A. WAYNE, RPR, CRR Official Court Reporter U.S. Courthouse, Room 4704-A 333 Constitution Avenue, NW Washington, DC 20001 (202) 354-3186
-----------------	--

Exhibit "D"

Proceedings electronically recorded and transcribed.

P R O C E E D I N G S

1
2 THE DEPUTY CLERK: Criminal case No. 88-145,
3 Elizabeth Duke. For the government, Mr. Beatrice.

4 THE COURT: Mr. Beatrice.

5 MR. BEATRICE: Thank you, Your Honor. We would orally
6 move to dismiss this case at this time, dismiss the indictment
7 and also to quash the warrant, and we will submit a proposed
8 order today, Your Honor.

9 THE COURT: Very well. Thank you, Mr. Beatrice.

10 (Proceedings adjourned.)
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