

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MONTGOMERY BLAIR SIBLEY,

PLAINTIFF,

VS.

YVETTE ALEXANDER, DON R. DINAN AND
WILLIAM LIGHTFOOT,

DEFENDANTS.

CASE No.:12-cv-1984

**PETITIONER’S VERIFIED MOTION FOR
RULE TO SHOW CAUSE WHY HARVARD
LAW SCHOOL SHOULD NOT BE HELD IN
CONTEMPT OF COURT**

Plaintiff, Montgomery Blair Sibley (“Sibley”), pursuant to 28 U.S.C. §1746, states that the matters stated herein are true under penalty of perjury and pursuant to Federal Rules of Civil Procedure, Rule 45(e) and the anomalous authority of this Court, moves for a Rule to Show Cause why Harvard Law School, should not be held in contempt of court and for grounds in support states:

I. HARVARD LAW SCHOOL SUBPOENA

On November 16, 2012, at Sibley’s request pursuant to D.C. Superior Court Rule 45(a)(3), the Clerk of that Court issued a blank subpoena duces tecum which Sibley subsequently directed to the Records Custodian, Harvard Law School by serving its agent in the District of Columbia, Jonathan J. Wroblewski, Director, Office of Policy and Legislation, U.S. Department of Justice. A copy of that Subpoena with its proof of service is attached hereto as Exhibit “A”.

After various communications between Sibley and counsel for the Harvard Law School, Sibley received a letter from counsel for Harvard Law School, a copy of which is attached hereto as Exhibit “B”.

II. THIS COURT MUST ORDER THE SUBPOENAED RECORDS PRODUCED

Rule 45(e) states in pertinent part: “(e) Contempt – The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena.”

As to the sufficiency of the service, Sibley maintains that insomuch as access to Mr. Wroblewski is precluded by the Praetorian Guards at the Department of Justice, service by FedEx was appropriate. Moreover, Courts have acknowledged that Rule 45 itself does **not** expressly require personal in-hand service, and a practical appreciation for the fact that the obvious purpose of Rule 45(b) is to mandate effective notice to the subpoenaed party, rather than slavishly adhere to one particular type of service. *See e.g., Doe v. Hersemann*, 155 F.R.D. 630 (N.D. Ind.1994) (holding that service of a subpoena via certified mail is sufficient under Rule 45, particularly when Defendant does not deny actual receipt); *Ultradent Prods., Inc. v. Hayman*, 2002 U.S. Dist. LEXIS 18000, 2002 WL 31119425 (S.D.N.Y.2002) (finding majority rule unpersuasive and holding that although delivery to the person was required, delivery did not require personal in-hand service); *Western Res., Inc. v. Union Pac. R.R.*, 2002 U.S. Dist. LEXIS 14897, 2002 WL 1822432 (D. Kan.2002) (holding that delivery of subpoena via Federal express was sufficient because effective service under Rule 45 is not limited to personal service); *King v. Crown Plastering*, 170 F.R.D. 355 (E.D.N.Y. 1997) (holding that in-hand delivery is not required under Rule 45 so long as service is made in a manner that reasonably insures actual receipt of the subpoena). As such, Sibley maintains that service was properly made under Rule 45.

Second, Mr. Wroblewski was the proper person to serve as Harvard Law School is “doing business” in the District of Columbia and has failed to designate a registered agent for service of process. In particular, Harvard Law School operates a “Government Lawyer - Semester in

Washington” which both places its students in internship positions and requires attendance at a course in Washington, D.C. by Mr. Wroblewski. Proof of this activity is found in Exhibit “C” attached hereto. As such Harvard Law School is “doing business” in the District of Columbia. A search of the District of Columbia government records reveals that Harvard Law School has not designated an agent for service of process. As such, service upon Mr. Wroblewski as Harvard Law School’s agent in the District of Columbia was proper.

Finally, the relevance of the records from Harvard Law School relate to the issue of the eligibility of Mr. Obama to be President as they may well reveal that he is not eligible to serve as President and hence, the Defendants may thus be precluded for casting their votes for him. First, those records will reveal admission application data which will include parentage, date and place of birth data. Moreover, Mr. Obama has refused to release his Harvard Law School records raising to this Court the adverse inference that he has something to hide. *Accord: Baxter v. Palmigiano* , 425 U.S. 308, 318 (1976)(“[T]he Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them.”)

IV. CONCLUSION

In *Seminole Tribe v. Fla.*, 517 U.S. 44, f/n #2 (1996), the Court held: “In any event, it is clear that the idea of the sovereign, or any part of it, being above the law in this sense has not survived in American law.” It is this Court’s duty to see that aspiration still holds fast by allowing the discovery process emblematic of a functioning court system to proceed.

WHEREFORE, Sibley respectfully request that this Court issue a Rule to Show Cause why Harvard Law School should not be held in contempt of court

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2012, a true copy of the foregoing was caused to be served (i) pursuant to LCvR 5.4 upon Andrew J. Saindon, Assistant Attorney General, Equity Section, 441 Fourth Street, N.W., 6th Floor South, Washington, D.C. 20001, Telephone: (202) 724-6643, Facsimile: (202) 730-1470, E-mail: andy.saindon@dc.gov and (ii) pursuant to U.S. Mail and Facsimile (617-495-5079) upon Barry A. Miller, University Attorney, Holyoke Center, Suite 980, 1350 Massachusetts Ave, Cambridge, Massachusetts, 02138-3834.

I declare under penalty of perjury that the foregoing is true and correct.

MONTGOMERY BLAIR SIBLEY
Plaintiff
4000 Massachusetts Ave., N.W., #1518
Washington, D.C. 20016
(202) 478-0371

By: _____
Montgomery Blair Sibley

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MONTGOMERY BLAIR SIBLEY,

PLAINTIFF,

VS.

YVETTE ALEXANDER, DON R. DINAN AND
WILLIAM LIGHTFOOT,

DEFENDANTS.

CASE No.:12-cv-1948

**ORDER ON PLAINTIFF'S VERIFIED MOTION
FOR RULE TO SHOW CAUSE WHY HARVARD
LAW SCHOOL SHOULD NOT BE HELD IN
CONTEMPT OF COURT**

_____/

THIS MATTER came on to be heard on Order on Petitioner's Verified Motion for Rule to Show Cause Why Harvard Law School Should Not Be Held in Contempt of Court and the Court being advised in the premises, it is hereby:

ORDERED AND ADJUDGED that the motion is granted. Harvard Law School shall show cause within ____ days of the date of this Order why they should not be held in contempt of court for failing to comply with the subpoena duces tecum served on them in this matter.

DONE AND ORDERED in Chambers this ____ day of _____, 2012.

By: _____
United States District Judge

Copies to:.

Montgomery Blair Sibley
Andrew J. Saindon

MONTGOMERY BLAIR SIBLEY
4000 MASSACHUSETTS AVENUE, N.W.
APARTMENT 1518
WASHINGTON, D.C. 20016-5136
EMAIL: MBSIBLEY@GMAIL.COM
202-478-0371 (VOICE/FAX)

December 4, 2012

Via FedEx Tracking #:872110718392
Jonathan J. Wroblewski
Director, Office of Policy and Legislation
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: *Montgomery Blair Sibley vs. Yvette Alexander, et al.*
D.C. Superior Court Case. No.: 2012-CA-008644 B

Greetings,

Please find enclosed a subpoena duces tecum for the Record Custodian, Harvard Law School. I am serving it upon you as an agent of Harvard Law School which is "doing business" in the District of Columbia through your activities in the "Semester in D.C." clinic and has failed to designate a registered agent in the District of Columbia as required by Title 29 of the District of Columbia Code.

Given the Praetorian Guards you work behind, if you object to this manner of service, I would be please to have my process server serve you directly if you will make yourself available to him. Of course, you can reach me at the number above to discuss this matter further.

yours,

Exhibit "A"

SUBPOENA

Superior Court of the District of Columbia

CIVIL DIVISION

500 Indiana Avenue, N.W., Room JM-170
Washington, D.C. 20001 Telephone (202) 879-1133

Montgomery Blair Sibley

Plaintiff

SUBPOENA IN A CIVIL CASE

Yvette Alexander, et al.

Defendant

CASE NUMBER: 2012-CA-008644 B

To: Record Custodian, Harvard Law School

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the above case.

COURTROOM

DATE

TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

DOCUMENTS OR OBJECTS

See attached Subpoena Addendum

PLACE OF PRODUCTION

DATE

TIME

See attached Subpoena Addendum

See attached Subpoena Addendum

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE

TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. SCR-CIV 30(b)(6).

ISSUING PERSON'S SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant)

Superior Court of the District of Columbia
Civil Division
500 Indiana Avenue, N.W.
Room 5000
Washington, D.C. 20001

DATE

10/20/2012

ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER

Montgomery Blair Sibley
4000 Massachusetts Ave, NW, #1518
Washington, D.C. 20016
Voice/Fax: 202-478-0371

Deputy Clerk

Montgomery Blair Sibley vs. Yvette Alexander, et al.
D.C. Superior Court Case. No.: 2012-CA-008644 B
Subpoena Duces Tecum Addendum
for
Record Custodian Harvard Law School

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

DOCUMENTS OR OBJECTS:

1. All records related to Barack Hussein Obama, II, also known as Barack Hussein Obama, including, without limitation, application for admission and transcripts;
2. All records related to Barry Soetoro, including, without limitation, application for admission and transcripts.

PLACE OF PRODUCTION – Montgomery Blair Sibley, 4000 Massachusetts Ave, NW, #1518, Washington, D.C. 20016

DATE/TIME – December 21, 2012 at 11:00 a.m.

In lieu of a personal appearance, the requirements of this subpoena may be met by delivery of the material by mail or overnight delivery service to: Montgomery Blair Sibley, 4000 Massachusetts Ave, N.W., #1518, Washington, D.C. 20016, provided that the material is received on or before the return date set forth herein.

Contact Information for Plaintiff:

Montgomery Blair Sibley
4000 Massachusetts Ave, NW, #1518
Washington, D.C. 20016
Voice/Fax: 202-478-0371



December 5, 2012

Dear Customer:

The following is the proof-of-delivery for tracking number **872110718392**.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	A.OWENS	Delivery date:	Dec 5, 2012 08:59
Service type:	FedEx Standard Overnight		
Special Handling	Deliver Weekday		
	Direct Signature Required		

NO SIGNATURE IS AVAILABLE

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

Shipping Information:

Tracking number:	872110718392	Ship date:	Dec 4, 2012
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Recipient:
US

Shipper:
US

Thank you for choosing FedEx.



HARVARD UNIVERSITY
Office of the General Counsel

Barry A. Miller
University Attorney
barry_miller@harvard.edu

Holyoke Center, Suite 980
1350 Massachusetts Avenue
Cambridge, Massachusetts 02138-3834

t.617.495.8210
f.617.495.5079

December 14, 2012

By Mail and Fax - 202-478-0371

Montgomery Blair Sibley
4000 Massachusetts Ave., N.W., #1518
Washington, D.C. 20016

Re: Subpoena in *Sibley v. Alexander*,
No. 2012-CA-008644 B (D.C. Super. Ct.)
removed to U.S. District Court
C.A. No. 12-01984 (D.D.C.)

Dear Mr. Sibley:

I am an attorney in the Office of General Counsel at Harvard University (formally known as the "President and Fellows of Harvard College" or "Harvard"). A subpoena that you purported to serve on Harvard Law School has been forwarded to me.

This letter constitutes our objection to your subpoena under Rule 45(c), Superior Court Rules of Civil Procedure, and Rule 45, Fed. R. Civ. P. Harvard objects to your subpoena, *inter alia*, on the following grounds:

1. Service by Federal Express is not the personal service contemplated by the rules.
2. President and Fellows of Harvard College is not subject to service of process in the District of Columbia.
3. You did not properly serve an authorized agent for service of process. This Office is the authorized agent for service of process for President and Fellows of Harvard College. Your delivery by Federal Express of a subpoena to a part-time lecturer is not service on an agent authorized to accept service.
4. You did not obtain court permission for an examiner to depose and obtain documents from President and Fellows of Harvard College in Massachusetts.

Exhibit "BB"

Montgomery Blair Sibley

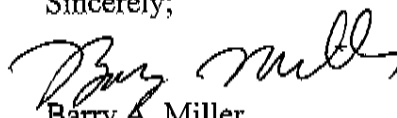
December 14, 2013

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5. As the plaintiff, you are not permitted to serve a subpoena. Rule 45(b)(1) provides that service must be made by a person who is not a party.
6. Under D.C. Superior Court Civil Rule 30, depositions may not be taken without leave of court within 70 days of the filing of a complaint in any case involving the District of Columbia or its officer or agency, or the United States or its officer or agency. Under Fed. R. Civ. P. 26(d), discovery may not be taken before the initial discovery conference. You do not appear to have received leave of court.
7. Your subpoena appears to seek material that is not reasonably calculated to lead to the discovery of information relevant to your claim. At a minimum, it is overbroad and burdensome.
8. We would also object to providing any materials protected by the attorney-client privilege or the work product doctrine, or any materials that are not properly the subject of discovery, such as internal educational records not material to a case.

Please be advised that Harvard reserves all of their rights, including the right to move to quash the subpoena and the right to seek monetary sanctions against you for filing and pursuing frivolous discovery.

Sincerely;



Barry A. Miller
University Attorney

cc: Andrew J. Saindon
Assistant Attorney General
441 Fourth Street, N.W.
6th Floor South
Washington, D.C. 20001

