

No.: 13M38

IN THE SUPREME COURT
OF THE UNITED STATES

United States of America,

Plaintiff,

vs.

Elizabeth Duke,

Defendant.

**Petition for Writ of Certiorari
to the
United States District Court
for the District of Columbia**

Petitioner's Motion for Reconsideration and Clarification

Montgomery Blair Sibley
Petitioner
4000 Massachusetts Ave, NW
Suite 1518
Washington, D.C. 20016
(202) 478-0371

Petitioner, Montgomery Blair Sibley (“Sibley”), respectfully requests that this Court: (i) reconsider upon additional evidence presented herein its October 15, 2013, Order denying Sibley’s Motion to Direct Clerk to File Petition for Writ of Certiorari and (ii) clarify that October 15, 2013, Order, and in support thereof states as follows:

I. MOTION FOR RECONSIDERATION

Sibley, proceeding as a private attorney general, sought to invoke this Court’s supervisory jurisdiction to review the extraordinary and extra-judicial behavior of Deborah A. Robinson, an Article I Magistrate Judge which includes:

- Exceeding her jurisdiction by granting the government’s curiously-timed motion to dismiss the Indictment of the fugitive, domestic terrorist, United-States-Capitol-bombing Defendant, Elizabeth Duke;
- Entering an Order dismissing the indictment against Elizabeth Duke stating: “for the reasons set forth in the government’s motion and for good cause shown”, when clearly, there were no “reasons set forth” nor “good cause shown” to justify the granting of the government’s motion to dismiss the Indictment. The Transcript of the June 17, 2009, hearing reveals that the government failed to proffer any reason to dismiss an indictment against Defendant, Elizabeth Duke. A copy of that Transcript is attached as Exhibit “A”.
- Signing the Order as a “United States District Court Judge”, a position Deborah A. Robinson does not hold. A copy of that order is attached as Exhibit “B”.

In addition to these reasons, Sibley sought to file *ex parte* and under seal additional allegations involving Magistrate Judge Robinson which by denying to Sibley that opportunity, Sibley is now forced to reveal publicly.

These allegations relate to the appearance of impropriety at best – criminal coercion at worse – of Magistrate Judge Robinson entering the improper and illegal order of dismissal of the

Indictment of Elizabeth Duke in return for extraordinary consideration in the matter of the federal prosecution of her son, Philip Robinson Winkfield, who was facing 40 years in federal prison for his drug dealing activities. A time-line of events illuminates the veracity of this allegation:

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 – The U.S. Attorney’s Office in Maryland took over the case from Maryland State prosecutors. Barack Hussein Obama elected President of the United States.

December 3, 2008 – Winkfield waives indictment and pleads guilty to being an armed heroin dealer. Curiously, Chief Judge J. Fredrick Motz said after accepting Winkfield’s plea deal: “This is not a cooperation agreement.” Expedited Sentencing Order as to Philip Winkfield entered by Judge Motz setting sentencing for January 23, 2009. See :08-cr-00513-JFM Docket attached hereto as Exhibit “C”.

April 8, 2009 – Judge Motz enters order granting Winkfield’s Motion to Seal Documents as to Winkfield.

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, a first time federal offender, 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”¹.

¹ One inmate described Cumberland FCI: “the best it gets at the fed level” where inmates have credit cards to use vending machines, cable TV and a “gym with exercise equipment, all cardio stuff and a softball field with a gravel track around it that you can walk on. . .” Retrieved from: <http://www.prisontalk.com/forums/showthread.php?t=178241>

June 17, 2009, 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.

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

Simply stated, it appears that Magistrate Judge Robinson – under threat 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 a 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.

And yet there is more. What Sibley will not presently reveal publically is additional evidence relating to the motivation of the Obama Administration to dismiss the Indictment against Elizabeth Duke. To reveal that evidence at this time would allow spoliation of critical evidence of the most significant federal crime – treason.

Accordingly, Sibley respectfully requests that this Court reconsider its refusal to direct the Clerk to file his Petition for Certiorari so that this matter may be adjudicated by this Court on the merits.

II. MOTION FOR CLARIFICATION

Since *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803):

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. If two laws conflict

with each other, the courts must decide on the operation of each. .
.This is of the very essence of judicial duty.

Here, in its order of October 15, 2013, this Court has failed to explain its *ratio decidendi* to say “what the law is” as it relates to its “supervisory jurisdiction”. Clearly, as the cases cited by Sibley in his Motion to Direct the Clerk to File demonstrate, this Court has on numerous occasions invoked that anomalous Article III jurisdiction. Here, faced with the felonious behavior of an inferior judge this Court refuses to allow the matter to be presented to it by allowing the Clerk to refuse to file Sibley’s Petition for Certiorari.

By so ruling, this Court has circumscribed-without-explanation Sibley’s First Amendment Right to Petition. Hence, as the First Amendment Right is in conflict with this Court’s supervisory authority, under *Marbury*, this Court “must decide on the operation of each”. Stated another way, if the People gave the government a power – here this Court’s Article III supervisory power – then the People retained under the First Amendment the right to petition to have that power invoked. By refusing to direct the Clerk to file Sibley’s Petition, this Court is denying to Sibley his First Amendment Right to Petition.

Thus, this Court must articulate upon what authority it upheld the Clerk’s refusal to file Sibley’s properly present Petition for Certiorari.

IV. CONCLUSION

WHEREFORE, Sibley respectfully requests that this Court: (i) reconsider its Order of October 15, 2013 and (ii) clarify the legal rationale for that Order.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served pursuant to U.S. First Class Mail Jay I. Bratt, Deputy Chief, National Security Section, U.S. Attorney's Office for the District of Columbia, United States Attorney's Office, 555 Fourth Street, NW, 10th Floor, Washington, DC 20530, (202) 252-7789), Jay.Bratt2@usdoj.gov this October 22, 2013.

MONTGOMERY BLAIR SIBLEY
Private Attorney General
4000 Massachusetts Ave, N.W.
Suite 1518
Washington, D.C. 20016
(202) 478-0371

By: _____
Montgomery Blair Sibley

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. U.S. Attorney's Office 555 Fourth Street, NW Room 4104 Washington, DC 20530 (202) 353-8831
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Transcribed By:	BRYAN A. WAYNE, RPR, CRR Official Court Reporter U.S. Courthouse, Room 4704-A 333 Constitution Avenue, NW Washington, DC 20001 (202) 354-3186
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Exhibit "A"

Proceedings electronically recorded and transcribed.

P R O C E E D I N G S

1
2 THE DEPUTY CLERK: Criminal case No. 88-145,
3 Elizabeth Duke. For the government, Mr. Beatrice.

4 THE COURT: Mr. Beatrice.

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

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

10 (Proceedings adjourned.)
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

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Criminal No. 88-00145 (DAR)

v.

ELIZABETH DUKE,

Defendant.

FILED

JUN 17 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

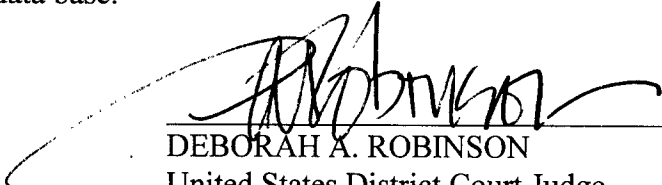
ORDER

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

**U.S. District Court
District of Maryland (Baltimore)
CRIMINAL DOCKET FOR CASE #: 1:08-cr-00513-JFM All Defendants**

Case title: USA v. Winkfield

Date Filed: 11/07/2008

Date Terminated: 04/16/2009

Assigned to: Judge J. Frederick Motz

Defendant (1)

Philip Winkfield

TERMINATED: 04/16/2009

represented by **Gregg Lewis Bernstein**

Office of the States Attorney for Baltimore
City

100 N Calvert St Room 210

Baltimore, MD 21202

14103964001

Fax: 14105395215

ATTORNEY TO BE NOTICED

Designation: Retained

Robert W Mance

Robert W Mance Attorney At Law

1050 17th St NW Ste 1000

Washington, DC 20036

12022231254

Fax: 12024528690

ATTORNEY TO BE NOTICED

Designation: Retained

Pending Counts

21:841(a)(1) and 841(b)(1)(B)

POSSESSION WITH INTENT TO
DISTRIBUTE HEROIN

(1)

Disposition

Imprisonment for a total term of 60 months;

Supervised Release for a term of 4 years;

Assessment \$100.00

Highest Offense Level (Opening)

Felony

Exhibit "C"

Terminated Counts

Disposition

None

Highest Offense Level (Terminated)

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **George Jarrod Hazel**

Office of the United States Attorney
 36 S Charles St Fourth Fl
 Baltimore, MD 21201
 14102094800
 Fax: 14109620716
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Rod J Rosenstein

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 Do Not Mail
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 14102094800
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Date Filed	#	Docket Text
11/07/2008	1	INFORMATION as to Philip Winkfield (1) count(s) 1. (hmls, Deputy Clerk) (Entered: 11/10/2008)
12/03/2008	6	Initial Appearance as to Philip Winkfield (Defendant informed of Rights.) held on 12/3/2008 before Judge J. Frederick Motz. (Court Reporter: Christine Asif) (mdw, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	7	Arraignment as to Philip Winkfield (1) Count 1 held on 12/3/2008 before Judge J. Frederick Motz. (Court Reporter: Christine Asif) (mdw, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008		Plea entered by Philip Winkfield (1) "Guilty" as to Count 1 before Judge J. Frederick Motz. (Court Reporter: Christine Asif) (mdw, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	8	Bench Warrant Returned Executed on 12/3/08 in case as to Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)

12/03/2008	9	NOTICE OF ATTORNEY APPEARANCE: Gregg Lewis Bernstein appearing for Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	10	NOTICE OF ATTORNEY APPEARANCE: Robert W Mance appearing for Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	11	WAIVER OF INDICTMENT by Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	12	PLEA AGREEMENT as to Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	13	PLEA SUPPLEMENT as to Philip Winkfield. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/03/2008	14	Expedited Sentencing Order as to Philip Winkfield. Signed by Judge J. Frederick Motz on 12/3/08. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/04/2008	15	Detention Hearing as to Philip Winkfield held on 12/4/2008 before Magistrate Judge Beth P. Gesner. (FTR Gold: Goldsmith.) (hsg, Deputy Clerk) (Entered: 12/04/2008)
12/04/2008	16	ORDER for Medical Evaluation as to Philip Winkfield. Signed by Magistrate Judge Beth P. Gesner on 12/4/08. (hmls, Deputy Clerk) (Entered: 12/04/2008)
12/04/2008	17	ORDER OF DETENTION as to Philip Winkfield. Signed by Magistrate Judge Beth P. Gesner on 12/4/08. (hmls, Deputy Clerk) (Entered: 12/04/2008)
04/06/2009	22	-SEALED- MOTION to Seal by Philip Winkfield. Responses due by 4/23/2009 (Attachments: # 1 Text of Proposed Order)(Bernstein, Gregg) (Entered: 04/06/2009)
04/06/2009	23	SEALED DOCUMENT (Bernstein, Gregg) (Entered: 04/06/2009)
04/08/2009	24	PAPERLESS ORDER granting 22 Motion to Seal re 23 Proposed Sealed Document as to Philip Winkfield (1). Signed by Judge J. Frederick Motz on 4/8/09. (hmls, Deputy Clerk) (Entered: 04/08/2009)
04/10/2009	26	Sentencing as to Philip Winkfield held on 4/10/2009 before Judge J. Frederick Motz. (Court Reporter C. Asif.) (pat, Deputy Clerk) (Entered: 04/16/2009)
04/16/2009	27	JUDGMENT as to Philip Winkfield (1), Count(s) 1, Imprisonment for a total term of 60 months; Supervised Release for a term of 4 years; Assessment \$100.00. Signed by Judge J. Frederick Motz on 4/16/09. (c/m 4/17/09 jnl, Deputy Clerk) (Entered: 04/17/2009)
03/08/2011	29	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Philip Winkfield held on 4/10/2009, before Judge J. Frederick Motz. Court Reporter/Transcriber Christine T. Asif, Telephone number 410-962-4492. Total number of pages filed: 16. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 3/29/2011. Redacted Transcript Deadline set for 4/8/2011. Release of Transcript Restriction set for 6/6/2011. (ca, Court Reporter)