

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MONTGOMERY BLAIR SIBLEY,
4000 MASSACHUSETTS AVE, NW, #1518
WASHINGTON, D.C. 20016,
TELEPHONE: (202-478-0371),

Case. No.: 2012-CA-008644 B
Judge: John M. Mott
Next Hearing: Feb. 15, 2013, 10:00 a.m.

PLAINTIFF,

**COMPLAINT FOR PRELIMINARY AND
PERMANENT INJUNCTIVE RELIEF AND
DECLARATORY JUDGMENT**

VS.

JURY TRIAL REQUESTED

YVETTE ALEXANDER
1350 PENNSYLVANIA AVENUE, NW SUITE 400
WASHINGTON, DC 20004
TELEPHONE: (202) 724-8068,

AND

DON R. DINAN
600 14TH STREET NW, SUITE 400
WASHINGTON D.C. 20005
TELEPHONE: (202) 216-8302,

AND

WILLIAM LIGHTFOOT
2001 PENNSYLVANIA AVENUE, NW SUITE 450
WASHINGTON D.C. 20006
TELEPHONE: (202) 659-5500,

DEFENDANTS.

_____ /

Plaintiff, Montgomery Blair Sibley, sues Defendants, Yvette Alexander, Don R. Dinan and

William Lightfoot and alleges as follows:

INTRODUCTION

By this suit, Plaintiff seeks:

- (i) A Declaratory Judgment that Defendants as electors cannot cast their Twelfth Amendment votes for

Barrack Hussein Obama, II, (“Obama”) as he is not a “natural born Citizen”, which is the condition precedent to holding the office of President of the United States according to Article II, §1, of the U.S. Constitution which is “the supreme Law of the Land” according to Article VI, §2, of the U.S. Constitution; and

- (ii) Preliminary and Permanent Injunctive Relief prohibiting the Defendants from casting their Twelfth Amendment votes for Barrack Hussein Obama, II as he is ineligible to hold the office of President of the United States.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to the provisions of District of Columbia Statutes, §11-921.

2. Venue in this court is proper under as a substantial part of the events or omissions giving rise to the claims herein occurred in the District of Columbia.

PARTIES

3. Plaintiff, is a “natural born Citizen” of the United States as he was born in 1956 in Rochester, New York, the child of two United States citizens, Harper Sibley, Jr. and Beatrice Blair Sibley and has continuously resided in the United States since his birth. As such, due to the nature of his citizenship, age and residence, he is eligible pursuant to Article II, §1, of the U.S. Constitution to serve as President of the United States.

4. On November 11, 2011, Plaintiff formally announced his candidacy for the Office of President and qualified as a Write-In candidate for that Office by filing with the District of Columbia Board of Elections and Ethics his “Affirmation of Write-In Candidacy”. A copy is attached hereto as Exhibit “A”. Plaintiff is also a registered voter in the District of Columbia and

has been assigned Voter ID #080021726 by the District of Columbia Board of Elections and Ethics. Plaintiff voted in the November 6, 2012, election at the Church of the Annunciation Parish, 3810 Massachusetts Avenue, NW, Washington D.C., 20016, casting his vote at that time for one of the candidates for President of the United States.

5. Defendants, Yvette Alexander, Don R. Dinan and William Lightfoot, were named in September 2012 by the District of Columbia Democratic Party as electors to vote pursuant to the Twelfth and Twenty-Third Amendments to the Constitution if the winner of the November 6, 2012, general election was Obama. Their vote is set to be made public on the Monday following the second Wednesday of December 2012.

CLASS ACTION ALLEGATIONS

6. The Defendants are proper representatives of a Class within the meaning of Rule 23(a) and 23(b)(3) of the Superior Court Rules of Civil Procedure.

7. The members of the Class are so numerous that the joinder of all of them is impractical. The Class consists of 538 persons – the total number of electors authorized by the Twelfth and Twenty-Third Amendments to the Constitution.

8. The members of the Class should be readily identifiable from the records of Congress.

9. There are questions of law common to the Class; their Class obligations predominate over any individual obligations. The questions of law claimed to be common to the Class are: (i) whether the oaths of office each Class member took obligates them to only vote for eligible candidates for President and (ii) whether or not Obama is a “natural born Citizen” inasmuch as his Father was not a United States Citizen.

10. The obligations of the named Defendants are typical of the obligations of the Class. All Class members owe the same duty to exercise their Twelfth Amendment duties. The named Defendants' status as Twelfth Amendment electors typifies the status of the Class members generally.

11. The named Defendants will fairly and adequately protect the interest of the Class. The named Defendants are attorneys and/or will be represented by counsel experienced in litigating federal issues. The Plaintiff knows of no conflict of interest among Class members. The named Defendants will doubtlessly vigorously defend this action.

12. The named Plaintiff does not propose Class notice at this time, but believes that Class certification and notice can and should be achieved promptly.

GENERAL ALLEGATIONS

13. Courts and scholars agree that when the Framers drafted and urged adoption of the Constitution, they assumed that the presidential electors would be citizens who would exercise their independent discretion and judgment in casting their votes for President. *See Ray v. Blair*, 343 U.S. 214, 229 n.16 (1952); Tadahisa Kuroda, *The Origins of the Twelfth Amendment: The Electoral College in the Early Republic, 1787-1804*, at 17-25 (1994). The language of the Twelfth Amendment offers no evidence that its drafters and ratifiers view of the electors function was any different from that of the Framers. The Twelfth Amendment kept the phrase "vote by ballot", implying secret votes and therefore the exercise of independent judgment and discretion for whom they would vote.

14. Article VI, clause 3 of the United States Constitution states: "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all

executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” By reason of the authority vested in them by the Twelfth and Twenty-Third Amendments to the Constitution, the Defendants must execute this oath “to support this Constitution.”

15. After a reasonable opportunity for discovery, Plaintiff will establish that each of the Defendants have also taken an oath as required by 5 U.S.C. §3331 – as public servants and/or attorneys – to wit: “to support and defend the Constitution of the United States against all enemies, foreign and domestic; that **I will bear true faith and allegiance to the same**; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”

16. Under D.C. Code §1-1001.08(g)(2): “Each person elected as elector of President and Vice President shall, in the presence of the Board, take an oath or solemnly affirm that he or she will vote for the candidates of the party he or she has been nominated to represent, and it shall be his or her duty to vote in such manner in the electoral college.” Under D.C. Code §1-1314(2): “The electors of President and Vice President of the United States shall be elected on the Tuesday next after the 1st Monday in November in every 4th year succeeding every election of a President and Vice President of the United States. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presidential and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners.”

17. In order to be eligible to be President of the United States, Article II, §1, clause 5,

of the U.S. Constitution states: “No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.” Clearly Obama: (i) was not a U.S. Citizen “at the time of the Adoption of this Constitution”, (ii) had “attained to the Age of thirty five Years” prior to the November 6, 2012, election and (iii) has “been fourteen Years a Resident within the United States.” Unclear is whether Obama is “a natural born Citizen” and thus is eligible to be President of the United States under Article II, §1, clause 5.

18. One fact is indisputable: Obama’s Father was never a United States Citizen. At the time of Obama’s birth in 1962, his Father was British subject admitted into the United States on a temporary student visa, with the express condition that he was a “non-immigrant student”. Obama’s Father never became a U.S. citizen; never applied for U.S. citizenship; never declared an intention to become a U.S. citizen; and never became a resident alien. Accordingly, *a priori*, Obama is not a “natural born Citizen” as required to be eligible to be President of the United States under Article II, §1, clause 5 of the U.S. Constitution as he is not the child of two United States citizen parents.

19. 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). Notably, there are two requirements: (i) born in the United States and (ii) of two parents, both of whom must be United States citizens. Clearly, Obama fails to qualify for this level of citizenship and thus is ineligible to be President.

20. Significantly, Congress exercised its authority to expand beyond de Vattel's definition of "natural born Citizen" in the Act of 1790, stating: "**the children of citizens of the United States**, that may be born beyond sea, or out of the limits of the United States, shall be considered as **natural-born citizens**: Provided, that the right of citizenship shall not descend to persons whose fathers have never been resident in the United States." 1 Stat. 104. (Emphasis added). Thus, until the act of 1790 was replaced by subsequent statutes regarding citizenship, if both parents were citizens, then the place of birth was immaterial and the resulting offspring was a "natural born Citizen" and thus eligible to be President. Notably, Congress subsequently removed the legal-term-of-art "natural born Citizen" from all citizenship statutes post-1790 and now solely confers "citizenship". See: 8 U.S.C. §1401 – "Nationals and citizens of the United States at birth" which states in pertinent part: "The following shall be nationals and citizens of the United States at birth . . ."

21. Moreover, Obama is not a "natural-born Citizen" of the United States as defined by the United States Supreme Court in *Minor v. Happersett*, 88 U.S. 162 (1874):

The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that all children born in a country of **parents who were its citizens** became themselves, upon their birth, citizens also. These were natives, or **natural-born citizens**, as distinguished from aliens or foreigners.

Minor v. Happersett at 168 (Emphasis added). Therefore, the "natural-born Citizen" clause only pertains to a requirement for holding the highest public office, that of President and requires both parents to be U.S. Citizens. Thus, as a matter of law, Obama is ineligible to be President as his Father was not a U.S. Citizen.

**FIRST CLAIM
DECLARATORY RELIEF**

22. Plaintiff re-alleges paragraphs 1 through 21 and incorporates them herein by reference.

23. Defendants are obligated by their oaths to only cast their Twelfth Amendment votes for an eligible candidate for the Office of President of the United States. Congress cannot through action of D.C. Code §1-1001.08(g)(2) force the Defendants to contravene the superior obligations imposed by the Constitution on the Electors.

24. Though unofficial results of the November 6, 2012, election indicate that Obama won, by his own admission, Obama is not a “natural born Citizen” as his Father was not a United States citizen and as such, Obama is ineligible to be President of the United States.

WHEREFORE, Plaintiff requests that this Court:

- A. Assume jurisdiction of this action;
- B. Certify this lawsuit as a class action on behalf of the class as defined above;
- C. Declare that due to their oaths, Defendants, notwithstanding D.C. Code §1-1001.08(g)(2), can only cast their Twelfth Amendment votes for eligible candidates for the Office of President and Obama is not so eligible as he is not a “natural born Citizen.”
- D. Retain jurisdiction of this matter to enforce this declaratory decree if subsequently violated by Defendants; and
- E. Enter such other and further relief as the Court deems just and proper.

**SECOND CLAIM
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

25. Plaintiff re-alleges paragraphs 1 through 21 and incorporates them herein by

reference.

26. Plaintiff is in danger of suffering irreparable harm if the Defendants are forced and/or choose to cast their Twelfth Amendment votes for an ineligible President as they thereby could not vote for Plaintiff for President.

27. Defendants will suffer no appreciable harm from the granting of the injunction as the injunction only seeks to compel the Defendants to do their sworn duty – cast their Twelfth Amendment vote for an eligible candidate.

WHEREFORE, Plaintiff requests that this Court:

- A. Assume jurisdiction of this action;
- B. Certify this lawsuit as a class action on behalf of the class as defined above;
- C. Issue preliminary and permanent injunctions barring Defendants from casting their Twelfth Amendment votes for Obama;
- D. Retain jurisdiction of this matter to enforce its preliminary and/or permanent injunction if subsequently violated by Defendants; and
- E. Enter such other and further relief as the Court deems just and proper.

Signed on: November 12, 2012

MONTGOMERY BLAIR SIBLEY
PLAINTIFF
4000 Massachusetts Ave, NW, #1518
Washington, D.C. 20016
Voice/Fax: 202-478-0371

By: _____
Montgomery Blair Sibley



DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS
441 - 4th Street, N.W., Suite 250N

Affirmation of Write-In Candidacy

for the Office of:

President of the United States

Office which you seek (include ward, school district or ANC/SMD)

Your name: Montgomery Blair Sibley

Daytime telephone: 202-478-0371 Voter Registration Number: 80021726

Date of the election: November 6, 2012 Your Party (if applicable): _____

List your residence address for the past three years (include zip code):

4000 Massachusetts Ave., NW, #1518, Washington, D.C. 20016 from 06/08 to present

3700 Massachusetts Ave., NW, #519, Washington, D.C. 20016 from 06/06 to 06/08

from ___/___ to ___/___

Indicate here how you would like your name to be written-in on the ballot:

Montgomery Blair Sibley

NOTE: Complete this section carefully. If there are any periods or commas in your name, write them clearly.
(DO NOT include prefixes or titles, such as Miss, Mr., Dr., Rev., or degrees.)

Note: This form must be signed by the candidate and filed by the required deadline date.

I hereby declare my candidacy for the office name above. I am aware of the qualifications for holding this office and attest that I meet such qualifications. I also swear or affirm that the information provided on this form is true to the best of my knowledge and belief.

[Signature]
(Signature of Candidate)

Subscribed and sworn to or affirmed before me this 8th day of November 2011

[Signature]
(District of Columbia Notary or Board of Elections Official)

DO NOT SIGN OR MAKE ANY FALSE REPRESENTATIONS AS TO HIS OR HER QUALIFICATIONS OR
ALL UPON CONVICTION BE FINED NOT MORE THAN 1000 DOLLARS OR
BOTH.