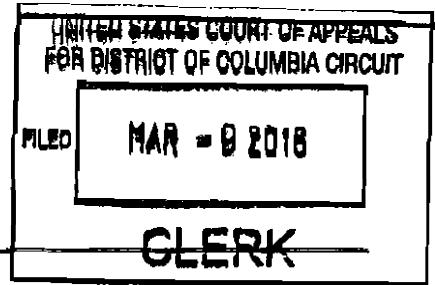


UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

MAR - 9 2018

Case No.: _____



RECEIVED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE: MONTGOMERY BLAIR SIBLEY,

PETITIONER.

PETITION FOR WRITS OF *MANDAMUS*, *PROHIBITION*, AND *PROCEDENDUM AD JUSTICIUM* TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
AND REQUEST FOR EXPEDITED BRIEFING AND ORAL ARGUMENT

MONTGOMERY BLAIR SIBLEY
Petitioner
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202-643-7232
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I. THE RELIEF SOUGHT

Petitioner, Montgomery Blair Sibley (“Sibley”), prays that Writs of

Mandamus, Prohibition and Procedendum Ad Justiciam issue:

- (i) Commanding Respondent Caesar, the Clerk of the United States District Court for the District of Columbia, to immediately file Sibley’s Motion to Modify Restraining Order;
- (ii) Commanding Respondent Judge Roberts to cease all further involvement in the matter; and
- (iii) Given the pressing public-interest exigencies of this matter, commanding the U.S. District Court Judge assigned to the matter below to immediately “proceed to judgment; but without specifying any particular judgment” on Sibley’s Motion to Modify Restraining Order.

II. THE ISSUES PRESENTED

Whether the Respondent Caesar as Clerk of the District Court can refuse to file Sibley’s Motion to Modify Restraining Order.

Whether Respondent Roberts can continue involvement in the matter below given: (i) that his impartiality was reasonably questioned, and (ii) he has proceeded to enter a dispositive order in this matter without first ruling upon the pending motion to disqualify him.

Whether, given Sibley’s First Amendment rights at issue and the looming

Republican and Democratic Presidential Primaries and Conventions, Sibley's

Motion to Modify Restraining Order should be determined expeditiously.

**III. THE FACTS NECESSARY TO UNDERSTAND THE ISSUES PRESENTED
BY THE PETITION**

- 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.
- Jan. 22, 2008 Preston Burton substitutes for Sibley and files his 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.
- 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 Respondent 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*.

Feb. 4, 2016 Respondent Roberts ordered Respondent Caesar to not file Sibley’s Motion to Modify in *U.S. v Palfrey*¹. A copy of that

¹ Respondent Robert’s February 4, 2016, Order – rather than address the merits of Sibley’s First Amendment claim – begs the question by: (i) presuming that the records should not be in Sibley’s possession and (ii) gratuitously (for *ad hominen* reasons) points out that Sibley has been suspended – notably without a hearing – from the practice of law before the U.S. District Court for the District of Columbia. Both grounds are specious and serve only to protect those in power from fair comment by Sibley upon their behavior.

First, the purely legal ethical issue of whether or not subpoena returns should still be in Sibley’s possession is tangential to Sibley’s First Amendment claim. Whether or not the Verizon Wireless subpoena return should have been turned over by Sibley to subsequent counsel in the criminal matter is irrelevant. As a matter of fact – and as pointed out to Respondent Roberts by Sibley in his Motion for Reconsideration – those records were turned over to subsequent criminal counsel. However, Sibley properly maintained a copy of those records per his client’s instruction as he was still counsel of record in the civil forfeiture matter. But more importantly, so what if Sibley did keep the Verizon Wireless subpoena return? No sanction exists for keeping those records which would bar Sibley from releasing them per his First Amendment right to publish information if the reason for the Restraining Order is no longer valid..

Second, upon what authority does Respondent Robert rely to order Respondent

Order is attached as Exhibit “B”. Respondent Caesar returns to Sibley the Motion to Modify leaving no record of what Sibley sought to file.

Feb. 7, 2016 Sibley deposited with Respondent 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*.

Feb. 16, 2016 Respondent Roberts, without addressing the Motion to Disqualify, orders Respondent 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 “C”. Respondent Caesar returns to Sibley the Motion to Reconsider and Motion to Disqualify leaving no record of what Sibley sought to file.

Caesar to not file Sibley’s motions? Patently, there is none. Clearly, Respondent Robert’s could seal Sibley’s Motions provided Respondent Roberts was able to demonstrate some compelling public reason. *Accord: Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606-607 (1982)(where “the [court] attempts to deny access in order to inhibit the disclosure of sensitive information, it must be shown that the denial is necessitated by a compelling governmental interest, and is narrowly tailored to that interest.”) Here, Respondent Roberts made no finding of “compelling governmental interest” in sealing-by-refusing-the-filing of Sibley’s Motions.

As such, there was no competent legal authority to refuse to file and determine upon the merits Sibley’s Motion to Modify the Restraining Order which continues to burden his significant and time-sensitive First Amendment right to publish information relevant to the in-process selection of the next President of the United States.

IV. THE REASONS WHY THE WRITS SHOULD ISSUE

This Court, under the All Writs Act, 28 U.S.C. §1651(a), has been given express authority by Congress to issue writs of *Mandamus*, *Prohibition* and *Procedendum Ad Justiciam*.

A. THE CLERK OF THE DISTRICT COURT HAS A DUTY TO FILE SIBLEY’S MOTION TO MODIFY

Mandamus relief is only available to compel an officer of the United States to perform a duty if: (1) the plaintiff's claim is clear and certain; (2) the duty of the officer “is ministerial and so plainly prescribed as to be free from doubt,” *Jarrett v. Resor*, 426 F.2d 213, 216 (9th Cir. 1970); and (3) no other adequate remedy is available. *Piledrivers' Local Union No. 2375 v. Smith*, 695 F.2d 390, 392 (9th Cir. 1982). *Accord: Will v. Calvert Fire Insurance Co.*, 437 U.S. 655, 661-62 (1978); *Kerr v. United States District Court*, 426 U.S. 394, 402-03 (1976).

Here, all three elements are present. First, Sibley is under an existing Restraining Order which trespasses upon his First Amendment right to publish matters of public concern. As such, he indisputably has a right to seek modification of that Restraining Order. Indeed, that right is codified in Federal Rules of Civil Procedure, Rule 65(b)(4) which states: “Motion to Dissolve. On 2 days notice to the party who obtained the order without notice – or on shorter

notice set by the court – the adverse party may appear and move to dissolve or modify the order. The **court must then hear and decide the motion as promptly as justice requires.**” (Emphasis added). Hence, Sibley’s right to seek modification of the restraining order is “clear and certain”. Moreover, Sibley fully realizes that to violate the Restraining Order by releasing the Verizon Wireless subpoena response could subject him to potential incarceration for contempt of court.

Second, the duty of Respondent Caesar to file Sibley’s Motion to Modify: “is ministerial and so plainly prescribed as to be free from doubt.” The Clerk’s oath pursuant to 28 USC § 951 obligates the Clerk to: “truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court. . . “. Here, the “proceeding” in *U.S. v. Palfrey* presently do not include Sibley’s (i) Motion to Modify, (ii) Motion to Reconsider and (iii) Motion to Disqualify thus prohibiting proper appellate review as there is no record of what Sibley filed in the District Court.

Moreover, Federal Rules of Criminal Procedure, Rule 49(d) “Filing” states in pertinent part: “A paper must be filed in a manner provided for in a civil action.” Federal Rules of Civil Procedure, Rule 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 clerk; . . .”

(Emphasis added). Here, on three occasions Sibley “filed” with the Clerk his Motions which the Clerk refused to docket in violation of Rule 79(2)(a).

This Court must recognize the seriousness of the behavior below.

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”. Here, for the Clerk to “conceal: Sibley’s three (3) motions is, arguably, a felony.

Last, Sibley has no other adequate remedy available. He has been barred from filing any pleading in *U.S. v. Palfrey* and thus there is no record from which to appeal as the Clerk refused to file Sibley’s Motions.

Accordingly, this Court’s supervisory jurisdiction is now animated by both its inherent plenary and Congressionally-granted – pursuant to 28 U.S.C. §2106 – authority under the All Writs Acts. That statute states: “The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had **as may be just under the circumstances.**” (Emphasis added). Here, the only course that is “just” is to require that Sibley’s Motions be file so that a merit determination

pursuant to Due Process be accorded to Sibley.

WHEREFORE, Sibley respectfully requests that this Court exercise its 28 USC §1651 supervisory *Mandamus* jurisdiction in this case as it raises a question of first impression concerning the interplay of the duty of the Clerk to file pleadings and Sibley's First Amendment right to Petition by ordering Respondent Caesar to forthwith file Sibley's motion to modify the Restraining Order.

B. RESPONDENT ROBERTS MUST BE DIRECTED TO CEASE ALL FURTHER INVOLVEMENT IN THE MATTER

It is clearly established by the scant record below that Sibley filed a Motion to Disqualify Judge Roberts. Regardless of the sufficiency of the allegations of Sibley's Motion to Disqualify, it was grossly improper for Respondent Roberts to ignore the Motion to Disqualify and proceed to re-cast Sibley's Motion to Reconsider into a Motion for Leave to File and then deny it. "The mere filing of an affidavit of prejudice does not automatically disqualify a judge, . . . but the judge must pass upon the legal sufficiency of the facts well-pleaded." *U.S. v. Mitchell*, 377 F. Supp. 1312; 1316 (D.C. Dist. Ct. 1974)(Emphasis added). Here, Respondent Roberts did not pass upon the legal sufficiency of Sibley's Motion to Disqualify before proceeding to deny Sibley's Motion to Reconsider. This is plainly inappropriate.

In an analogous situation, this Court has made clear that a motion to disqualify must be decided before turning the the merits of a particular motion. In *Grimes v. District of Columbia*, 794 F.3d 83, 86 (D.C. Cir. 2015), this Court held:

Because a claim of counsel’s conflict of interest calls into question the integrity of the process in which the allegedly conflicted counsel participates, **the court should resolve a motion to disqualify counsel before it turns to the merits of any dispositive motion.** That procedure was not followed here. We therefore vacate the district court's grant of summary judgment and its denial of the motion to disqualify and remand this case for further proceedings.

Here, as in *Grimes*, the “integrity of the process” is properly called into question for this Court’s supervisory review when Respondent Roberts pretends that a Motion to Disqualify does not exist by refusing to allow it to be filed but instead proceeds to determine Sibley’s Motion to Reconsider.

Such behavior surely triggers Due Process concerns: 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).

Here, regardless of the merits of Sibley’s Motion to Disqualify, the “appearance of justice” demands no less than Respondent Roberts be ordered to have no further involvement in this matter.

WHEREFORE, Sibley respectfully requests that this Court exercise it’s 28 USC §1651 supervisory *Prohibition* jurisdiction in this case by ordering Respondent Roberts to have no further involvement in this matter.

C. SIBLEY IS BEING DENIED HIS FIRST AMENDMENT RIGHTS WHICH ARE TIME SENSITIVE AND THUS MUST BE RESOLVED EXPEDITIOUSLY

Sibley is not asking this Court to decide the issues raised in his Motion to Modify. Rather, Sibley is only seeking a writ of *Procedendo ad Justicium* to insure that his Motion to Modify is expeditiously determined before time extinguishes the value of what he seeks to declare under the aegis of the First Amendment. Accordingly, this Court must issue its writ of *Procedendo ad Justicium* to insure that Sibley’s seminal First Amendment rights are not extinguished due to the passage of time.

Blackstone described this writ as follows:

A writ of *procedendum ad iudicium* issues out of the court of chancery, when judges of any subordinate court do delay the parties; for that they will not give judgment either on one side or the other, when they ought to do so. In this case a writ of *procedendo* shall be awarded, commanding them in the King's name to proceed to judgment; but without specifying any particular judgment.

3 *Blackstone Commentaries*, §109. Thus, this Court under the All Writs Act, 28 U.S.C. §1651(a) has authority to issue a writ of *Procedendum ad Iudicium*.

Given the significance of the looming Republican and Democratic Conventions – July 18 and July 25, respectively – and the potential impact of the sealed-from-the-public record Sibley seeks to release, ordering expedited resolution of his Motion to Modify is incumbent upon this Court.

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

[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.

Moreover, the public interest in the contents of the Verizon Wireless subpoena return requires this Court expedite resolution of this matter. *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”).

Finally, 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 keeping the relevant Verizon Wireless subpoena return information sealed from public view 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.

Moreover, for this Court to delay this matter may well – in hindsight – appear to intentionally favor one 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.

WHEREFORE, Sibley respectfully requests that this Court exercise its 28 USC §1651 supervisory *Procedendo ad Justiciam* jurisdiction in this case by ordering the District Court Judge assigned to the matter below to immediately “proceed to judgment; but without specifying any particular judgment” on Sibley’s Motion to Modify Restraining Order.

V. REQUEST FOR EXPEDITED BRIEFING AND ORAL ARGUMENT

Sibley respectfully requests an expedited briefing schedule and immediate oral argument given the important, novel and complex nature of the questions raised herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was served this March 9, 2016, by U.S.P.S. Priority Delivery Confirmation mail upon: (i) Channing D. Phillips, United States Attorney for the District of Columbia, 555 4th St., N.W., Washington, D.C. 20530, (ii) Richard W. Roberts, United States Courthouse, 333 Constitution Avenue, NW, Washington, D.C. 20001 and (iii) Angela O. Caesar, United States Courthouse, 333 Constitution Avenue, NW, Washington, D.C. 20001.

MONTGOMERY BLAIR SIBLEY
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Rockville, Maryland, 20850
202-643-7232
montybsibley@gmail.com

By: _____
Montgomery Blair Sibley

ADDENDUM

CERTIFICATE OF PARTIES, RULINGS AND RELATED CASES AND DISCLOSURE STATEMENT PURSUANT TO CIRCUIT RULE 21

Pursuant to Circuit Rule 21, Sibley states as follows:

A. PARTIES, INTERVENORS AND AMICI

Petitioner Montgomery Blair Sibley and Respondents Angela O. Caesar, Richard W. Roberts.

There is no corporation, association, joint venture, partnership, syndicate, or other similar entity which must make the disclosure required by Circuit Rule 26.1.

B. RULINGS UNDER REVIEW

The rulings under review are: (i) the February 4, 2016, Order of Respondent Roberts directing Respondent Caesar to not file Sibley's Motion to Modify in *U.S. v Palfrey* and (ii) the February 16, 2016, Order of Respondent Roberts – without addressing the Motion to Disqualify – directing Respondent Caesar to not file Sibley's Motion to Reconsider and Motion to Disqualify in *U.S. v Palfrey*.

C. RELATED CASES

The case on review was not previously before any other court. There is one related case: *Sibley v. Roberts & Caesar*, Superior Court for the District of Columbia, Case No.:2016 CA 1272 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, 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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal Action No. 07-46 (RWR)
)	
DEBORAH PALFREY,)	
)	
Defendant.)	
_____)	

ORDER

On January 12, 2016, Montgomery Blair Sibley submitted for filing in this 2007 case a "Motion to Modify Restraining Order to Permit the Release of Telephone Records Received Pursuant to Subpoenas but Never Made Public and Other Records." The Clerk's Office forwarded the submission to the Chief Judge's chambers to rule on whether to grant or deny leave to file the submission or to take other action.

Sibley has been suspended from practicing before this Court since May 21, 2008. No notice of attorney appearance filed by Sibley appears on the electronic docket in this case, although the docket reflects that Sibley was terminated as counsel for the defendant on January 16, 2008. The docket also reflects that a notice of attorney appearance was filed on May 21, 2007 by another attorney as counsel for the defendant.

Sibley's motion purports to refer to records subpoenaed on behalf of the defendant that it seems would properly be in the

**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

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TERMINATED: 05/21/2007

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Designation: Public Defender or

Community Defender Appointment

Montgomery Blair Sibley

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TERMINATED: 01/16/2008

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ATTORNEY TO BE NOTICED

Designation: Retained

Preston Burton

POE & BURTON PLLC

Plaintiff

USA

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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 :