IN THE SUPREME COURT
OF THE UNITED STATES

In Re:

United States of America, *Ex Relator*, Montgomery Blair Sibley, and Montgomery Blair Sibley, Individually,

Petitioner.

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

Petition for Writ of Certiorari

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Question Presented For Review

Petitioner – a citizen of the United States and a Registered Write-In Candidate for President of the United States – filed on January 3, 2012, both as *ex relator* the United States and individually, a *quo warranto* suit against Barack Hussein Obama, II, challenging his Article II, §1 eligibility to hold the office of President in so much as his Father was not a United States Citizen. The District Court to date has refused to rule upon that Petition.

Accordingly, on February 14, 2012, Petitioner filed a Petition for Mandamus in the Circuit Court seeking an order requiring the District Court to expeditiously rule one way or another upon the *quo warranto* petition. In response, on March 6, 2012, the Circuit Court ruled that: "The district court's delay in ruling on the petition for writ of quo warranto is not so egregious or unreasonable as to warrant the extraordinary remedy of mandamus."

Accordingly, presented for review is the following question:

WHETHER the question of the eligibility of Barack Hussein Obama, II to be President presents a case of extraordinary constitutional moment demanding prompt resolution by the District Court, the Circuit Court and, ultimately, this Court.

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Table of Authorities

Cases

Other Authorities

None.

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

Petitioner, Montgomery Blair Sibley, prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the District of Columbia Circuit entered on March 6, 2012.

Review is mandated because of the public importance of the issue presented and the need for that issue's prompt resolution.

Opinion Below

The March 6, 2012, opinion of the Circuit Court is reprinted in the appendix hereto, *Appendix-2*.

Jurisdiction

The jurisdiction of this Court is invoked under Article III and the Ninth Amendment to the United States Constitution and 28 U.S.C. §1254(1). Jurisdiction in the Circuit Court was invoked pursuant to All Writs Act, 28 U.S.C. §1651(a). Jurisdiction of the District Court was invoked pursuant to: (i) 28 U.S.C. §1331, (ii) 28 U.S.C. §1343(a), (iii) 28 U.S.C. §2201 and §2202, (iv) 42 U.S.C. §1983 and (v) District of Columbia Code, Division II, Title 16, Chapter 35.

Constitutional Provisions, Treaties, Statutes, Ordinances and Regulations Involved

28 U.S.C. § 1651, Writs:

(a) 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.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

Statement of the Case

On January 3, 2012, Petitioner filed a "Certified Petition for Writs Quo Warranto and Mandamus and Complaint for Damages" against, among others, Barack Hussein Obama, II ("Obama"). Proceeding both individually and *ex relator* as authorized by the Congressionally-enacted D.C. Code, Title 16, §3503, Petitioner sought a Writ of Quo Warranto ousting Obama as President of the United States and/or preventing him from holding the franchise of being on the ballot for that office in 2012 insomuch as: (i) he is not a "natural born Citizen" of the United States as required by Article II, §1, of the U.S. Constitution and (ii) there is probable cause to believe Obama's claim that he was born within the United States is based solely upon forged documents.

As to the first issue, there is no dispute that Obama's Father was not a citizen of the United States thus precluding Obama – under the 18th Century definition of the legal-term-of-art of "natural born Citizen" – from being eligible to be President.

As to the location of his birth, Obama has publically released two different "Certificates of Live Birth" ("COLB") putatively from the State of Hawaii in an attempt to demonstrate that he was born in the United States. Three separate and independent expert document examiners have examined copies of each of the COLBs and found significant indications of forgery raising the very real specter that Obama was not even born in the United States. Copies of the reports of the three expert document examiners were filed of record in the District Court.

On January 9, 2012, Petitioner filed a motion requesting the District Court to expedite resolution of his *quo warranto* petition. To date, the District Court has not ruled on that motion to expedite.

On January 31, 2012, Petitioner filed a demand pursuant to Federal Rules of Evidence, Rule 201, that the District Court take judicial notice of the proceedings in a Georgia administrative law matter challenging Obama's eligibility to be on the ballot in Georgia. At the Georgia hearing, the court took testimony under oath from, among others, two document examiners, Felicito Papa and Douglas

Vogt, who entered sworn expert opinions that the COLBs released by Obama are forgeries.

After waiting forty (40) days in the proverbial judicial desert and as the District Court had failed to rule on either the *quo warranto* petition or motion to expedite, Petitioner filed in the United States Court of Appeals for the District of Columbia Circuit a Petition for Writ of *Mandamus* or, alternatively, for Writ *Procedendum Ad Justicium* seeking an order commanding the District Court to forthwith determine whether or not an order to show cause should issue to Obama compelling him to show why he should not be ousted from the office of President of the United States and/or stripped of the franchise to appear on the ballot for that office in 2012.

Without permitting the requested oral argument, the Circuit Court entered its order on March 6, 2012, stating in pertinent part: "Ordered that the petition be denied. The district court's delay in ruling on the petition for writ of quo warranto is not so egregious or unreasonable as to warrant the extraordinary remedy of mandamus." *Appendix-2*.

On March 8, 2012, Petitioner filed a Petition for Re-Hearing *En Banc* or, Alternatively, Panel Rehearing which, as of the printing of the instant Petition, has not been ruled upon. In the event that an order is entered by the Circuit Court on the Petition for Rehearing, Petitioner will immediately file a Supplemental Appendix with that Order.

Reason for Granting the Writ

There is only one compelling reason for granting this Petition. The question of the eligibility of Obama is one which ultimately must be heard and determined by this Court at the earliest possible date. To allow delay would be manifestly against the best interests of the public, particularly since the longer Obama holds and exercises the prerogatives of the office of President, if the exercise thereof ultimately proves unwarranted, the more problems would multiply which would subsequently vex the People and the Courts called upon to resolve those fundamental constitutional problems.

I. Whether Obama Is Eligible to Be President Is a Question of Extraordinary Constitutional Moment and Demands Prompt Resolution

In order to be eligible to be President of the United States, Article II, §1, of the U.S. Constitution requires: "No person except a natural born Citizen . . ., shall be eligible to the Office of President." The phrase "natural born Citizen" is an 18th Century legal-term-of-art with a definite meaning well known to the Framers of the Constitution. At the time of the adoption of the Constitution, that phrase was defined as: "The natives, or natural-born citizens, are those born in the country, of parents who are citizens." (*The Law of Nations*, Emerich de Vattel, 1758, Chapter 19, §212). Therefore there are two requirements to be

President: (i) born in the United States (ii) of two parents, both of whom must be United States citizens.

Indisputably, Obama is not a "natural born Citizen" in the 18th Century understanding of that legal-term-of-art as his Father was not a citizen of the United States. Additionally, given the three cogent expert reports and sworn testimony of two expert witness now of record in the District and Circuit Courts, there has been a *prima facie* showing that the COLBs which Obama has presented to the People of the United States to bolster his claim to be Article II, §1 eligible to be President are forgeries and thus Obama may not have even been born in the United States.

The Democratic Convention is some 150 days away; the Presidential election some 200 days away. Clearly, when the public interest is at play, the ability of the Court to act swiftly is certain and regularly exercised. *Cf: Walters v. Nat'l Ass'n of Radiation*, 473 U.S. 305, 351 (1985)("This Court has not hesitated to exercise this power of swift intervention in cases of extraordinary constitutional moment and in cases demanding prompt resolution for other reasons."); *United States v. Nixon*, 418 U.S. 683, 686-687 (1974)("We granted both the United States' petition for certiorari before judgment and also the President's cross-petition for certiorari because of the public importance of the issues presented and the need for their prompt resolution").

Here, what greater question of "public importance" demanding "prompt resolution" can there be than whether the sitting President of the United States is ineligible to serve in that capacity and seek re-election to that office?

Conclusion

Petitioner has "the right, possessed by every citizen, to require that the Government be administered according to law and that the public moneys be not Wasted." *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922). To allow the District Court to delay in ruling upon the *Quo Warranto* Petition denies that right. Moreover, the delay amounts to a gross judicial usurpation of political power and/or a gross abuse of discretion by: (i) denying prompt resolution of the properly presented question of Obama's eligibility and (ii) invading the political process by refusing to timely determine the seminal question of Presidential eligibility under the "natural born Citizen" requirement.

Accordingly, upon the foregoing, this Court must issue a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit in this matter.

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Contents of Appendix

Opinion Below

In The United States Court Of Appeals
For The District Of Columbia Circuit

D. C. Docket No.:1:12-cv-00001-JDB
September Term 2011
Case No.: 12-5040
Filed on March 6, 2012

In re: Montgomery Blair
Sibley,

Petitioner
_____/

BEFORE: Sentelle, Chief Judge, and Henderson and Brown, Circuit Judges.

ORDER

Upon consideration of the petition for writ of mandamus or, in the alternative, for a writ "procedendum ad justicium," it is

ORDERED that the petition be denied. The district court's delay in ruling on the petition for writ of quo warranto is not so egregious or unreasonable as to warrant the extraordinary remedy of mandamus. *See Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 289 (1988); *cf. Telecomms. Research & Action Ctr. v. FCC*, 750 F.2d 70, 79 (D.C. Cir. 1984). We are confident that the district court will act upon the petition as promptly as its docket permits.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to transmit a copy of this order to the district court.

Per Curiam