

No.: _____

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 to Direct Clerk to File Petitioner's (i) Petition for Writ of Certiorari
and (ii) Motions to Expedite Consideration of
Petition for a Writ of Certiorari, Leave to File *Ex Parte* and Under Seal
and to Set Expedited Schedule for Briefing and Oral Argument**

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 direct the Clerk to file Sibley’s: (i) Petition for Writ of Certiorari and (ii) Motions to Expedite Consideration of Petition for a Writ of Certiorari, Leave to File *Ex Parte* and Under Seal and to Set Expedited Schedule for Briefing and Oral Argument, and for grounds in support thereof states as follows:

I. BACKGROUND

On **August 9, 2013**, Sibley deposited with the Clerk of this Court: (i) a filing fee check for \$300, (ii) forty (40) Petitions for Writ of Certiorari and (iii) the original and ten (10) copies of a Motion to Expedite Consideration of Petition for a Writ of Certiorari, for Leave to File *Ex Parte* and Under Seal and to Set Expedited Schedule for Briefing and Oral Argument (hereinafter “Motion to Expedite”).

On **August 13, 2013**, “M. Blalock” on behalf of William K. Suter sent Sibley a letter in which she stated: “The above-entitled petition for writ of certiorari was received August 9, 2013. The papers are returned for the following reason(s): Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.” A copy of that letter is attached as Exhibit “A”.

Sibley promptly replied by letter on **August 16, 2013**, returning the Petitions and Motions to Expedite and stating in sum and substance that:

- The Petition was not filed to invoke the Supreme Court’s jurisdiction pursuant to either 28 U.S.C. §1254 or §1257;
- Rather, as expressly detailed in the Petition, Sibley was invoking the Supreme Court’s original “supervisory jurisdiction”, “supervisory power” and/or “supervisory authority” which the Supreme Court possesses by virtue of its constitutional supremacy found in Article

III; and

- Asking M. Blalock to extend the courtesy of promptly contacting Sibley by telephone if she continues to refuse to file the Petition and Motion to Expedite.

A copy of that letter is attached as Exhibit “B”. That letter was received by the Clerk on **August 22, 2013**.

Having heard nothing from the M. Blalock, on **August 28, 2013**, Sibley left a voice mail with M. Blalock asking for a return call. Having not received any such call, Sibley on **August 29, 2013**, again left a message requesting that M. Black call Sibley. For the third time, having received no telephone call from M. Blalock, Sibley on **August 30, 2013**, again called M. Blalock who answered the telephone. She indicated that she was not assigned to this matter anymore and that a clerk named Jeffrey Atkins was handling the matter. M. Blalock then transferred Sibley to Mr. Atkins’ voice mail at which time Sibley requested that Mr. Atkins call him. Having not received any message from Mr. Atkins, Sibley on **September 3, 2013**, again left a message on Mr. Atkins’ voice mail requesting a call.

On **September 4, 2013**, and **September 5, 2013**, Sibley again left a voice messages for Mr. Atkins, neither of which were returned. On **September 6, 2013**, Sibley received a letter dated **September 4, 2013**, from Mr. Atkins which stated in pertinent part: “The above-entitled petition for writ of certiorari, received again August 27, 2013, is herewith returned for the reasons stated in prior correspondence. Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.” A copy of that letter is attached as Exhibit “C”.

On **September 9, 2013** and **September 10, 2013**, Sibley again left messages for Mr. Atkins

to call Sibley. In so much as Mr. Atkins has refused to return Sibley's numerous messages requesting a telephone call, Sibley has been forced to file this instant motion.

II. REASONS FOR GRANTING THIS MOTION

Leaving aside the dismaying, delaying and discourteous behavior of the Clerk's office in this matter, the repeated rejection by the Clerk of Sibley's Petition and Motion to Expedite was misplaced and therefore this Court must immediately direct the Clerk to file Sibley's Petition and Motion to Expedite.

A. SIBLEY WAS INVOKING THIS COURT'S SUPERVISORY – NOT APPELLATE – JURISDICTION

Contrary to the Clerk's repeated assertions, Sibley did not file the Petition seeking to invoke the Supreme Court's jurisdiction pursuant to either 28 U.S.C. §1254 or §1257 as he was not invoking the Supreme Court's appellate jurisdiction granted by Congress through its "Exceptions and Regulations" authority found in Article III, §2, clause 2.

Instead, as Sibley expressly detailed in the Petition and his letter of August 16th, Sibley sought to invoke the Court's original "supervisory jurisdiction", "supervisory power" and/or "supervisory authority" which the Supreme Court possesses by virtue of its constitutional supremacy found in Article III. Significantly, that supervisory jurisdiction has, since the enactment of §13 and §14 of the Judiciary Act of 1789, been consistently recognized by this Court as independent of any Article III, §2, clause 2 Congressional "Exceptions and Regulations" power to set the limits of the Supreme Court's appellate jurisdiction. *See: Panama Railroad Company v. Napier Shipping Company*, 166 U.S. 280, 284 (1897)("But while the Court of Appeals may have been limited on the second appeal to questions arising upon the amount of damages, no such limitation applies to this

court, when, in the exercise of its supervisory jurisdiction, it issues a writ of certiorari to bring up the whole record. Upon such writ the entire case is before us for examination.”); *United States v. Beatty*, 232 U.S. 463, 467 (1914)(“No doubt, this provision contemplates the employment of the writ of certiorari in instances not covered by §240, and affords ample authority for using the writ as an auxiliary process, and, whenever there is imperative necessity therefor, as a means of correcting excesses of jurisdiction, of giving full force and effect to existing appellate authority, and of furthering justice in other kindred ways.”); *McNabb v. United States*, 318 U.S. 332, 340-41 (1943)(“Judicial supervision of the administration of criminal justice in the federal courts implies the duty of establishing and maintaining civilized standards of procedure and evidence.”); *Communist Party v. Subversive Activities Control Board*, 351 U.S. 115, 124 (1956)(“This Court is charged with supervisory functions in relation to proceedings in the federal courts.”); *Dickerson v. United States*, 530 U.S. 428, 437 (2000)(“The law in this area is clear. This Court has supervisory authority over the federal courts . . .”).

This Court’s supervisory jurisdiction is animated by both by its inherent plenary and Congressionally-granted – pursuant to 28 U.S.C. §2106 – authority under the All Writs Acts. That statute states: “The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.” Likewise, 28 USC §1651(a) states: “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

Accordingly, it was improper for the Clerk to reject Sibley's Petition and Motion to Expedite by repeatedly citing 28 U.S.C. §1254 or §1257 when Sibley was basing instead his invocation on this Court's supervisory jurisdiction.

B. RULE 20 IS INAPPOSITE TO THIS PETITION

In his belated letter of September 4th, Mr. Atkins stated: "If you are seeking to file a petition for an extraordinary writ, you must comply with the filing requirements of Rule 20." Yet a review of Rule 20 reveals that it is inapposite to the invocation of this Court's supervisory jurisdiction. Rule 20 states:

Issuance by the Court of an extraordinary writ authorized by 28 U.S.C. §1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, **the petition must show that the writ will be in aid of the Court's appellate jurisdiction**, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. (Emphasis added).

Here, as perhaps repeated *ad nauseam*, Sibley was not seeking to invoke the Court's "appellate jurisdiction", hence Mr. Atkins' citation to Rule 20 is inapposite. Indeed, this Court's Rules provide no guidance on how to file a Petition such as Sibley's which seeks to invoke this Court's supervisory jurisdiction. Hence, Sibley's forty (40) Petitions for Writ of Certiorari deposited with the Clerk on August 9th are in compliance with such direction as the Rules provide for invoking the Court's supervisory jurisdiction.

Accordingly, the Court must direct the Clerk to forthwith file Sibley's once-again-retained forty (40) Petitions for Writ of Certiorari and original and ten (10) copies of the Motion to Expedite.

III. THE MERITS OF THE PETITION DEMAND IMMEDIATE ACTION BY THIS COURT

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. As the Transcript and Order reveal, the government failed to proffer – and Magistrate Judge Deborah A. Robinson in the Order did not detail – any reasons to dismiss an indictment against Defendant, Elizabeth Duke.
- 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 "D".

IV. CONCLUSION

Deborah A. Robinson, an Article I Magistrate Judge over whom this Court exercises supervisory jurisdiction, has grotesquely exceeded her jurisdiction at best; at worst, she may have committed the felony found at 18 U.S.C. §912 by representing herself as a district court judge in her Order of June 17, 2009, when she is most certainly not an Article III judge.

Moreover, as Sibley made known to the Clerk, there are additional allegations which can only be presented to this Court *ex parte* and under seal in order to preserve evidence for a potential criminal prosecution of both judicial and executive branch personnel.

WHEREFORE, in so much as Sibley has properly presented in form a Petition which

properly invokes this Court's supervisory jurisdiction, this Court must forthwith direct the Clerk to file Sibley's Petition and Motion to Expedite.

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 September 13, 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

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

August 13, 2013

Montgomery B. Sibley
4000 Massachusetts Avenue, NW
Suite 1518
Washington DC, 20006

RE: United States v. Duke
(USCA Case No. 88-CR-00145)

Dear Mr. Sibley:


The above-entitled petition for writ of certiorari was received August 9, 2013. The papers are returned for the following reason(s):

Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

Your check number 1116 in the amount of \$300.00 is herewith returned.

Sincerely,
William K. Suter, Clerk

By:


M. Blalock
(202) 479-3023

Enclosures

Exhibit "A"

MONTGOMERY BLAIR SIBLEY

4000 MASSACHUSETTS AVENUE, N.W.

APARTMENT 1518

WASHINGTON, D.C. 20016-5136

EMAIL: MBSIBLEY@GMAIL.COM

VOICE/FAX: 202-478-0371

August 16, 2013

Via USPS Delivery Confirmation #:03112550000146271422

M. Blalock

Deputy Clerk of Court

Supreme Court of United States

1 First Street, N.E.

Washington, D.C. 20543

Re: *U.S.A. v. Elizabeth Duke*
U.S.D.C. for the District of Columbia, Case No.: 88-cr-145

Greetings:

I am in receipt of yours dated August 13, 2013, in which you returned: (i) my filing fee check for \$300, (ii) three (3) of the forty (40) Petitions for Writ of Certiorari that I deposited with the Clerk on August 9th and (iii) the original and ten (10) copies of my Motion to Expedite Consideration of Petition for a Writ of Certiorari, for Leave to File *Ex Parte* and Under Seal and to Set Expedited Schedule for Briefing and Oral Argument (hereinafter "Motion to Expedite"). In that letter, you stated you were returning – and thus refusing to file – my Petition because: "Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257." A copy of your letter is attached for the benefit of those on the below "cc" list.

Your reasons for rejecting for filing my Petition and Motion to Expedite are misplaced.

I did **not** file my Petition invoking the Supreme Court's jurisdiction pursuant to either 28 U.S.C. §1254 or §1257 as I am **not** invoking the Supreme Court's appellate jurisdiction granted by Congress through its "Exceptions and Regulations" authority found in Article III, §2, clause 2.

Rather, as expressly detailed in the Petition, I am invoking the Court's original "supervisory jurisdiction", "supervisory power" and/or "supervisory authority" which the Supreme Court possesses by virtue of its constitutional supremacy found in Article III. Significantly, that "supervisory jurisdiction" has, since the enactment of §13 and §14 of the Judiciary Act of 1789, been repeatedly recognized by the Supreme Court as independent of any Article III, §2, clause 2 Congressional "Exceptions and Regulations" power to set the limits of the Supreme Court's appellate jurisdiction referenced in your letter.

Exhibit "B"

M. Blalock
Deputy Clerk of Court
August 16, 2013
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That independent “supervisory jurisdiction” has been repeatedly and consistently recognized and exercised by the Supreme Court. *See: Panama Railroad Company v. Napier Shipping Company*, 166 U.S. 280, 284 (1897)(“But while the Court of Appeals may have been limited on the second appeal to questions arising upon the amount of damages, no such limitation applies to this court, when, in the exercise of its supervisory jurisdiction, it issues a writ of certiorari to bring up the whole record. Upon such writ the entire case is before us for examination.”); *United States v. Beatty*, 232 U.S. 463, 467 (1914)(“No doubt, this provision contemplates the employment of the writ of certiorari in instances not covered by §240, and affords ample authority for using the writ as an auxiliary process, and, whenever there is imperative necessity therefor, as a means of correcting excesses of jurisdiction, of giving full force and effect to existing appellate authority, and of furthering justice in other kindred ways.”); *McNabb v. United States*, 318 U.S. 332, 340-41 (1943)(“Judicial supervision of the administration of criminal justice in the federal courts implies the duty of establishing and maintaining civilized standards of procedure and evidence.”); *Communist Party v. Subversive Activities Control Board*, 351 U.S. 115, 124 (1956)(“This Court is charged with supervisory functions in relation to proceedings in the federal courts.”); *Dickerson v. United States*, 530 U.S. 428, 437 (2000)(“The law in this area is clear. This Court has supervisory authority over the federal courts . . .”).

In particular, I respectfully direct your attention to *Walling v. Reuter, Inc.*, 321 U.S. 671, 676 (1944) in which the Supreme Court held: “It is a familiar practice of this Court that where for any reason the Court may not properly proceed with a case brought to it on appeal, or where for any reason it is without power to proceed with the appeal, **it may nevertheless, in the exercise of its supervisory appellate power, make such disposition of the case as justice requires.**” (Emphasis added).

The Supreme Court’s “supervisory jurisdiction” is animated by both by its inherent plenary and Congressionally-granted – pursuant to 28 U.S.C. §2106 – authority pursuant to its All Writs jurisdiction. That statute states:

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

Likewise, 28 USC §1651(a) states: “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

M. Blalock
Deputy Clerk of Court
August 16, 2013
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As detailed above, in my Petition I have “lawfully brought before” the Supreme Court an “order of a court” for review, to wit: Article I Magistrate Judge Robinson June 17, 2009, attached order in which:

- She exceeded her Article I jurisdiction by dismissing an indictment;
- She **falsely** stated: “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. As the Transcript and Order reveal, the government failed to proffer – and Magistrate Judge Deborah A. Robinson in the Order did not detail – any reasons to dismiss the indictment against the fugitive, domestic terrorist, United-States-Capitol-bombing Defendant, Elizabeth Duke.
- She signed the Order as an Article III “United States District Court Judge”, a position the Article I Magistrate Judge Deborah A. Robinson does not hold and which is a felony under 18 U.S.C. §912.

Stated plainly, it is not for you as a deputy clerk to summarily decide the existence and/or extent of the Supreme Court’s “supervisory” and “all writs” jurisdiction invoked by my Petition and thereby deny to those nine Article III Constitutional actors their singular Constitutionally-granted right to determine the scope of their “supervisory jurisdiction” by refusing to file my Petition and Motion to Expedite.

Accordingly, and noting I am seeking to file *ex parte* and under seal evidence of judicial and executive misconduct of the highest order, I am returning to you for filing that which you returned to me: (i) my filing fee check for \$300, (ii) three (3) of the forty (40) Petitions for Writ of Certiorari that I deposited with the Clerk on August 9th and (iii) the original and ten (10) copies of my Motion to Expedite.

I trust you will extend to me the courtesy of promptly contacting me at the telephone number above if you are continuing to refuse to file my Petition and Motion to Expedite so I may

M. Blalock
Deputy Clerk of Court
August 16, 2013
Page 4

expeditiously take the course of action I deem necessary to exercise my “right, possessed by every citizen, to require that the Government be administered according to law.” *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922).

Yours,

A handwritten signature in black ink, appearing to read 'M. Blalock', with a stylized flourish at the end.

cc: w/o enclosures:

Chief Justice John Roberts

Associate Justices:

Samuel Alito

Stephen Breyer

Ruth Bader Ginsburg

Elena Kagan

Anthony Kennedy

Antonin Scalia

Sonia Sotomayor

Clarence Thomas

Scott S. Harris, Legal Counsel at the Supreme Court of the United States

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

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

September 4, 2013

Montgomery B. Sibley
4000 Massachusetts Avenue, NW
Suite 1518
Washington, DC 20006

RE: United States v. Duke
(USDC Case No. 88-CR-00145)

Dear Mr. Sibley:

The above-entitled petition for writ of certiorari, received again August 27, 2013, is herewith returned for the reasons stated in prior correspondence.

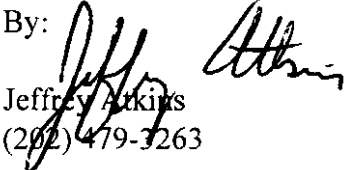
Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

If you are seeking to file a petition for an extraordinary writ, you must comply with the filing requirements of Rule 20.

Your \$300.00 check is herewith returned.

Sincerely,
Scott S. Harris, Clerk

By:


Jeffrey Atkins
(202) 479-3263

Enclosures

Exhibit "C"

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Criminal No. 88-00145 (DAR)

v.

ELIZABETH DUKE,

Defendant.

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:
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FILED

JUN 17 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

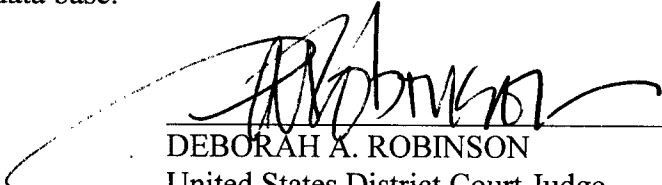
ORDER

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