

No: _____

In the Supreme Court of the United States

Montgomery Blair Sibley,

Petitioner,

v.

**Kristen Zebrowski Stavisky solely in her official capacity as Co-Executive
Director of the New York Board of Elections and New York's Chief Election
Official,**

Respondent.

**On Petition for Writ of Certiorari to the
New York Supreme Court, Appellate Division
Third Department**

**Rule 22 Application To Direct Clerk to File Sibley's
Petition For A Writ Of Certiorari**

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Petitioner
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**To the Honorable Sonia Sotomayor
Associate Justice of the Supreme Court
and Circuit Justice for the Second Circuit**

Petitioner, Montgomery Blair Sibley (“Sibley”), pursuant to Rule 22 of this Court and 28 U.S.C. §§ 1651(a), requests an Order directing the Clerk of the U.S. Supreme Court to file Sibley’s Petition for Certiorari which was refused for filing by the Clerk on **September 19, 2024**.

Such an Order from this honorable Court is necessary because the issues raised are of imperative public importance so as to justify deviation from normal appellate practice and procedure and to require immediate determination in this Court.

That Petition raised the important question of whether Vice President Kamala Harris is a “natural born Citizen” as that term is used in Article II, §1 and thus eligible to be President of the United States. Given the obvious pressing need for prompt resolution of the question presented, Petitioner respectfully requests that the Court direct the Clerk to file Sibley’s Petition and thereafter grant Sibley’s Motion to Expedite.

FACTUAL BACKGROUND

On **September 10, 2024**, the Clerk of the Court received Sibley’s properly submitted: (i) Forty (40) Copies of the Petition for Certiorari, (ii) One unbound copy of the Petition for Certiorari on 8 1/2 by 11 inch paper, (iii) An original and ten (10) copies of a Motion To Expedite Consideration Of The Petition For A Writ Of Certiorari, To Expedite Merits Briefing And Oral Argument In The Event That The

Court Grants The Petition, And To Expedite Consideration Of This Motion, (iv) A Certificate of Service and Compliance; and (v) A check in the amount of \$300 for the Docketing Fee made payable to the Clerk of the Court. A copy of that Petition is attached hereto.

In that Petition, Sibley raised two (2) issues. First, “WHETHER, Congress is Constitutionally-authorized to deny jurisdiction in this Court to state court litigants who seek the right to petition before a state court appellate court judgment while allowing to federal litigants – pursuant 28 U.S. Code §1254 and §2101(e) – that right?”

Second: “WHETHER given that the Democratic candidate for President of the United States, born of two non-U.S. Citizens, is arguably expressly excluded from the Presidency by Article II, this Court will recognize this extraordinary constitutional moment and promptly answer the question of who is a ‘natural born Citizen’?”

Nine (9) days later, Emily Walker, an assistant clerk of this Court, wrote Sibley a letter stating in pertinent part: “The papers are being returned for the following reason” Your case must first be reviewed by the highest state court in which a decision could had. 28 USC 1257.” A copy of that letter is attached hereto.

LEGAL ARGUMENT

Fully recognizing the potential jurisdictional bar that 28 USC §1257, created, Sibley commenced his Petition by raising the equal protection problem created by 28 USC §1257 which treated federal court litigants to immediate access to this

Court pursuant to 28 U.S. Code §1254 and §2101(e) while state court litigants, like Sibley, were denied such immediate access.

This legal argument is due to be addressed by Article III actors, not a clerk blindly following the statute which Sibley was expressly challenging in his Petition.

Moreover, Sibley's Petition can – and should – be charitably be viewed as a 28 U.S.C. §1651(a) and Supreme Court Rule 20, Petition for an Extraordinary Writ. Given the exceptional circumstances that an unauthorized person, Kamala Harris, might be elected to the Office of the President and become Commander-in-Chief of the Armed Forces, plainly warrants the exercise of the Court's discretionary powers, as adequate relief cannot be obtained in any other form or from any other court in a timely fashion.

The gravity of the circumstances and the paramount importance of the question presented warrant this Court's urgent intervention. Clearly, when the public interest is at play, the ability of the Court to act swiftly is certain and regularly exercised. *Cf: 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”).

The consequence of not directing the Clerk to file Sibley's Petition so that this Court can come to a swift and legally-defensible conclusion can only be speculated. However, a reasonable speculation is that the United States moves closer to legal anarchy as the bedrock-principle of the rule-of-law upon which the Union was formed is being eroded by a deaf judicial system which has become just-a-system. Already, loud voices proclaim: "The Threat of Civil Breakdown Is Real"¹; "BU Historian Answers: Are We Headed for Another Civil War?"² and "The Real Path to an American Civil War"³. Here, granting this Motion will confirm to the Citizens of the United States that they are heard and the Constitution still is the Supreme law of the land.

The denial of this motion to direct the Clerk to file Sibley's Petition will justify the public's conclusion that there is no law in this land to hold accountable the rich and powerful.

Conclusion

Simply stated, the "right" to a "natural born Citizen" President without a remedy to secure that "right" is no "right" at all. Is that the message this Court wants to send at this time in our history?

For the reasons stated, Petitioner respectfully requests that the Court direct the Clerk to file his Petition for Certiorari and, if the Court grants the Petition, that

¹ Retrieved from:
<https://www.politico.com/news/magazine/2023/04/21/political-violence-2024-magazine-00093028>

² Retrieved from:
<https://www.bu.edu/articles/2019/are-we-headed-for-another-civil-war/>

³ Retrieved from:
<https://www.nytimes.com/2024/04/17/opinion/trump-civil-war.html>

the Court set an expedited briefing and oral argument schedule that permits the Court to hear this case before the Presidential election.

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