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February 6, 2014

Via Fax (202-273-0331) & USPS Delivery Confirmation: 03112550000146274041
Office of Circuit Executive
United States Courts of the District of Columbia Circuit
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866

Re: *Judicial Conduct Complaint No.: 13-90035*
Judicial Conduct Complaint No.: 13-90036

Greetings,

Pursuant to Rule 18 of the Rules for Judicial Conduct and Judicial Disability Proceedings, I hereby petition the Judicial Council for review of the January 15, 2014, Order of Chief Judge Merrick dismissing my complaints against Magistrate Judge Robinson and Chief Judge Roberts in the above referenced matters.

I. STATEMENT OF FACTS:

As detailed in my original Petition, in *U.S. v. Duke*, Magistrate Judge Deborah A. Robinson: (i) falsified the record, (ii) exceeded her jurisdiction and (iii) impersonated an Article III judge in dismissing the Indictment of the fugitive, Capitol Bombing, domestic-terrorist, Elizabeth Duke.

Chief Judge Roberts, though repeatedly made aware of this misfeasance of Magistrate Judge Robinson, failed to take any action and sought to obfuscate and cover-up further inquiry into my allegations of the felonious behavior by Magistrate Judge Robinson. Additionally, Judge Roberts failed to discharge his obligation to report this matter to the Grand Jury.

The time-line and location of the events at issue are as follows:

November 7, 1983 – In the District of Columbia, a bomb was detonated inside the United States Capitol.

May 24, 1985 – Defendant Elizabeth Duke ("Duke") was arraigned in Philadelphia upon an Indictment charging her with involvement in the aforementioned bombing.

July 24, 1985 – Duke was released on bail by U.S. District Court Judge Louis Heilprin

Pollak. After failing to appear back 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.

May 11, 1988 – Duke – along with her co-conspirators Laura Whitehorn, Linda Evans, Marilyn Buck, Susan Rosenberg, Timothy Blunk, and Alan Berkman – was indicted in the District of Columbia 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. The case was assigned Docket No.: 88-cr-145.

June 2, 1988 – Judge Harold H. Greene issued a bench warrant for Duke when she again failed to appear making Duke a fugitive from justice.

April 25, 2008 – Police arrest Philip Robinson Winkfield at his apartment in Dutch Village in Northeast Baltimore and seize five loaded guns, including two semiautomatic pistols, two shotguns and a semiautomatic assault rifle; a bullet resistant vest; 157 grams of heroin; 180 grams of crack; more than six pounds of marijuana and $8,000 cash. Winkfield is the then 21-year-old son of U.S. Magistrate Judge Deborah Robinson.

May 23, 2008 – Winkfield indicted in Baltimore City Circuit Court on Maryland State Drug offenses.

November 2008 – Barack Hussein Obama is elected President of the United States. The U.S. Attorney's Office in Maryland takes over the Winkfield case from Maryland State prosecutors moving it from Maryland State Court to federal court.

December 3, 2008 – Winkfield waives Indictment and pleads guilty to being an armed heroin dealer.

April 10, 2009 – Winkfield – eligible for a 40 year sentence – is sentenced to five years in federal prison for possession with intent to distribute heroin. Assistant U.S. Attorney George Hazel recommends to U.S. District Court Chief Judge Motz that Winkfield, receive the mandatory minimum of 60 months in prison. Chief Judge Motz sentenced Winkfield to five years in prison with credit for time served and, upon a request made by the defense with the concurrence of the government, that Winkfield be sent to Cumberland FCI, a notorious "Club Fed"

June 17, 2009 – Magistrate Judge Deborah A. Robinson holds a hearing in *U.S. v. Duke* at which the government makes an oral motion to dismiss the Indictment and quash the outstanding arrest warrant as to Duke which was granted by Magistrate Judge Deborah A. Robinson. Notably, the Transcript of that June 17, 2009, hearing reveals that the government <u>failed</u> to proffer any reason and <u>failed</u> to show good cause to justify the granting of the government's motion to dismiss the Indictment Duke. A copy of that Transcript is attached as Exhibit "A". The same day, Magistrate

Judge Robinson signed the Order dismissing the Indictment as a "United States District Court Judge", a position Deborah A. Robinson does not hold. A copy of her Order is attached as Exhibit "B". Notably, in that Order dismissing the Indictment against Elizabeth Duke she stated that the dismissal was: "for the reasons set forth in the government's motion and for good cause shown" – a clear misrepresentation of what actually transpired as the Transcript reveals.

August 31, 2012 – Winkfield is released from federal prison after serving only 4.3 years of his five year sentence.

May 13, 2013 – I file a motion to intervene in the *U.S. v. Duke* matter alerting both Magistrate Judge Robinson and Judge Roberts of the improprieties of the June 17, 2009, hearing and requesting the audio recording of that hearing. That request is denied by Magistrate Judge Robinson.

June 20, 2013 – After finally obtaining a transcript of the June 17, 2009, hearing, I again move to intervene pointing out the now-proven misrepresentation-of-the-record by Magistrate Judge Robinson in her June 17, 2009, order. Magistrate Judge Robinson denies my motion and seals the motion from public view on the Docket in 88-cr-145.

July 26, 2013 – I write Chief Judge Roberts – and copy all the other judges of the D.C. District Court – and alert him of the issues concerning Magistrate Judge Robinson and tell him in that letter that: "I am privy to compelling evidence regarding why the Obama administration would *soto voce* seek the dismissal of the indictment against the fugitive, terrorist, indicted United-States-Capitol-bombing Elizabeth Duke." Additionally, pursuant to 28 USC § 631(i) I request that Magistrate Judge Robinson be removed from her office. There is no response to my letter.

October 23, 2013 – I again write Chief Judge Roberts – and copy all the other judges of the D.C. District Court – and bring to his attention the Winkfield matter described above and how it relates to the dismissal of the Indictment against Duke. Accordingly, I demand that pursuant to 18 U.S.C. § 3332(a)[1] and Federal Rules Criminal Procedure, Rule 6(a)[2], Judge Roberts discharge his statutory obligation to bring "to the attention of the grand jury" the evidence of criminal behavior presented in that letter. Simply stated, it appears to me that Magistrate Judge Robinson – under threat

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[1] 18 U.S.C. §3332(a) which states in pertinent part: "It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. **Such alleged offenses may be brought to the attention of the grand jury by the court** or by any attorney appearing on behalf of the United States for the presentation of evidence." (Emphasis added).

[2] Federal Rules Criminal Procedure, Rule 6(a) which states: "When the **public interest** so requires, the court **must** order that one or more grand juries be summoned." (Emphasis added).

that her son could be committed to Maryland State Prison where the threat of violence is much higher than in the federal system and knowing her son was facing 40 years in prison – caved to the Obama Administration's peculiar demand to dismiss an Indictment against the fugitive, domestic terrorist, Capitol-bombing Elizabeth Duke made without explanation by granting that motion and then signing the order impersonating an Article III judge. In return, her son received the velvet glove treatment from the federal government.

October 30, 2013 – Chief Judge Roberts responds to my letter of October 23, 2013, concluding – after ignoring the proof of Magistrate Judge Robinson's misrepresentation of the record and impersonating an Article III judge – that: "I see no basis for taking any further action."

November 8, 2013 – I file a judicial misconduct complaint against Magistrate Judge Robinson and Chief Judge Roberts. After relating the above facts in the bare-bone notice complaint, I specifically ask in my complaint: "I have in my possession copies of the pleadings, letters, and orders to confirm the allegations made herein and would be pleased to meet with an investigator to provide copies of the same." That offer of providing further evidence is ignored.

January 15, 2014 – Chief Judge Garland enters his order dismissing my complaint for the reasons set forth in his accompanying Memorandum. In that Memorandum, Chief Judge Garland summarily concluded without explanation that: "Because those allegations are 'directly related to the merits of a decision or procedural ruling,' the complaint against the magistrate judge 'must be dismissed.' Jud. Conf. U.S., Rules of Judicial-Conduct and Judicial-Disability Proceeding 11(c)(1)(B); See 28 U.S.C. §352(b)(1)(A)(ii)." As to Chief Judge Roberts, Chief Judge Garland concluded: "Because the allegations 'lack[] sufficient evidence to raise an inference that misconduct has occurred' on the part of either the magistrate or the district judge, the complaint against the district judge must also be dismissed. Id. 1l(c)(l)(D)."

II. REASONS WHY THE PETITION SHOULD BE GRANTED

Upon the foregoing, it is indisputable that both Magistrate Judge Robinson and Chief Judge Roberts have engaged in behavior which is prejudicial to the effective and expeditious administration of the business of the courts.

A. THE COMPLAINT HAS NO RELATION TO THE "MERITS" OF MAGISTRATE JUDGE ROBINSON'S DISMISSAL OF THE DUKE INDICTMENT

Respectfully, Chief Judge Garland's conclusion regarding Magistrate Judge Robinson is asinine. The instant Complaint did not question whether the dismissal of the Duke indictment was legally "merited" or not. Instead, as Chief Judge Garland clearly stated in his Memorandum, the Complaint: "alleges that the magistrate judge (i) falsified the record, (ii) exceeded [the judge's]

jurisdiction and (iii) impersonated an Article I11 judge in dismissing the Indictment." The "merits" of the Duke indictment dismissal were not raises in the Complaint. Thus, for Chief Judge Garland to base his dismissal upon that legal ground makes no sense whatsoever. Clearly, the lack of the requisite *ratio decidendi* by Chief Judge Garland is because there is no logical way to connect the allegation of the Complaint to the Rule 11(c)(1)(B) defense.

B. FALSIFYING THE RECORD, IMPERSONATING AN ARTICLE III JUDGE AND USURPING JURISDICTION ARE ALL BEHAVIORS WHICH ARE PREJUDICIAL TO THE EFFECTIVE AND EXPEDITIOUS ADMINISTRATION OF THE BUSINESS OF THE COURTS

In her attached June 17, 2009, Order, Magistrate Judge Robertson falsified the record of a court proceeding by entering the Order dismissing the Duke indictment claiming it was done "for the reasons set forth in the government's motion and for good cause shown" when in fact there was no such reasons contained in the government's oral motion as the attached transcript plainly reveals. This of course is a felony.[3]

Moreover, even a cursory review of the June 17, 2009, Order reveals that Magistrate Judge Robinson represented that she was a "United States District Court Judge" under her signature – a position that she does not hold.

Finally, Federal Rules of Criminal Procedure, Rule 59(b)(1), "Matters Before a Magistrate Judge" specifically prohibits a Magistrate Judge from dismissing an indictment as Magistrate Judge Robinson did in her June 17, 2009, Order. That Rule states in pertinent part:

> *Referral to Magistrate Judge*. A district judge may refer to a magistrate judge for recommendation . . . any matter that may dispose of a charge or defense. . . . The magistrate judge must enter on the record a recommendation for disposing of the matter, including any proposed findings of fact.

Plainly, a Magistrate Judge may only recommend a dismissal, not actually dismiss an indictment.

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[3] 18 USC § 1519 - "*Destruction, alteration, or falsification of records in Federal investigations and bankruptcy*" states in pertinent part: "Whoever knowingly alters, destroys, mutilates, conceals, covers up, **falsifies**, **or makes a false entry in any record**, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter **within the jurisdiction of any department or agency of the United States** or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both." (Emphasis added).

Accordingly, for Chief Judge Garland to conclude that the aforementioned behavior by Magistrate Judge Robinson is not "prejudicial to the effective and expeditious administration of the business of the courts" is an ostrich-like response to the appalling – indeed felonious – behavior of a civil servant over whom this Council is singularly charged with regulating.

C. CHIEF JUDGE ROBERTS IS AN ACCESSORY-AFTER-THE FACT

As to the Complaint's allegations against Chief Judge Roberts, Chief Judge Garland gratuitously concludes that there is no evidence: "to raise an inference that misconduct has occurred." By so doing, Chief Judge Garland has lowered the bar of the duty of the Court's to insure the "untainted administration of justice."[4] Hence, for Chief Judge Roberts to ignore the aforementioned behavior of Magistrate Judge Robinson violates his duty to insure the "untainted administration of justice."

Moreover, I repeatedly requested of Chief Judge Robertson that he allow me to present to him and/or a Grand Jury evidence relating to the improper motivation of the Obama Administration to seek dismissal of the Indictment against Elizabeth Duke and Magistrate Judge Robinson's felonious behavior related to that dismissal.. This Judge Robertson refused to do in violation of his duties under the common law, 18 U.S.C. § 3332(a) and Federal Rules Criminal Procedure, Rule 6(a) not to mention his Oath of Office.

Finally, it is more than fair to characterize Chief Judge Roberts behavior as that of one who is an Accessory-After-The-Fact under 18 U.S. Code § 3[5] as Chief Judge Roberts has "hindered" the prosecution of Magistrate Judge Robinson for her felonious behavior.

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[4] In *Communist Party v. Subversive Activities Control Board*, 351 U.S. 115, 124-125 (1956), this Court stated: "The untainted administration of justice is certainly one of the most cherished aspects of our institutions. Its observance is one of our proudest boasts. This Court is charged with supervisory functions in relation to proceedings in the federal courts. . . . Therefore, fastidious regard for the honor of the administration of justice requires the Court to make certain that the doing of justice be made so manifest that only irrational or perverse claims of its disregard can be asserted. . . . We cannot pass upon a record containing such challenged testimony. We find it necessary to dispose of the case on the grounds we do, not in order to avoid a constitutional adjudication but because the fair administration of justice requires it."

[5] "Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact."

III. CONCLUSION

If this is the type of behavior that this Council considers the "effective and expeditious administration of the business of the courts", then by all means "affirm the chief judge's disposition by denying the petition." Let it be publicly known that falsifying the record and covering-up judicial misfeasance is now the "business of the courts."

However, if there still sounds within you a small voice from that day each of you took your Article VI oath of office, then with all speed:

- Return the matter to the chief judge with directions to appoint a special committee under Rule 11(f);

- Given the exceptional circumstances described herein – including a corruption that reaches to the highest level of the Executive Branch, "take other appropriate action", including without limitation, as the "public interest" demands it, to "summon a grand jury"[6] pursuant to Rule 6(a) to hear from me the significant allegations raised herein;

- If the council's order affirms the chief judge's disposition, issue a supporting memorandum to supplement the chief judge's explanation; and

- Grant such other and further relief as the demands of justice so require.

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Dated: February 6, 2014 Signature: _____
Montgomery Blair Sibley

[6] Indeed, what cost is associated with allowing a Grand Jury to hear these allegations? A half hour of their time at best. A small price to pay to insure the hygiene of a court system which is called into question by the facts presented by this matter.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	
	.	
Plaintiff,	.	**CR No. 88-0145**
	.	
v.	.	
	.	
ELIZABETH DUKE,	.	**Washington, D.C.**
	.	**Tuesday, June 17, 2009**
Defendant.	.	
. . . . .		

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE DEBORAH A. ROBINSON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:
M. JEFFREY BEATRICE, ESQ.
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Transcribed By:
BRYAN A. WAYNE, RPR, CRR
Official Court Reporter
U.S. Courthouse, Room 4704-A
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Exhibit "A"

Proceedings electronically recorded and transcribed.

P R O C E E D I N G S

THE DEPUTY CLERK: Criminal case No. 88-145, Elizabeth Duke. For the government, Mr. Beatrice.

THE COURT: Mr. Beatrice.

MR. BEATRICE: Thank you, Your Honor. We would orally move to dismiss this case at this time, dismiss the indictment and also to quash the warrant, and we will submit a proposed order today, Your Honor.

THE COURT: Very well. Thank you, Mr. Beatrice.

(Proceedings adjourned.)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	**Criminal No. 88-00145 (DAR)**
v.	:	
ELIZABETH DUKE,	:	
Defendant.	:	

ORDER

Upon consideration of the government's oral Motion to Dismiss Indictment and Quash Arrest Warrant and the record herein, for the reasons set forth in the government's motion and for good cause shown, it is this 17th day of June 2009,

ORDERED that the above case is dismissed without prejudice, and it is

FURTHER ORDERED that the arrest warrant issued for the defendant in this case is hereby quashed, and it is

FURTHER ORDERED that the United States Marshals Service cancel and/or withdraw the warrant from the NCIC data base.

DEBORAH A. ROBINSON
United States District Court Judge

Exhibit "B"