

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE:

Case No. 16-3007

MONTGOMERY BLAIR SIBLEY,

**PETITIONER'S MOTION FOR  
ARTICULATION OF THE *RATIO***

PETITIONER.

***DECENDI* FOR DENYING PETITION**

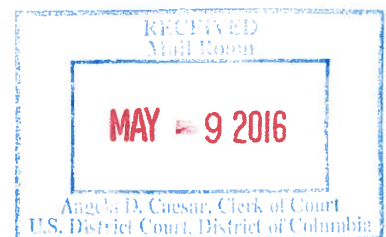
LI-LD

Petitioner, Montgomery Blair Sibley ("Sibley"), moves that this Court articulate its *ratio decendi* for denying Sibley's Petition, and states as follows:

Sibley's Petition *inter alia* sought a Writ of Mandamus "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".

On May 3, 2016, this Court entered its Order stating *in toto*: ORDERED that the petition be denied. Petitioner has not shown a "clear and indisputable" right to mandamus relief. *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 289 (1988)."

The "touchstone of due process is protection of the individual against arbitrary action of government." *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). Here, by failing to articulate its *ratio decendi* for denying Sibley's Petition – particularly when presented with a compelling, first-impression, argument regarding First Amendment



Political Speech gagged by the District Court's order – this Court appears to be engaging in such prohibited arbitrary action.

Indeed, it is Black Letter law that: “It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. . . . This is of the very essence of judicial duty.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). By refusing to “say what the law is” regarding how Sibley does not have a “clear and indisputable” right to seek modification of a restraining order which gags his First Amendment Political Speech, this Court violates the “province and duty of the judicial department” to say what the “law is”.

For this Court to refuse to “say what the law is” by declaring its *ratio decendi* for refusing denying Sibley's Petition mimics the behavior of the *Nationalsozialistische Deutsche Arbeiterpartei* which employed ambiguous legal terms-of-art to achieve the goals that all tyrants crave: Different rules of law for different people – a fundamental breach of the legal compact upon which this republic was formed. *Accord: James B. Beam Distilling Co. v. Georgia*, 501 U.S. 529, 544 (1991)(“But selective prospectivity also breaches the principle that litigants in similar situations should be treated the same, a fundamental component of *stare decisis* and the rule of law generally.”) By refusing to declare its *ratio decendi* for

denying Sibley's Petition, this Court reserves unto itself the right to accord to a subsequent, similarly-situated litigant, the granting of that Petition when here it was denied to Sibley. Such behavior imperils the very foundation upon which the Rule of Law is grounded by un-tethering the Court from the constraints of *stare decisis* and the rule of law.

For this Court to deny definition of why Sibley's Petition was denied, explicitly sanctions the use of legal indeterminacy in the legal-terms-of-art "clear and indisputable right to mandamus relief" and thus permits the unregulated and unreviewable exercise of brute judicial power employed to assault the fundamentals of the rule of law to the end of creating a 21st Century *Volksgebundenheit* and *Artgleichheit* in the the District of Columbia.

By refusing to declare its *ratio decendi* for denying Sibley's Petition, this Court violates its obligations under the doctrine of *stare decisis* as it liberates itself from having to apply any rule to this Court's organic law obligation regarding Mandamus Petitions. Indeed, this principle of reliance upon enunciated precedent is at the backbone of our legal system. As most eloquently stated by Justice Joseph Story, *Commentaries on the Constitution of the United States*, §377-78 (1983):

The case is not alone considered as decided and settled; but the principles of the decision are held, as precedents and authority, to bind future cases of the same nature. This is

the constant practice under our whole system of jurisprudence. Our ancestors brought it with them, when they first emigrated to this country; and it is, and always has been considered, as the great security of our rights, our liberties, and our property. **It is on this account, that our law is justly deemed certain, and founded in permanent principles, and not dependent upon the caprice or will of judges.** A more alarming doctrine could not be promulgated by any American court, than that it was at liberty to disregard all former rules and decisions, and to decide for itself, without reference to the settled course of antecedent principles. This known course of proceeding, this settled habit of thinking, this conclusive effect of judicial adjudications, was in the full view of the framers of the constitution. It was required, and enforced in every state in the Union; and **a departure from it would have been justly deemed an approach to tyranny and arbitrary power, to the exercise of mere discretion, and to the abandonment of all the just checks upon judicial authority.** (Emphasis added.)

Finally, this Court eviscerates the duty imposed upon it by the New Textualism of interpretation by which judges decipher and apply case law; advocated by its foremost proponent, the late U.S. Supreme Court Justice Antonin Scalia. The first goal of textualist interpretation is to identify the objective meaning of the text in the court opinion without regard to what, in this instance, the Supreme Court intended the text “clear and indisputable right to mandamus relief” to mean in *Gulfstream Aerospace Corp.* Simply stated, what are the bounds of “clear and indisputable”?

Second, the new textualist process of analyzing case law takes into account the

context in which words presents themselves, including the structure and coherence of the court's opinion. In *Gulfstream Aerospace Corp. v. Mayacamas*, the Supreme Court upheld the denial of the Petition for Mandamus but only after clearly explaining its *ratio decendi* premised upon its *state decisis* holding in *Colorado River Water Conservation Dist. v. United States*, 424 U. S. 800 (1976). In the instant case, this Court has failed to do the same by explaining upon what authority Sibley has not shown a “clear and indisputable” right to mandamus relief when he is denied the opportunity to seek modification of a restraining order limiting his First Amendment political speech.

Last, new textualists' reasoning for undertaking this scheme of interpretation is to reduce the discretion that judges use when interpreting case law. The late Justice Scalia warned that “the main danger in judicial interpretation . . . is that the judges will mistake their own predilections for the law.” Antonin Scalia, *Originalism: The Lesser Evil*, 57 *University of Cincinnati Law Review*. 849, 863 (1989). Given the political firestorm resident in the telephone records<sup>1</sup> of the D.C. Madam from which

---

<sup>1</sup> A list of the 174 companies and/or government agencies identified in the Verizon Wireless Subpoena return of the D.C. Madam telephone records is attached in Exhibit “A” hereto. The names of individuals identified in the Verizon Wireless Subpoena return are not revealed in this motion due to Sibley's continued uncertainty as to the applicability of the restraining orders issued in the Deborah Jeane Palfrey matters.

Sibley is seeking relief from the restraining order prohibiting his release of those records and given the implication on the careers and private lives such release has for members of this Court, it is incumbent upon this Court to clearly demonstrate that denial of Sibley's Petition is not based upon its own predilections for silencing Sibley but rather the faithful application of relevant law to fact.

Therefore, a written decision with intellectual honesty explaining why Sibley's Petition was denied in this matter is required from this Court if it is to discharge its Article III duty and maintain public confidence in the ability to faithfully discharge the heavy duty the People have placed upon this Court.

#### V. CONCLUSION


WHEREFORE, for the reasons aforesaid, Sibley respectfully requests that the Court declare its *ratio decendi* for denying Sibley's Petition.

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

By: \_\_\_\_\_

  
Montgomery Blair Sibley

**Exhibit "A"**

A & H Painting & Decorating  
Abb Power Generation  
ACS Desktop Solutions  
AETEA  
Akin, Gump, Strauss, Haue  
American Cellular Rental  
American Land Concepts  
Amtrak Technologies  
Andersen Consulting  
Andersen Corporation  
Andersen Corporation Inc  
Anne Arundel Co Public Schools  
Anzi Tech Distributors  
Archdiocese of Washington  
Arlington Firefighters  
Army Capabilities Integration –

The Army Capabilities Integration Center (ARCIC) is the Army's leader in the identification, design, development, and synchronization of capabilities into the Army current Modular Force and the future Modular Force, bringing together all the Army agencies as well as Joint, Multinational, and other DoD agencies to manage rapid change. ARCIC supports TRADOC in providing adaptive soldiers, leaders and units by contributing to the development of doctrine, TTPs, and the collective training experience.

ASNS  
ASRC Constructors Inc  
Atlantic Research Corp  
Balmar Printing  
Barnes, Morris, Pardoe & Fo  
Battelle Memorial Institute  
Beaver Dam Construction



Bell Atlantic Md

Beretta USA

Bethlehem Steel Corp

BML & Associates, Llc

Brand Direct Marketing

Brantly Group

BSI Inc. Browne Academy

Bucks County Free Library

Charles H Hodges & Son

Chevron Corp Learn & Developme

Colortone Press

Commonwealth Orthopedics

Community Radiology

Conagra Foods Inc

Constantine Comm Constuc

Constellation Energy/ BGE – Constellation Energy, a Fortune 125 competitive energy company based in Baltimore, is the nation's largest supplier of wholesale power and competitive electricity to large commercial and industrial customers, and a major generator of electricity, with a diversified fleet of power plants strategically located throughout the U.S.

Constellation Fed Credit Union

Costumes Creative Inc.

Custis Farms Inc

Defense Group Inc – A high technology company, advancing public safety and national security through innovative research, new technologies, and systems assessments. DGI has key competencies in U.S. strategy and policy, intelligence, Weapons of Mass Destruction, vulnerability assessments, and homeland security, as well as technologies and products that support first responder and medical communities.

Deloitte

Design and Production Inc

DHHS - Office of the Inspector

DHHS/NIH/OLRS

Director of Indirect  
Edgewood Management Corp  
Education Loan Funding  
Edwards & Sullivan, Inc.  
Embassy of Japan  
Enterprise Integration Corp  
Fauquier Bank  
Federal Bureau of Investigation  
Fedcel Corporation  
Financial Svc Ctr/Dept of Va  
Fine Homebuilders Int. Inc.  
Fitness/Works Llc Company  
GE Information Svcs  
General Service Admin  
Gold Standard Diagnostics Corp  
Gottfred Speech Asso  
Greenhill Realty Company  
Grtr S.E. Community Hosptl  
GSA  
GSA Potomac Sdt  
GSA/PBS/PRS  
Healthpartners  
Hewlett Packard  
Houston Associates  
U.S. Army Training and Doctrine Command –

TRADOC recruits, trains and educates the Army's soldiers; develops leaders; supports training in units; develops doctrine; establishes standards; and builds the future Army. TRADOC is the architect of the Army and "thinks for the Army" to meet the demands of a nation at war while simultaneously anticipating solutions to the challenges of tomorrow

IDB Staff Association

IDBSA

Ikon Office Solutions

Indisoft Llc

Internal Revenue Service

International Marketing

Johns Hopkins University

Jones Day Reavis and Pogue

Kopykweeninc Dba Superior

Lockheed Martin

Lockheed Martin Corporation

Lockheed Martin Ms2- Baltimore – Lockheed Martin MS2– MS2 provides surface, air, and undersea applications on more than 460 programs for U.S. military and international customers

Logictree

Long & Foster Realtors

McKinsey

Memorial Hospital

Metropolitan Poultry and

Morristown Memorial

MSTD Inc

National Center Management

National Drug Intelligence Ctr – The National Drug Intelligence Center – established by the Department of Defense Appropriations Act, 1993. Placed under the direction and control of the Attorney General, NDIC was established to “coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations.”

Natl Geospatial Intel Agency –

The National Geospatial Intelligence Agency – is a Department of Defense

combat support agency and a member of the national Intelligence Community (IC). NGA develops imagery and mapbased intelligence solutions for U.S. national defense, homeland security and safety of navigation.

NM/Los Alamos National Labs  
 NVBR of Realtors  
 NXP Semiconductors USA Inc -

Providing engineers and designers with semiconductors, system solutions and software that deliver better sensory experiences. Net sales of \$6.32 billion in 2007.

OA0 Corp  
 Oracle Corporation  
 P W Police Association  
 Palace Meat  
 Parkview Adventist Medical  
 Patterson Belknap Webb  
 PB Facilities Inc  
 Philips Electronics North Amer  
 Philips Semiconductors  
 Westinghouse Electric  
 PriceWaterhouseCoopers  
 Property Damage Apprai  
 Reed Smith Shaw & McClay --

Reed Smith – a law firm that represents many of the world’s leading companies in complex litigation and other highstakes disputes, crossborder and other strategic transactions, and crucial regulatory matters. With lawyers from coasttocoast in the U.S. as well as in the U.K., continental Europe, Asia, and the Middle East, the firm is known for its experience across a broad array of industry sectors. The firm counsels 28 of the top 30 U.S. banks and 10 of the world's 12 largest pharmaceutical companies.

Rocky River Dental Assoc

SAIC Corporate Telecommunications  
Selzer G Rabin & Obecny Char.  
Sensei Enterprises Inc  
Shiner Roofing Inc.  
Smoke N Mirrors Inc  
Sonoma Materials  
Spring & Associates  
Struever Bros Eccles & Rouse  
The Allegiance Group / Aetea  
The Durst Law Firm  
The Mark Winkler Co.  
The Roger Richman Agency Inc  
The Spoon Group  
Thermo Electron  
Tochigi Fuji USA Inc.  
Tris Inc  
UDRA  
United States Coast Guard  
U.S. Army Information Systems Command  
US Dept of Commerce  
US Dept of State/CA/OCS  
US Postal Service  
USDA Forest Service  
USDA-National Finance Center  
USPS - Information Technology  
Velocite Systems, Llc  
Verizon Communications  
Verizon Communications Inc  
Verizon Communications NSI  
Verizon Communications Va  
Verizon Communications Wa  
Verizon Data & Wireless Servic  
VZW/Vienna Channels  
Warrior Emporium  
Washington College  
Washington Gas  
World Airways  
Zuckerman Kronstadt

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 16-3007****September Term, 2015****1:07-cr-00046-RWR-1****Filed On: May 3, 2016**

In re: Montgomery Blair Sibley,

Petitioner

**BEFORE:** Tatel, Brown, and Pillard, Circuit Judges**ORDER**

Upon consideration of the petition for writ of mandamus, it is

**ORDERED** that the petition be denied. Petitioner has not shown a "clear and indisputable" right to mandamus relief. Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Mayra L. Gallo  
Deputy Clerk