

**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)<sup>1</sup> 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:

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<sup>1</sup> § 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 Berkman<sup>2</sup> – 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.

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<sup>2</sup> 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

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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.

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

UNITED STATES DISTRICT COURT FOR THE  
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\_\_\_\_\_ /

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