IN THE
COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 2015
No. 417

Montgomery Blair Sibley

Appellant,

vs.

John Doe, et al.,

Appellants.

Appeal from the Circuit Court for Montgomery County
(The Honorable Judges John W. Debelius III,
Richard E. Jordan & Michael D. Mason)

BRIEF OF APPELLANT MONTGOMERY BLAIR SIBLEY

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TABLE OF CONTENTS

TABLE OF CITATIONS

CASES

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, RULES, AND REGULATIONS

STATEMENT OF THE CASE

On **October 6, 2014**, Appellant, Montgomery Blair Sibley ("Sibley"), filed the action below seeking a declaratory degree to determine his right, status, and other legal relations between him and the Montgomery County Grand Jury and its Foreman. (E. 9). Contemporaneously, Sibley filed his Motion to Conduct Pre-Service Discovery to Identify the John Doe Foreman so he could serve the Summons and Complaint. (E. 16).

On **October 15, 2014**, Judge Debelius, III, denied Sibley's Motion to Conduct Pre-Service Discovery. (E. 18). On **October 22, 2014**, Sibley filed his Verified Emergency Motions to: (i) Disqualify The Honorable John W. Debelius III, and (ii) Reconsider Orders Denying Motion to Conduct Pre-Service Discovery. (E. 19). On **November 3, 2014**, Judge Debelius, III, denied those two motions. (E. 27).

On **December 2, 2014**, the State's Attorney for Montgomery County made an unopposed Motion to Intervene – which was subsequently granted – and a Motion to Dismiss for Failure to State a Cause of Action. (E. 28). On **January 22, 2015,** a hearing was held on the State Attorney's Motion to Dismiss before Judge Mason. After oral argument, Judge Mason granted the Motion to Dismiss and the case was dismissed without prejudice. (E. 39). On **January 27, 2015**, Sibley filed his Motion to Alter or Amend the January 22, 2015, Order of Dismissal. (E. 40).

On **May 11, 2015**, Judge Mason denied Sibley's Motion to Alter or Amend the January 22, 2015 Order of Dismissal. (E. 45). This timely appeal followed.

QUESTIONS PRESENTED

I. Did Judge Debelius, III's involvement in this case deny to Sibley a "fair trial in a fair tribunal"?

II. Was Sibley entitled to pre-service discovery to identify the John Doe Defendant?

III. Did the Complaint fail to state a cause of action?

IV. Was Sibley's Right to Access the Grand Jury Tainted by Prosecutorial Misconduct?

V. Whether Significant Grand Jury Policy Issues Should be Addressed by this Court?

STATEMENT OF THE FACTS MATERIAL TO A DETERMINATION OF THE QUESTIONS PRESENTED

In or about **July 2014**, Sibley became aware of what he believed was criminal behavior by Barack Hussein Obama in violation of Maryland law, to wit, *inter alia*, the continuing violation of Maryland Code, §8-303, *Government identification document*. (E. 10). Accordingly, Sibley – in order to discharge his obligation as a Citizen to raise the "hue and cry" – reported his belief to the Montgomery County Police who referred him to the Maryland State Attorney. (E. 10)

Pursuant to the holding in *Brack v. Wells*, 184 Md. 86 (Md. 1944), on **September 13, 2014**, Sibley requested in writing to the Honorable John W. Debelius, III that upon the evidence furnished to him by Sibley that Judge Debelius, III "issue a warrant for the

arrest of Barack Hussein Obama." (E. 10).[1]

Additionally, and again pursuant to *Brack v. Wells*, on **September 22, 2014**, Sibley wrote Bryan Roslund, Assistant State's Attorney, Chief, Special Prosecution Division, Office of the State's Attorney, Montgomery County, Maryland, requesting to appear before the Grand Jury to present his belief of the violations of Maryland criminal law. (E. 10). On **September 25, 2014**, Sibley received from ASA Roslund a letter – putatively co-signed by Foreman of the Grand Jury – stating: "The Grand Jury for Montgomery County, Maryland has considered your request that an investigation be opened into whether documents relating to President Obama's eligibility for office are fraudulent. The Grand Jury declines to investigate this matter." (E 11 & E. 14) Notably, the purported signature of the Foreman of the Grand Jury on that letter is illegible.

In response, on **September 27, 2014**, Sibley wrote to ASA Roslund stating: (i) "I take your September 25, 2014, letter as a 'refusal' by the State's Attorney to exercise his vested discretion to present my concerns regarding Mr. Obama to the Grand Jury. If I am wrong in this regard, please promptly let me know" and (ii) that Sibley "did not authorize you to speak on my behalf: 'to ask the foreman of the grand jury for permission to appear before that body.'" (E. 12 & E. 15). No response to that letter was received by Sibley.

As a result, on **October 6, 2014**, Sibley filed his Complaint seeking a declaratory

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[1] At a hearing regarding discovery disputes held on February 11, 2015, counsel for Judge Debelius, III stipulated that: (i) Judge Debelius, III received Sibley's September 13, 2014, letter and (ii) Judge Debelius, III refused to issue an arrest warrant.

degree determining his right, status, and other legal relations between him and the Montgomery County Grand Jury and its Foreman in particular declaring:

> (i) That Sibley has the right to present to the Foreman of the Grand Jury *in person* his request-to-appear before that body as he has exhausted his remedies before a magistrate and the State's Attorney;
>
> (ii) That the Foreman thereafter has the obligation to present Sibley's request-to-appear "to the grand jury for whatever action that body desires to take"; and
>
> (iii) That in this particular case, the behavior of ASA Roslund has so prejudiced the Foreman of the Grand Jury as to deprive Sibley of his right to an untainted Grand Jury to consider his "complaint".

(E. 13).

On **January 27, 2015**, Sibley hand-delivered to the State Attorney for Montgomery County a sealed letter addressed to the Foreman of the Grand Jury requesting confirmation from the State Attorney that: (i) the letter was delivered to the Grand Jury as sealed, (ii) the identify of the person to whom the letter was delivered and (iii) the date, time and place of the delivery of the sealed letter. (E. 43). On **February 10, 2015**, Sibley received the February 5, 2015 letter from the putative, unidentified "Foreperson of the Grand Jury" declining to investigate Sibley's allegations. (E. 44).

STANDARD OF REVIEW

Unless placed before the discussion of an issue, the applicable standard of review is whether the "trial court's grant or denial of a motion . . .was legally correct." *Heat & Power Corp. v. Air Prods. & Chems., Inc*., 320 Md. 584, 591 (1990).

ARGUMENT

I. SIBLEY WAS DENIED A "FAIR TRIAL IN A FAIR TRIBUNAL"

A. STANDARD OF REVIEW

As to the motion to disqualify Judge Debelius, III, review of his recusal decision is pursuant to an objective standard; namely, "[w]hether a reasonable member of the public knowing all of the circumstances would be led to the conclusion that the judge's impartiality might reasonably be questioned." *In re Turney*, 311 Md. 246, 253 (1987).

B. JUDGE DEBELIUS, III WAS A WITNESS IN THE PROCEEDING BELOW

The Maryland Code of Judicial Conduct, Rule 2.11(a) "Disqualification" is unequivocal: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances: (1) **The judge has . . . personal knowledge of facts that are in dispute** in the proceeding." (Emphasis added).

Here, the Honorable John W. Debelius, III was a witness to the instant action as he was contacted by Sibley prior to filing suit as required *Brack v. Wells*, 184 Md. 86 (Md. 1944) as a condition precedent to Sibley contacting the Foreman of the Grand Jury. A

citation should not be necessary for the proposition that a judge may not adjudicate a matter in which he is a witness as Judge Debelius, III was here.

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).

Accordingly, a "reasonable member of the public knowing" that Judge Debelius, III would be called as a witness in this matter "would be led to the conclusion that the judge's impartiality might reasonably be questioned." *In re Turney*, 311 Md. 246, 253 (1987). As such, Judge Debelius, III should have recused himself from this matter and accordingly, his orders below must be vacated and the matter remanded.[2]

II. SIBLEY WAS ENTITLED TO PRE-SERVICE DISCOVERY TO IDENTIFY THE JOHN DOE DEFENDANT

A. STANDARD OF REVIEW

As to the motion for pre-service discovery to identify the John Doe Defendant, the

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[2] This Court should also take judicial notice that Judge Debelius, III is the Chief Administrative Judge for the Circuit Court of Montgomery County. As such, his patent hostility to Sibley's action demonstrated by his procedural blocking of this suit from advancing to protect the Grand Jury from Sibley's legitimate inquiry appears to have tainted the entire Montgomery County Circuit Bench as the subsequent history of this matter demonstrates. That history includes: (i) *ex parte* communication between Judge Debelius, III and the State Attorney (E. 23), (ii) *ex parte* communication between the subpoeaned Judge Debelius, III or his agent and Judge Jordan (Docket #30), and (iii) the legal representation of Judge Debelius, III, regarding discovery disputes in this matter by the Attorney General's Office which also represents the Defendant Montgomery County State Attorney's Office in this matter. (Docket #29).

standard of review was stated in *Beyond Sys. v. Realtime Gaming Holding Company*, 388 Md. 1, 29 (2005): "We review the denial of discovery under the abuse of discretion standard and will only conclude that the trial court abused its discretion 'where no reasonable person would take the view adopted by the [trial] court[] . . . or when the court acts without reference to any guiding principles, and the ruling under consideration is clearly against the logic and effect of facts and inferences before the court[] . . . or when the ruling is 'violative of fact and logic."(citations omitted).

B. DENYING PRE-SERVICE DISCOVERY WAS AGAINST LOGIC

By denying Pre-Service Discovery of the identify of the Grand Jury Foreman, the Honorable John W. Debelius, III *de facto* guaranteed this matter would be dismissed for lack of prosecution. Clearly, if Sibley could not identify the John Doe Defendant, that person could not be served and the instant matter would ultimately be dismissed for lack of prosecution. "The power of Maryland courts to dismiss in civil cases is enshrined in Maryland Rule 2-507(c), which permits the circuit court to dismiss a prosecution, with certain exceptions, when a year has passed from the last docket entry." *Wynn v. State*, 388 Md. 423 (2005).

Moreover, while this issue has not heretofore been raised in Maryland, other courts have found reversible error in a court's refusal to allow discovery of the identity of John Doe defendants. *Accord: Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)("As a general rule, the use of "John Doe" to identify a defendant is not favored. *See, Wiltsie v. California Department of Corrections*, 406 F.2d 515, 518 (9th Cir.1968). However,

situations arise, such as the present, where the identity of alleged defendants will not be known prior to the filing of a complaint. In such circumstances, the plaintiff should be given an opportunity through discovery to identify the unknown defendants, unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds. *Gordon v. Leeke*, 574 F.2d 1147, 1152 (4th Cir.1978)*, cert. denied*, 439 U.S. 970 (1978); *see, Wells Fargo & Co. v. Wells Fargo Express Co.*, 556 F.2d 406, 430-431 n.24 (9th Cir.1977); *also, Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 n.13 (1978).")

Hence it was plain error for the Honorable John W. Debelius III to deny Sibley's request for pre-service discovery of the identity of the John Doe Defendant in this matter.

III. THE COMPLAINT STATED A CAUSE OF ACTION FOR DECLARATORY RELIEF

A. STANDARD OF REVIEW

"A motion to dismiss for failure to state a claim tests the sufficiency of the pleadings. Md. Rule 2-322(b)(2). Therefore, when reviewing the circuit court's grant of a motion to dismiss, the reviewing court must 'assume the truth of, and view in a light most favorable to the non-moving party, all well-pleaded facts and allegations contained in the complaint, as well as all inferences that may reasonably be drawn from them . . . ." *Walton v. Network Solutions*, 221 Md. App. 656, 665 (2015) (Citations omitted).

B. JUDGE MASON FAILED TO DISCHARGE HIS OBLIGATION TO DECLARE THE RIGHTS OF THE PARTIES

At the conclusion of the January 22, 2015, hearing, Judge Mason orally granted the Motion to Dismiss stating as follows:

> Okay, I've had a chance to read the complaint and I've had a chance to read the case. And it would appear to me from reading the case -– it's clear from the case there is no right to appear in front of the grand jury. The limits of the right are to offer to present to the grand jury violations of the criminal law. The real issue here is whether or not he has a right to offer, to make that offer directed to the grand jury through one of its representatives and/or through the State's Attorney. But that issue isn't actually presented by the facts as pled because there is no complaint that is pled that you authored a request directed specifically to the grand jury foreman or to the grand jury. And that the State declined to present that document to the grand jury.
>
> It said you sent a letter to the State saying that you wanted to appear in front of the grand jury and then the State responded. And then after speaking to the grand jury, the grand jury wouldn't talk to you. So there's no allegation that they actually interfered with an effort by you to communicate directly to the foreman. Because the letter where you made that request isn't filed as part of the complaint. But as far as I can tell from what is filed, you authored the request to the State's Attorneys, the State's Attorneys communicated to the grand jury and the grand jury refused.
>
> Or as in the underlying case, rather, that a mandamus issue, which simply requires the State to convey the letter to the foreman, but there's nothing in the case that indicates -– well, but there's nothing in the case that prohibits, as I read it, from you directly communicating to the foreman. Although it seems to me the better practice would be to do it by letter. So because you haven't pled that you attempted to communicate directly and the State interfered with that, I don't believe there is a controversy before the Court that would cause the Court

> to declare your rights.
>
> And I'll grant the motion to dismiss, subject to the ability to file an amended complaint, if in fact you make that effort and the State interferes with that effort. But that's not what's been pled in this case. So it would appear at this time, that with respect to the issue of the declaratory judgment, which is a matter of discretion, that there is no act or controversy before the Court that would cause the Court to declare the rights, because, in this case, you haven't made that effort. If, in fact, you author a letter to the State's Attorney and you ask the State's Attorney to deliver that letter and they refuse, then it may be that you have cause to file a complaint asking that your rights be declared.

(E. 30-38).

Thereafter, on January 22, 2015, Judge Mason entered his written Order granting the Defendant State Attorney for Montgomery County's Motion to Dismiss for failure to state a claim upon which relief can be granted. (E. 39). Notably, the one-page, form Order fails to articulate Judge Mason's *ratio decendi*. As such, as a purely procedural matter, this case must be reversed and remanded.

It is well-settled that the grant of a motion to dismiss "is rarely appropriate in a declaratory judgment action." *Broadwater v. State*, 303 Md. 461, 465 (1985). In *Broadwater*, the Court held: "Although the trial judge seemed in his oral opinion to be deciding against the view advanced by Broadwater, he failed to clearly delineate the rights of the parties. For purposes of appellate review we need the trial judge's analysis of the issues presented. It follows, therefore, that the trial judge erred both in granting the motion to dismiss and in failing to declare the rights of the parties. Accordingly, we must

vacate the judgment and remand the case for further proceedings consistent with this opinion." *Broadwater* at 465.

Clearly, in a declaratory judgment action, the Circuit Court has a pronounced duty to address the issues raised in the Complaint: "In Maryland **this Court has said time and again that seldom, if ever, in a declaratory judgment proceeding should a demurrer be sustained** or the bill or petition dismissed without a declaration one way or the other of the rights of the parties." *Hunt v. Montgomery County*, 248 Md. 403, 410 (1968). (Citation omitted, emphasis added).

Here, as the January 22, 2015, Oral Ruling and Order of Dismissal makes clear, Judge Mason did not make a "declaration one way or the other of the rights of the parties." As such, for that reason alone this matter must be reversed and remanded. Sibley, prays however that this Court address the substantive legal arguments raised below to give the Circuit Court guidance on how to proceed and to avoid additional delay in this already purposely delayed matter.

C. THE CIRCUIT COURT FAILED TO DECLARE WHETHER *BRACK v. WELLS* VIOLATED SIBLEY'S COMMON LAW RIGHT TO PETITION THE GRAND JURY IN PERSON

In his Oral Ruling, Judge Mason ignored the fundamental question raised by Sibley as to whether the holding in *Brack v. Wells*, 184 Md. 86 (Md. 1944) improperly impaired Sibley's Common Law right to directly and in person petition the Grand Jury.

Article 5(a)(1) of the Maryland Declaration of Rights states in pertinent part:

> That the Inhabitants of Maryland are entitled to the Common

> Law of England, and the trial by Jury, according to the course of that Law, . . . subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State.

Turning to the Common Law of England regarding the Grand Jury, that Law was unequivocal: Under ancient English grand jury practice, criminal prosecutions were initiated by private prosecutors in the name of the King. *Hale v. Henkel*, 201 U.S. 43, 59 (1906)("Under the ancient English system, criminal prosecutions were instituted at the suit of private prosecutors, to which the King lent his name in the interest of the public peace and good order of society"). Indeed, the ancient, Common Law oath of the Grand Juror was as follows: "You shall diligently inquire and true presentments make of all such matters, articles, and things as shall be given you in charge, as of all other matters, and things as shall come to your own knowledge touching this present service." *Rex v. Shaftsbury*, 8 Howell's State Trials 759. Last, and most relevant here, "The purpose of the institution of grand juries was, as we have seen, to interpose a check upon the sovereign. . . ." *United States v. Wells*, 163 F. 313, 325 (1908).

By the eighteenth century, the Common Law grand jury helped to ensure that prosecutors, whether private or public, were not simply pursuing a personal vendetta, but were legitimately invoking the power of the state against a fellow citizen. As James Wilson, one of the primary architects of the United States Constitution, in his first charge

to a federal grand jury as a Justice of the United States Supreme Court[3], stated,

> [Grand juries] are not appointed for the prosecutor, or for the court: They are appointed for the government, and for the people ... . They are a great channel of communication between those, who make and administer the laws, and those, for whom the laws are made and administered. All the operations of government, and of its ministers and officers, are within the compass of their view and research.

Wilson advised the jurors that he considered them "the ultimate interpreters of the law, with power to over-rule the directions of the Judges." *Id*. This, of course, echoed the Common Law's notion of the reach of the Grand Jury as exemplified in the classic British anecdote when Lord Erskine explained to the King's Bench that even: "if a man were to commit a capital offense in the face of all the judges of England . . . [t]he grand jury alone could arraign him, and in their discretion might likewise finally discharge him, by throwing out the bill, with the names of all your lordships as witnesses on the back of it." *Hurtado v. California,* 110 U.S. 516, 543 (1884)(Harlan, J., dissenting).

In sum then, the Common Law inherited by the "inhabitants" of Maryland in 1776 guaranteed to those inhabitants then – and the present inhabitants now – the absolute right to: (i) act as private prosecutors before the Grand Jury, (ii) enjoy a Grand Jury which could proceed upon their own knowledge independent of any charges brought before them by a public prosecutor and (iii) a Grand Jury which could act as the ultimate

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[3] James Wilson's *Charge to the Grand Jury of the Circuit Court for the District of Pennsylvania*, in 2 The Documentary History of the Supreme Court of the United States 33, 36-39 (Maeva Marcus ed., 1988) (1790).

interpreters of the law. Notably, to date, the "Legislature of this State" has yet to make any "revision of, and amendment or repeal" of the "Common Law of England" regarding the Grand Jury as secured by Article 5(a)(1).

Upon these historical antecedents, the perversion of *Brack v. Wells*, 184 Md. 86 (Md. 1944) conflated with the apparent behavior of the prosecutor in the instant matter raises this case to one of significant Maryland Constitutional import demanding this Court's full and immediate attention.

In *Brack v. Wells*, the Court held *ex cathedra*:

> It is the opinion of this Court that every citizen has a right to offer to present to the grand jury violations of the criminal law. This does not mean that an individual member of that body may be approached. The citizen should exhaust his remedy before the magistrate and State's Attorney as was done in the instant case, and if relief can not be had there, **he then has the right to ask the foreman of the grand jury for permission to appear before that body**.

Id. at 97 (Emphasis added). Notably, in *Brack v. Wells*, there is no reference to *stare decisis* for this holding which required exhaustion of pre-conditions before approaching the Grand Jury. Moreover, such pre-conditions undermines the very function of the Grand Jury: "to interpose a check upon the sovereign" – something Sibley is seeking to do here.

Accordingly, the Circuit Court failed to make a "declaration one way or the other" whether or not the holding of *Brack v. Wells* violated the Common Law right of Sibley to directly petition the Grand Jury without pre-condition or interference by Court or Public

Prosecutor.

D. THE CIRCUIT COURT FAILED TO DECLARE ANSWERS TO THE QUESTIONS LEFT UNRESOLVED BY *BRACK v. WELLS*

Ignored by the Circuit Court in dismissing the matter for failing to state a cause of action were the seminal questions raised in the Complaint which were unresolved by the holding in *Brack v. Wells*. In particular, the Circuit Court in its Oral ruling did not address the issues raised in the Complaint:

a. Whether Sibley has the right to present to the Foreman of the Grand Jury *in person* his request-to-appear before that body as he has exhausted his remedies before a magistrate and the State's Attorney; and

b. Whether the Foreman thereafter has the obligation to present Sibley's request-to-appear "to the grand jury for whatever action that body desires to take."

(E. 13). For this failure of the Circuit Court to make a "declaration one way or the other of the rights of the parties" in this regard, this matter must be reversed and remanded.

IV. THE CIRCUIT COURT FAILED TO DECLARE WHETHER SIBLEY'S RIGHT TO ACCESS THE GRAND JURY HAS BEEN INTERFERED WITH BY PROSECUTORIAL MISCONDUCT

Completely ignored by the Circuit Court was the claim in the Complaint raising the issue of prosecutorial misconduct: "That in this particular case, the behavior of ASA Roslund has so prejudiced the Foreman of the Grand Jury as to deprive Sibley of his right to an untainted Grand Jury to consider his "complaint." (E.13).

Notably, Sibley alleged in the Complaint: "Upon information and belief and after a

reasonable opportunity for further investigation or discovery, Sibley will establish that ASA Roslund pejoratively characterized Sibley to the Grand Jury Foreman as a "birther" lunatic, thereby induced the John Doe Grand Jury Foreman to sign" the letter refusing to hear Sibley.[4] (E. 12, ¶13). Remarkably, in its Memorandum in Support of Motion to Dismiss, the State Attorney stated in pure *ad hominem* fashion: (i) "Mr. Sibley does not dispute that he is a 'birther lunatic'" and (ii) "But even without this context, **that Mr. Sibley may have been portrayed to the grand jury as a "birther lunatic"** is not relevant to his right to ask to present criminal allegations to a grand jury." (Docket # 33, State Attorney's Memo in Support of Motion to Dismiss, p. 6 & 7).

Here, to hold that Sibley has failed to state a claim upon allegations that the Public Prosecutor mis-shaped the message from Sibley and whispered, *soto voce,* into the ear of the Grand Jury pejorative statements and misrepresentations about Sibley is to subvert the seminal role the Grand Jury plays as the entity *quis custodiet ipsos custodes*.

Accordingly, Sibley is entitled to a "declaration one way or the other of the rights of the parties" of this allegation as plainly, on the continuum of behavior by public prosecutors before a grand jury there exists a part of that spectrum which trespasses upon Sibley's right to petition an untainted, unprejudiced Grand Jury to present his concerns.

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[4] The term "birther" now has a common understanding in the general lexicon: "Birther: A racist sore loser who can't deal with having a black president so they make up absurd conspiracy theories about Barack Obama's birth certificate. These nutjobs actually believe that there has been a conspiracy going back 48 years to fake Barack Obama's birth certificate. Just ignore that racist nutjob foaming at the mouth. He's a right wing 'birther' conspiracy nut." Retrieved from: *http://www.urbandictionary.com*

Here, Sibley has alleged – pending further discovery – that such a trespass has occurred warranting a declaratory judgment one way or the other which the Circuit Court failed to give.

V. THIS COURT MUST LOOK BEHIND THE VEIL

Plainly, by their delay and rulings, the Judges of the Circuit Court and the State Attorney want to continue the emasculation of the Grand Jury which has been on-going for over a century. In 1895, Justice Brewer in *Frisbie v. United States*, 157 U.S. 160, 163 (1895) described a system relying on an energetic Grand Jury: "[I]n this country the common practice is for the Grand Jury to investigate any alleged crime**, no matter how or by whom suggested to them**, and after determining that the evidence is sufficient to justify putting the party suspected on trial, to direct the preparation of the formal charge or indictment." (Emphasis added). Yet, a hundred years later, Supreme Court Justice William Douglas would write that it was "common knowledge that the Grand Jury, having been conceived as a bulwark between the citizen and the Government, is now a tool of the Executive." *United States v. Dioniso*, 410 U.S. 19, 23 (1973)(Douglas, J., dissenting).

By affirming the granting of the State Attorney's Motion to Dismiss the Complaint upon the grounds of failure to state a claim, this Court would confirm the acceptability of the *status quo* and continue the erosion of the Common Law authority and independence of the Grand Jury. Such a result can only be viewed as an absolute *coup d'etat* upon the Grand Jury's Common Law prerogatives by this Court. The result is the death of the

Grand Jury in its traditional, authentic, or runaway form, leaving the modern government with few natural enemies capable of delivering any sort of damaging blows against it for its misfeasance.

Over a century ago, of the Grand Jury, the Maryland Court of Appeals stated: "To them is committed the preservation of the peace of the county; the care of bringing to light for examination, trial, and punishment, all violence, outrage, indecency, and terror; everything that may occasion danger, disturbance, or dismay to the citizen. They are watchmen, stationed by the laws to survey the conduct of their fellow-citizens, and inquire where and by whom public authority has been violated or the laws infringed." *Blaney v. State*, 74 Md. 153, 156 (1891).

To allow to stand the summary, improper, dismissal of Sibley's Complaint for declaratory relief is to *de jure* and *de facto* wrongly relieve the "watchmen, stationed by the laws to survey the conduct of their fellow-citizens" from their duty. This Court must not allow that result to stand. Accordingly, this matter must be reversed and remanded.

CONCLUSION

Sibley respectfully requests that this Court, for the reasons aforesaid, reverse and remand this matter with illumination of the legal issues raised herein for the lower court's guidance.

CITATION AND VERBATIM TEXT OF ALL PERTINENT CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, RULES, AND REGULATIONS

Article 5(a)(1) of the Maryland Declaration of Rights states in pertinent part:

That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by Jury, according to the course of that Law, . . . subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State.

Maryland Code, §8-303, *Government identification document*

(a) In this section, "government identification document" means one of the following documents issued by the United States government or any state or local government: (1) a passport; (2) an immigration visa; (3) an alien registration card; (4) an employment authorization card; (5) **a birth certificate**; (6) a Social Security card; (7) a military identification; (8) an adoption decree; (9) a marriage license; (10) a driver's license; or (11) a photo identification card. (Emphasis added).

(b) A person may not, with fraudulent intent: (1) possess a fictitious or fraudulently altered government identification document; (2) **display, cause, or allow to be displayed a fictitious or fraudulently altered government identification document**; (3) lend a government identification document to another or knowingly allow the use of the person's government identification document by another; or (4) display or represent as the person's own a government identification document not issued to the person. (Emphasis added).

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

Maryland Code of Judicial Conduct, Rule 2.11(a) "Disqualification"

"A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances: (1) **The judge has . . . personal knowledge of facts that are in dispute** in the proceeding." (Emphasis added).

Respectfully submitted,

MONTGOMERY BLAIR SIBLEY
Appellant

STATEMENT AS TO TYPEFACE

The font used in this Brief is Times New Roman and the type size is 13 point.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that two true and accurate copy of the foregoing Brief of Montgomery Blair Sibley, Appellant were served by U.S. Postal Service first class mail this August ___, 2015, on Bradley J. Neitzel, Assistant Attorney General, 200 St. Paul Place, 20th Floor, Baltimore, MD 21202.

By: _____
Montgomery Blair Sibley