

No. _____

In The
Supreme Court of the United States

In re

SCOTT R. EASTERLING, 1ST Lt. OD LG, US Army;
CARROLL D. CHILDERS, Major General 29th Infantry Div. VA, Ret.;
JAMES CANNON, Major, US Marine Corps, Ret.;
CLINTON GRIMES, SGT. Long Beach Police, CDR/0-5 US Navy Res.;
ROBERT CUSANELLI, 2008 Elector, 7th District, State of Alabama;
ALLAN KEYES, 2008 Presidential Candidate;
FRANK NICELEY, as State Representative of Tennessee; &
TIMOTHY COMERFORD, as State Representative of New Hampshire

Relators

v.

BARACK HUSSEIN OBAMA, II, a/k/a BARRY SOETORO,
as President, United States of America;
LINDA LINGLE, as Governor of the State of Hawai'i; &
HILLARY CLINTON, as Secretary of State, United States of America.

Respondents.

**Motion for Leave to File Writ of *Quo Warranto* on
Barack Hussein Obama II, President of the U.S.A., and
Writs of Mandamus on Hawai'i Governor Linda Lingle, to provide evidence,
and on Secretary of State Hillary Clinton, to request evidence from the
United Kingdom, and Republics of Kenya, Indonesia, and Pakistan.**

Orly Taitz

Counsel of Record
26302 La Paz
Mission Viejo CA 92691
+1-949-683-5411

Questions Presented For Review

I. What is a President elect's deadline, standard of proof, and burden to prove his qualifications, under *Quo Warranto*, by U.S. CONSTITUTION'S, article II § 2 and amendment XX, § 3, by statutes, and by ethical duties?

II. Would a President elect fail to qualify by neglecting, obstructing, or contesting constitutional duties to challenge, validate and evaluate evidence of identity, age, residency and natural born citizenship qualifications, or by breaching ethical disclosure duties, by withholding, or sealing records, claiming privacy?

III Does a State withholding original birth records by privacy laws obstruct constitutional duties of the People to vote, and of officers to challenge, validate, and evaluate qualifications of presidential candidates, and of the President Elect?

IV. Does the Presidential qualification of "natural born citizen" over "citizen" entail sole allegiance to the U.S.A. from birth without foreign allegiance, with birth within the U.S.A.'s jurisdiction to two U.S. citizens, to choose a Commander in Chief with undivided loyalty in time of war, to preserve the Republic from tyranny?

V. Does birth to or adoption by a non-citizen father incur foreign allegiance sufficient to negate being a "natural born citizen," and disqualify a candidate from becoming President?

VI. Having attained one's suffrage, do actions showing continued allegiance to nationalities of one's minority, evidence foreign allegiance sufficient to disqualify one from being a "natural born citizen" having undivided loyalty to the U.S.A.?

VII. Do candidates for office disqualify themselves if they seek office under a birth name different from a name by adoption, without providing election officers *prima facie* evidence of legal name changes, or neglecting to legally change names?

VIII. Would misprision(s) by Federal officers, bound by oath, cause a President Elect to fail to qualify, by neglecting to challenge, validate, or evaluate his qualifications, or those of Electors, after citizens relate information challenging those qualifications, via petitions for redress of grievance, or by law suits?

IX. To uphold its inviolability as supreme law and preserve the Republic, would the U.S. CONSTITUTION empower Citizens to bring *quo warranto* or suits upholding the People's rights to constitutional protections, were officers to have neglected, obstructed or breached constitutional duties?

SCOTT R. EASTERLING, 1ST Lt. OD LG, US Army;
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Petitioners/Relators

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LINDA LINGLE, as Governor of the State of Hawai'i; &
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Motions and Summary Argument

1. **Quo Warranto:** Special Assistant _____, and Relators request leave to bring information in the nature of Quo Warranto that Respondent Barack Hussein Obama II (herein “Obama”) is usurping the federal office of President, and to demand that he prove his authority to that title.

2. **Mandamus:** To protect the People’s sovereign right to preserve and enforce constitutional protections, Relators request leave to have the United States ex rel. file writs of *mandamus* for evidence regarding Respondent Obama’s qualifications, from the State of Hawaii, and for the Secretary of State to request such evidence from the United Kingdom, and the Republics of Kenya, Indonesia, and Pakistan.

3. **Burden & Standard of Proof:** To show good title, by *Quo Warranto*, by U.S. CONST. amend. XX, § 3, by statutes, and by ethical disclosure duties, Obama bears the burden of proof to show that he had qualified while President elect, by having submitted *prima facie* evidence to constitutional election officers of each of his identity, age, residency, and natural born citizenship before inauguration.

4. No Relator claims direct title to this office.

5. Relators submit that Respondent bears the duty to at least have met Federal and State statutory standards for proof of qualifications required of voters, drivers, citizens, and military enlistees. Where questions exist, as Command in Chief and responsible that the laws are faithfully executed, Obama should have met the

highest standards of proof required of commercial drivers, air transport pilots, military commanders for top secret clearance without foreign influence. Obama thus bears the civil standard of clear and convincing evidence.

6. Obama posted an invalid redacted Hawaiian Certification of Live Birth (COLB) on his campaign website.⁵ It failed U.S. State Dept.'s and Dept. Hawaiian Homelands' evidentiary requirements. Relators submit that Obama needs overcome each objection herein to prove clear constitutional title to the office of President.

7. **Natural Born having Undivided Loyalty:** Relators bring information that to eliminate foreign influence, the Founders established the Electoral College and stringent presidential qualifications.⁶

8. The constitutional principle underlying the “natural born citizen” qualification over “citizen” for Senator and Representative, was undivided loyalty by the Commander in Chief with no foreign influence, per recommendation of John Jay. Influential de Vattel's “natural born citizen” definition combines allegiance of both parents (*jus sanguinis*) with birthplace (*jus soli*) by natural law. Drafting subcommittee chairman Senator Charles Pinckney stated: “A child born to an American mother and alien father could . . . never [be] entitled to be a natural-born citizen. . .” The 14th Amendment framers' expressly stated this standard for “natural born citizen.”

⁵ *The Truth About Barack's Birth Certificate*, <http://fightthesmears.com/articles/5/birthcertificate>

⁶ U.S. CONST. art. II, § 1, ¶ 3, 5.

9. **Failures to Qualify:** Relators submit that while President Elect, public evidence shows that Obama had failed to qualify before inauguration:

1) By default of having failed his burden of proof to qualify by having neglected to provide election officers with *prima facie* evidence necessary to prove his natural born citizenship qualification, showing birth within the US' jurisdiction, with both parents being U.S., citizens, having undivided loyalty since birth without foreign influence;⁷

2) By having primary foreign allegiance to Britain from birth via his non US citizen colonial father, negating being a “natural born citizen”;⁸

3) By paternal foreign allegiance to the Republic of Kenya on its independence through his father, negating being a “natural born citizen”;

4) By uncertain birthplace, having failed to provide *prima facie* evidence overcoming Respondent's step-grandmother's statement that she attended his birth in Mombasa Kenya and the Principal Registrar's statement that records exist of Ann Dunham birthing Barak H. Obama, Jr. in Mombasa on Aug. 4, 1961. (Such records would negate Obama's U.S. native citizenship);

5) By *de facto* affirming foreign allegiance to the Republic of Kenya after his 18th birthday, by campaigning for Raila Odinga, both of the Luo tribe, who as Prime Minister sealed Obama's alleged birth records, by requesting the Vice President's

7 U.S. CONST. amend. XX, § 3

8 British Nationality Act (1948) § 5 (1)

help, and by Kenya's President Kibaki declaring a national holiday for Obama;

6) By primary foreign allegiance to Indonesia through adoption, his step father Lolo Soetoro renaming him Barry Soetoro, and declaring his Indonesian citizenship;

7) By having failed to disprove the appearance of affirming his allegiance to Indonesia through presumptively traveling on an Indonesian passport to Indonesia and Pakistan in 1981 after reaching his age of suffrage;

8) By having failed to provide election officers *prima facie* evidence of his identity per statutory standards, including legal change of name from Barry Soetoro as adopted or acknowledged by Leo Soetoro, back to Barack Obama;

9) By having failed to provide election officers *prima facie* evidence of his birth date to demonstrate being at least 35 years old, per statutory standards;

10) By having failed to provide election officers *prima facie* evidence of having resided fourteen years in the U.S.A., per statutory standards;

11) By breach of Respondent's ethical duties as President elect having failed to disclose relevant evidence regarding qualifications, including his original Hawaiian' birth records and all changes thereto, educational records disclosing name and citizenship, and having failed to search for and submit all alleged Kenyan birth records sealed by Prime Minister Odinga of Obama's Luo tribe; and

12) By obstructing constitutional duties to validate his qualifications by sealing records and contesting efforts to evaluate his qualifications while President elect.

13) Relators submit that Respondent Obama had further failed to qualify

because election officers, bound by oath to support the U.S. CONST., neglected to challenge his qualifications, failed to validate his proofs, and failed to evaluate *prima facie* evidence thereto, though citizens provided information by redress petition and lawsuits;

14) Relators submit the State of Hawaii's withholding Obama's birth records by its privacy laws breaches constitutional duties and the inviolability of the U.S. CONST. as supreme law.

10. **Standing & Interest:** The Elector, Presidential candidate, Military, & Legislative Relators, bound by oath to support the U.S. CONST., each have standing by constitutional obligations.

11. First Lieutenant Easterling on active duty in Iraq, and Relators in active reserves and call up, have special interest, having no *Quo Warranto* provision over their Commander in Chief within the Uniform Military Code of Justice, and by danger of court martial and execution should relating *Quo Warranto* be misconstrued.

12. Elector Robert Cusanelli, has interest by duty to elect a qualifying president, and Relator Keyes as a potential candidate, should Obama fail his burden of proof.

13. Legislative Relators have constitutional duties impacted by Obama's acts and appropriations.

14. To uphold its inviolability as supreme law, the U.S. Const., empowers citizens to uphold the People's sovereign right to it's safeguards and preserving the

Republic from tyranny.

15. **Jurisdiction:** This Court has jurisdiction:

1) By *quo warranto* of the President, causing the United States ex rel. to be a party to this controversy representing the People.⁹

2) By action of the United States ex rel. v. State of Hawaii over Hawaii's privacy laws obstructing the People's and Officers' constitutional duties to challenge, and validate Obama's qualifications and evaluate evidence thereto, while a candidate and President elect, giving original jurisdiction;

3) By constitutional powers of the United States ex rel. to evaluate evidence regarding Respondent's qualifications, including requesting such evidence from:

16. the United Kingdom relating to Respondent's birth and allegiance;

17. the Republic of Kenya, whose Prime Minister Odinga sealed records alleging to Obama's birth to Ann Dunham in Mombasa, and gagging Obama's relatives after Obama's step grandmother declared she attended Obama's birth in Mombasa, giving original jurisdiction;

18. the Republic of Indonesia on Respondent's adoption, allegiance, and travel;
and

19. the Islamic Republic of Pakistan on Respondent's travel in 1981.

4) By the necessity to uphold the inviolability of U.S. CONST. as supreme law

⁹ U.S. CONST. art. III, § 2 ¶ 1.

over nullification by the President Elect's having failed to qualify, by birth, adoption, negligence, and actions; by Officers' misprisions regarding U.S. CONST. amend. XX, § 3; by this Court's constitutional review authority per *Marbury v. Madison*; and by Justices' oath of office; and

5) By the public importance of knowing the President had qualified, and of interpreting the qualification "natural born citizen" where more than forty cases have been filed against Respondent Obama that hinge on that meaning, involving this Court's interpretative and review authority per *Marbury v. Madison*.

20. **Attorney General Recused:** Relators related information to Attorney General Eric Holder, praying Holder recuse himself over his intrinsic conflict of interest, and appoint a Special Assistant to bring this *Quo Warranto*.

21. **Justification:** *Quo Warranto* is timely, being submitted after Obama entered into the President's office, and before his term expired. By constitutional obligations and being affected by *Quo Warranto*, Relators have special interest above citizens. They have interest as citizens to uphold the People's sovereign rights to Presidents who qualify, and to the inviolability of the U.S. CONST. as supreme law and by U.S. CONST. amend IX & X.

“I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.”

Special Assistant, _____
Attorney for the United States, ex rel.
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001 USA
Phn 202-353-1555

Orly Taitz, Esq.
Attorney for Relators
26302 La Paz
Mission Viejo CA 92691 USA
dr_taitz@yahoo.com
Phn +1-949-683-5411
Date: March 13 , 2009

II. BRIEF TO SUPPORT MOTION FOR LEAVE FOR QUO WARRANTO ON BARACK HUSSEIN OBAMA, II, TESTING HIS TITLE TO PRESIDENT, AND FOR MANDAMUS TO OBTAIN DOCUMENTS ON QUALIFICATIONS

ARGUMENT

22. Special Assistant _____ and the Relators listed request leave to relate information in the nature of quo warranto, that Respondent Barack Hussein Obama II, a/k/a Barry Soetoro (herein “Obama”) is usurping the federal office of President by having failed to qualify while President elect, and to demand he prove his constitutional authority to his title, upholding the People’s rights to safeguards in U.S. Constitution Article II, § 1 and Amendment XX, § 3.

III. JURISDICTION

A. Upholding the Rule of Law & Constitutional Safeguards

23. The gravamen of this action is upholding the Rule of Law, the inviolability of the U.S. CONSTITUTION as supreme law, and key constitutional safeguards around the Commander in Chief that preserve our Republic against tyranny.

24. During the 20th century 33 Republics failed to uphold their constitutions and fell into tyranny. Consequently, some 125 million citizens were killed by their own governments, compared to 39 million in all wars of the 20th century.¹⁰ Upholding the U.S. CONSTITUTION and safeguarding the Republic against domestic enemies has far greater importance than against external enemies, though lacking war’s drama.

B. The Rule of Law Imposed Over Rulers

25. The Rule of Law was codified in the MOSAIC CODE with public consent.¹¹ Judeo-Christian code formed a third of Alfred's COMMON LAW.¹²

26. The Barons led by Archbishop Stephen Langton interposed over King John's tyranny, restoring the Rule of Law acknowledged by Henry (1100).¹³ They brought the King, the Chief Justice and all civil powers under MAGNA CARTA as inviolable supreme law, secured by oath and redress petition.¹⁴ Bracton observed that "the king must . . . be under God and under the law."¹⁵

27. King James II jailed seven bishops for seditious libel over their conscience based petition for redress of his indulgence order. Parliament explicitly reaffirmed the right of redress petition over the King in the *Bill of Rights*,¹⁶ codifying *Seven Bishops Trial*,¹⁷ and preserving interposition and alternatives for conscience's sake.

28. By the DECLARATION OF INDEPENDENCE (1776), the Founders restored "a government of laws, and not of men" over the tyranny of King George III and abuse by Parliament.¹⁸ They preserved the inviolability of supreme law in the U.S.

10 David L. Hagen & Eddie J. Irish, *Impeachment: Trapdoor to Tyranny*, 2000

11 Exodus 20:2-17, Deuteronomy 4:13, Deuteronomy 17:18-20.

12 DOOMS (CODE) of Alfred (880). Francis N. Lee, *Common Law: Roots and Fruits*, Revised Edition, (1997) Dissert. Samuel Rutherford School of Law, FL, USA

13 CHARTER OF LIBERTIES, 1 Henry (1100)

14 17 John (1215) § 61

15 Henry de Bracton, *Laws and Customs of England* (c1258) V 2 p 33 Harvard

16 1 W. & M., 2d sess., c. 2 (1689)

17 12 Howell's State Trials 183 (1688)

18 Massachusetts Const. art. XXX (1780)

CONSTITUTION, preserving security of petition for redress of grievances.¹⁹

C. The People establish the Presidency under the Rule of Law

29. The People by sovereign right established the federal office of President and its qualifications.²⁰

30. The People provided for “if the President elect shall have failed to qualify.”²¹ This required the President elect to have proved he qualified by age, residency, and being a “natural born citizen” before inauguration.

31. Election officers have the constitutional obligation to challenge and validate those proofs, evaluate relevant evidence, and to determine and declare whether the President elect had qualified or had failed to so qualify.

32. This *quo warranto* is brought to enforce the People’s sovereign rights to preserve and enforce safeguards of presidential qualifications and officers’ duties. It is a rare but vital test of preserving the U.S. CONSTITUTION’s core safeguard’s to preserve the Republic from tyranny, in the face of nullification by a charismatic leader.

33. This Court has acknowledged jurisdiction of cases involving the President to uphold the Rule of Law (other than impeachment).²² President-elect Obama committed “to restoring the rule of law and respecting constitutional checks and

19 U.S. CONST. art. VI & amend. I.

20 U.S. CONST. preamb. & art. II, § 1.

21 U.S. CONST. amend. XX, § 3.

balances.”²³

34. Central to this *quo warranto* is the need to clarify the meaning of the U.S. CONSTITUTION’s stringent qualification of “natural born citizen” for President over that of “citizen” for Senator or Representative. While this Court has clarified individual citizenship rights, it has not reviewed presidential qualifications in context of choosing the Commander in Chief, defending the U.S. CONSTITUTION, and preserving the Republic from internal enemies, treason, and tyranny. At stake are:

35. Nullification of constitutional qualifications for President by the President elect’s negligence, having failed to submit *prima facie* proofs of qualifications to constitutional election officers;²⁴

36. Nullification of U.S. CONSTITUTION’S provisions for “if the President elect shall have failed to qualify,” by obstructing officers’ constitutional duties²⁵ to challenge, validate, and evaluation of proofs of qualifications for President;

37. Nullification of the U.S. CONSTITUTION’S supremacy, art. VI, ¶ 2, by the State of Hawaii withholding Respondent’s original birth records, claiming privilege of privacy laws;

38. Nullification of oaths of office, by officers’ misprision in not challenging,

²² United States v. Nixon, 418 U.S. 683 (1974)

²³ Office, President Elect Change.Gov Dec. 15, 2008

²⁴ U.S. CONST. art. II, § 1

²⁵ U.S. CONST. amend. XX, § 3

validating, or evaluating the President Elect's qualifications;²⁶ and

39. Danger of descent into tyranny by a popular Commander in Chief having foreign allegiance(s) by birth, adoption, and choice, especially in time of war.

40. Relators submit that the Respondent Obama bore the burden of proof (*onus probandi*) to have had submitted *prima facie* evidence of his identity, age, residency, and “natural born citizen[ship]” by the inauguration, and that he had failed to do so.

D. U.S. v. State of Hawaii Action from *Quo Warranto* of President

41. Officers bound by oath are obliged to uphold the People's sovereign rights by enforcing constitutional safeguards. Election officers have the constitutional mandate to challenge, and validate qualifications of the President elect, and to declare “if the President elect [had or had] failed to qualify.”²⁷

42. Assuming *in arguendo* that the President Elect has no burden of proof, or neglects it, officers bound by oath still have the duty of due diligence to obtain and evaluate evidence testing Respondent's qualifications, to uphold People's rights to these safeguards.

1. U.S. v. State of Hawaii over “Natural Born Citizen”

43. Relators submit information below that the Founders' intent for the qualification “natural born citizen” was to prevent foreign influence over the Commander in Chief, and thus to bar any foreign allegiance by either parent's

²⁶ U.S. CONST. art. VI ¶ 3

allegiance or by birthplace. To evaluate the citizenship of both of Respondent Obama's parents and his birthplace, the Respondent's original long form "vault" birth records are required. Subsequent allegiances by adoption and the Respondent's actions after coming of age also bear on having foreign allegiance(s).

2. Obama's posted Certification of Live Birth: Invalid, insufficient

44. On his campaign web site, Obama stated he was a "native born citizen" rather than a "natural born citizen".²⁸

45. Respondent Obama posted an image of his redacted Hawaiian "Certification of Live Birth" (COLB). *Id.*

46. That redaction invalidated the COBL on its face, as noticed by "Any Alterations Invalidate This Certificate."²⁹

47. Certified Diplomat Sandra Ramsey Lines "state[d] with certainty that the COLB presented on the internet . . . cannot be relied upon as genuine. . . . examination of the vault birth certificate for President-Elect Obama would lay this to rest"³⁰

48. U.S. Dept. State rejects images and abstract certificates as *prima facie* evidence:

"A certified birth certificate has a registrar's raised, embossed, impressed or multicolored seal, registrar's signature, . . . some short (abstract) versions of birth certificates may not be acceptable for passport purposes."³¹

49. Hawaii similarly warns:

²⁷ U.S. CONST. art. II, § 1 & amend. XX, § 3.

²⁸ *Id. Fight the Smears*

²⁹ HRS § 338-30

³⁰ *Keyes v. Lingle*, SC Hawaii No. 29473, Declaration of Sandra Ramsey Lines Exhibit C

³¹ *How to Apply for the First Time*, U.S. Dept. State
travel.state.gov/passport/get/first/first_830.html

“Prima facie evidence overcome by competent evidence of nonidentification. 4 U.S.D.C. Haw. 258. Certificate not controlling upon U.S. immigration officials re admission of Chinese. 217 F. 48; 35 Op. U.S. Att. Gen. 69”.³²

50. The Dept. Hawaiian Homelands (DHHL) accepts original Certificate of Births of the applicant and of both parents etc. to evidence of age and 50% ancestral Hawaiian blood.³³

51. DHHL rejects Hawaii’s “Certification of Live Birth” as being insufficient evidence.³⁴

3. Obama’s Hawaiian birth records

52. Obama’s Hawaiian “Certification of Live Birth” lists “father” as “Barack Hussein Obama” and race as “African”.

53. Respondents know of no proof of U.S. citizenship that Respondent had submitted for either of his parents.

54. Hawaii issues Hawaiian Birth Certificates for persons born out of State on declaration of Hawaii as legal residence for the prior year.³⁵

55. Hawaii seals original birth records after adoption.³⁶

56. Health Dept. Director Chiyome Fukino, M.D.:

“ . . .verified that the Hawaii State Department of Health has Sen. Obama’s original birth certificate on record in accordance with state policies and

³² HRS §338-41's Case Notes

³³ The Hawaiian Homes Commission Act, 1920 42 Stat. 108

³⁴ “*Applying for Hawaiian Home Lands*,” Department of Hawaiian Homelands, State of Hawaii

³⁵ HRS § 338-17.8

³⁶ HRS § 338-20

procedures.”³⁷

57. Hawaii’s Dept. Health Director Fukino held that:

“State law (Hawai’i Revised Statutes §338-18) prohibits the release of a certified birth certificate to persons who do not have a tangible interest in the vital record.” *Id.*

58. Hawaii’s privacy laws seal original birth records on pain of fine and charge of misdemeanor.³⁸

59. Director Fukino stated that Obama’s birth certificate exists, not what type it is, nor what it includes, nor how it was attested, nor if it was changed by adoption or divorce, nor if it was late or altered, and if so on what evidence.

60. Proving a Hawai’ian birth is necessary for Obama to at least show native U.S. citizenship.

61. However, Relators submit below that even Obama’s original Hawaiian birth certificate would be insufficient to evidence a “natural born citizen”.

4. Alleged Kenyan birth records

62. Obama’s Kenyan step grandmother Sarah Hussein Obama has stated that she was present when he was born in Mombasa Kenya.³⁹

63. The Principal Registrar of Kenya stated that birth records exist for Ann Dunham giving birth to Barack Hussein Obama, II in Mombasa, Kenya on August 4, 1961. *Id.*

³⁷ HI Dept. Health News Release, October 31, 2008

³⁸ Hawaii HRS § 338-17.7 (a)(3) & HRS § 578-14 (a). HRS § 338-30

64. Kenyan M.P. Ms. Odhiambo's statement in Parliament implied Obama was born in Kenya and was thus Kenyan *jus soli*:

“The President-elect, Mr. **Obama, is a son of the soil of this country.** . . . It is only proper and fitting that **the country which he originates from** should show the same excitement . . .”⁴⁰

65. Evidence of a Kenyan birth would definitively disqualify Obama from being a “natural born citizen”. He would not have acquired U.S. citizenship on birth, as his mother Stanley Ann D. Obama at age eighteen (18) at the time was too young to confer citizenship on him.⁴¹

5. Uncertain birth location without validating evidence

66. Public Registrars in Hawaii and Kenya both claim to hold Obama's birth records. Statements by Obama's step-grandmother and a Kenyan MP contradict his U.S. relatives' filing of an Hawaiian birth certificate. This public record evidences a controversy and uncertainty over the Obama's birth place.

67. Relators submit that obtaining clear and convincing evidence of Obama's birth place and date would have required preservation, release, and examination of original attestations, and associated *prima facie* evidence of both Kenyan and Hawaiian records, and testimony from living relatives and witnesses thereto.

68. To Relators' knowledge, Obama had failed to provide election officers with any certified *prima facie* evidence of his qualifications from either Hawaii or Kenya.

³⁹ SC No. 08A50 Berg v. Obama, (F.3d. No. 08-cv-04083) aff. Rev. Kweli Shuhubia Oct. 27,2008.

⁴⁰ 10 PARL. DEB. Kenya, (2008) Nov. 5 p 3275-3276

69. Relators submit that Respondent Obama had failed to provide election officers with clear and convincing evidence of his birth place, birth date, and parents' citizenship before his inauguration.

E. United States v. State of Hawaii Action over Obama's Legal Name

70. Obama's step father Lolo Soetoro declared Obama's name as "Barry Soetoro", his place and date of birth as "Honolulu 4-8-1961", and his citizenship as "Indonesian".⁴²

71. The divorce decree of Stanley Ann D. Soetoro v. Lolo Soetoro acknowledged one child under 18 and one child over 18, implying that Respondent Obama had been adopted.⁴³

72. Registration in Hawaii of Obama's adoption by Soetoro's marriage to Dunham would have created a new birth certificate for Barry Soetoro.⁴⁴ Soetoro's divorce decree after Obama's 18th birthday may not have changed his name.

73. This *quo warranto* on Obama includes testing Respondent's identity and legal name. Obama's mother's divorce from Obama (Sr), and marriage to Soetoro may each have changed Respondent Obama's legal name to Barack Dunham and/or to Barry Soetoro etc. Each change may have generated an Hawai'ian birth certificate.

74. Relators have found no public record of legal change of Respondent's name

⁴¹ 1952 Immigration and Nationality Act, § 349(a)[1988]; 14. 8 U.S.C. 1401(g)

⁴² Record #203 of Fransiskus Assisi School, Jakarta, Indonesia. Broe v. Reed, No. 8-2-473-8, S.C.WA (2008), Joint Aff. Plaintiffs, pp 6-8.

from Barry Soetoro to Barack Obama.

75. Obama apparently had provided no *prima facie* evidence of legally changing his name from Barry Soetoro back to Barack Obama before his inauguration.

F. U.S. v. State of Hawaii Action to evaluate Obama's qualifications

76. Election officers are constitutionally obligated to validate *prima facie* evidence of Obama's, age, residence, and natural born citizenship and evaluate other evidence. By Oaths of Office, Elector, Presidential Candidate, Legislative, and Military Relators have obligations to uphold constitutional qualifications and provisions.

77. However, Hawaii seals original birth records and all subsequent changes, requiring a court order to access them.⁴⁵

78. In *arguendo* of Respondent's burden, this *quo warranto* raises a case by the United States to test Respondent Obama's title to the office of President, including evaluating *prima facie* evidence of his qualifications including foreign allegiance(s) or influence.

79. For Relators or officers to obtain such evidence raises a direct conflict between the United States in enforcing the supremacy of the U.S. CONSTITUTION, in applying *quo warranto*, and the State of Hawaii by Gov. Linda Lingle enforcing

⁴³ Stanley Ann Soetoro v. Lolo Soetoro, 1st Ckt. Ct. Haw. FC.D.No.117619 Divr. Decr. Aug. 28, 1980.

⁴⁴ Hawaii HRS § 338-17.7 (a)(3) & HRS § 578-14 (a)

⁴⁵ HRS §338-17.7 (b); HRS § 578-14 (b)

Hawaii's privacy laws to withhold records relevant to Respondent's qualifications.⁴⁶

80. Relators submit that consequently this Court has original jurisdiction over this action between the United States and the State of Hawaii arising by *quo warranto* to test Respondent Obama's title to President.⁴⁷

G. Hawaii's Privacy Laws v. Evaluating Qualifications

81. Should election officers require court orders to overcome State privacy laws to perform their constitutionally mandated duties to validate qualifications for President, Senators or Representatives?

Relators submit that Hawaii's § 338-17.7 (b) and HRS § 578-14 (b) are unconstitutional by obstructing constitutional duties of election officers to validate and evaluate qualifications for President, Senator or Representative, including identity, age, residency, and citizenship. Relators submit that this consequently Court has jurisdiction as established in Marbury v. Madison.

H. *Mandamus* on Hawaii's Gov. Lingle for Qualification Evidence

82. In *arguendo* that Respondent does not bear the burden of proof under *quo warranto*, election officers are constitutionally obliged to challenge and validate Obama's identity and qualifications, and to evaluate further evidence thereto.

83. Original records, attestations, and related evidence and testimony need be examined to resolve conflicts between Kenyan and Hawai'ian Registrars over

⁴⁶ U.S. CONST. art. VI.

Obama actual birth.

84. To clearly uphold People's sovereign right to the Constitutional inviolability and safeguards, Relators motion for leave to file a Writ of Mandamus on Hawaii's Gov. Linda Lingle to provide records pertaining to Respondent Obama's legal identity and qualifications.

85. Evidence to be requested include Obama's original long form ("vault") birth records and all changes thereto; information on his birthplace, his father Barry Obama's acknowledgment of paternity; identity and citizenship of each parent; marriage and divorce of Barack Obama and Stanley Ann Dunham Obama; marriage of Lolo Soetoro to Stanley Ann Dunham; Soetoro's adoption of Respondent Barry Soetoro a.k.a. Barack Obama; the divorce decree between Lolo Soetoro and Stanley Ann D. Soetoro; and all changes of name thereto and by Respondent Obama.

I. Interpretation of Presidential Qualifications

86. This Court has held in Marbury that:

"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."⁴⁸

87. Though rare, there is now great controversy over the qualifications of president. At least 42 law suits have been raised challenging Respondent Obama's qualifications for President. This *quo warranto* and similar law suits rise or fall on

⁴⁷ U.S. CONST. art. III, § 2, per 28 USC § 1251 (b) (2).

⁴⁸ Marbury v. Madison, 5 U.S. 137, 177.

the meaning of the constitutional qualification “natural born citizen” and the provision “if the President elect shall have failed to qualify”.⁴⁹

88. The Relators submit that this qualification and provision need be declared and expounded for this and all related cases to be evaluated on their merits.

89. One critical issue is over the interpretation of the constitutional restriction of “natural born citizen” over “citizen.”⁵⁰ Relators submit below that the evidence in the public record is that the Founders’ intention on “natural born citizen” was to exclude foreign influence(s) over the Commander in Chief that might occur with “citizen”.

90. Consequently, the restrictive qualification “natural born citizen” means to require that the Commander in Chief have only had sole allegiance to the United States from birth, having both parents being citizens within the political jurisdiction of the United States from birth (*jus sanguinis*), and within the civil jurisdiction of the United States (*jus soli*).

91. This Court has adjudicated issues of XIVth Amendment citizenship rights of individuals. However, this Court has not examined on merits the qualifications for President in the context of constitutional safeguards and protections against tyranny. Nor has this distinction of “natural born citizen” versus “citizen” been examined in light of constitutional provisions for Commander in Chief, treason, war,

⁴⁹ U.S. CONST. art. II, § 1 ¶ 5; U.S. CONST. amend. XX, § 3.

⁵⁰ U.S. CONST. art. II, § 1 versus art. I § 2 ¶ 2 and art. I § 3 ¶ 3.

oaths, tranquility, and safeguarding the Republic.

J. Public Interest: Resolve at least 40 other cases.

92. This case is of very high public importance and interest. More than 325,000 citizens have signed a petition to this Court seeking “. . .Public Release of Barack Hussein Obama’s Birth Certificate.”⁵¹

93. Relators know of more than 40 cases filed over qualifications of Respondent Obama. Existing cases against Respondent Obama have been raised in Alabama, Connecticut, California, District of Columbia, Georgia, Hawaii, Illinois, Indiana, Kentucky, Michigan, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, and Washington.

94. In none of these cases has either Respondent Obama or Governor Lingle released the Respondent’s original long form (“vault”) birth certificates.

95. Relators submit that evaluating this *quo warranto* on its merits would resolve at least 40 other cases involving the State of Hawaii versus other States or the United States, as currently before State and Federal courts, in which this Court would have either appellate or original jurisdiction.

IV. JUSTIFICATION FOR QUO WARRANTO

A. Jurisdiction over quo warranto

96. Historically, *quo warranto* was issued by equity from Chancery and tried

before the king's justices at Westminster.⁵² Federal Courts are empowered to issue "all writs necessary or appropriate."^{53, 54} This Court has ruled on numerous State and Federal writs of *quo warranto*.⁵⁵

97. This Court is not limited to appellate jurisdiction, nor has it been forbidden to use *quo warranto*. This *quo warranto* is grounded on the constitutional qualifications for president, not upon electors' discretion, nor on a political question, nor over high crimes and misdemeanors.

98. Relators respectfully submit that, under the U.S. CONSTITUTION, Federal Law, and COMMON LAW, this Court has original jurisdiction for *quo warranto* to test the title of the Respondent Obama to the Office of President as a federal office established under the U.S. CONSTITUTION, which is not an article of impeachment.

B. Quo Warranto over Qualifications before Inauguration

99. This *quo warranto* tests the President elect's qualifications and to find "if the President elect [had] failed to qualify. . ." and involves interpretation of those constitutional provisions and processes.⁵⁶

100. The constitutional title "President elect" identifies both the person and the time period. I.e., from when the Electoral College's election of a candidate is

⁵¹ World Net Daily, <http://www.wnd.com/index.php?pageId=81550>

⁵² Richard I, A.D. 1198. James L. High, *Extraordinary Legal Remedies*, Callaghan & Co. (1896)

⁵³ 28 USC § 1651.

⁵⁴ Chester J. Antieau, *The Practice of Extraordinary Remedies*, Oceana Pub. Inc. (1987)

⁵⁵ E.g., *United States v. Smith* 286 U.S. 6 (1932)

⁵⁶ U.S. CONST. art. II, § 2; amend. XX, § 3

announced by Congress in joint session about January 6th (8th in 2009) and before that President elect becomes President by inauguration on January 20th.

101. This *quo warranto* thus tests actions by the President-elect BEFORE inauguration, not after.

C. Constitutional Qualification Process, Not a Political Question

102. By law, the Presiding Officer in joint session must call for objections after the reading of each State's electoral certificates. By law, a Representative and a Senator may jointly object in writing, and then each House separately debate objections raised.⁵⁷

103. After Congress declares the President elect, then the duties prescribed by Amendment XX apply.

104. After the President elect is declared, then officer(s) had to challenge his qualifications, the President elect had to submit *prima facie* evidence of qualifications, and officer(s) had to validate that evidence, evaluate other relevant evidence on qualifications, determine if the President elect had qualified or had failed to qualify against constitutional qualifications, and had to so declare his qualification or failure.

105. These are processes prescribed by the CONSTITUTION as supreme law, not an electoral process subject to informed discretion of Electors of the Electoral College.

⁵⁷ 3 USC Ch. 1, § 15; § 17.

106. Nor is this a political question subject to individual interpretation by Members of Congress.

D. Not over an Impeachable Offense occurring after inauguration

107. The Constitution provides for impeachment of the President.⁵⁸ Articles of impeachment are raised by the House and tried before the Senate.

108. Impeachment covers high crimes and misdemeanors committed AFTER the President takes office.

109. Relators are not providing any information or raising any claim for impeachment for high crimes and misdemeanors of Respondent after taking office.

E. The President Elect Had Opportunity to Demonstrate Qualifications

110. Respondent was declared President elect on January 8th, 2009, and was inaugurated President on January 20th, 2009.

111. Obama had the constitutional provision of ten business days within which to have submitted *prima facie* evidence to election officers to prove that he had qualified for President.⁵⁹

F. Timeliness of quo warranto

112. *Quo warranto* testing Respondent's title is timely brought since Obama has

⁵⁸ U.S. CONST. art. II, § 4.

⁵⁹ U.S. CONST., amend. XX, §3; P.L. 100-430.

taken office.⁶⁰

113. By COMMON LAW, *nullum tempus occurrit regi*, lapse of time does not bar the United States from enforcing the People's sovereign rights.⁶¹

G. Other venues exhausted justifies quo warranto

114. Courts have dismissed suits challenging Respondent's Obama's qualifications, over lack of "standing".⁶²

115. The World Net Daily submitted petitions challenging Obama's qualifications from 3,653 citizens to all 538 members of the Electoral College before their Dec. 15th, 2008 vote.⁶³

116. Citizens petitioned Members of Congress for Redress of Grievance over Obama's qualifications prior to Jan. 8th, 2009 when Congress met to tally the Electoral College votes. e.g., See David L. Hagen's formal petition in the Appendix.

117. Congress in joint session may raise objections while tallying Electoral College votes. However, Presiding Officer Richard Cheney failed to call for objections as required by law.⁶⁴

118. Subsequently, no Member of Congress raised a Point of Order in Congress that the President elect had failed to present *prima facie* evidence of his

⁶⁰ Sheils v. Flynn (1937) 163 Masc. 506, 299 NYS 20.

⁶¹ United States v. Hoar, 2 Mason 311

⁶² Berg v. Obama, E.D. Pa. No. 08-cv-4083

⁶³ WND.com Dec. 13, 2008.

⁶⁴ 3 USC Ch. 1, § 15; 155 CONG. REC. H75, Jan. 8, 2009

qualifications.

119. Thus *quo warranto* is the only formal means left to test the title of this public officer (without invoking residual sovereign powers of the People and the States).⁶⁵

V. CONSTITUTIONAL OBLIGATIONS & “STANDING”

120. *Quo warranto* under DC Code Sec. 1539 restricted executive officers from:

“attack by a person who had no claim on the office, no right in the office, and no interest which is different from that of every other citizen and taxpayer of the United States.”⁶⁷

121. Suits over Respondent Obama’s qualifications have been dismissed under the “Doctrine of Standing”.

122. In this *quo warranto*, each Relator has constitutional obligations and an interest above that of “every other citizen and taxpayer”.

A. Constitution Provides Access to Officers Bound by Oath of Office

123. To preserve its inviolability, the U.S. CONSTITUTION necessarily provides access in court to constitutional officers, bound by oath, to perform their constitutional obligations to support the U.S. CONSTITUTION including *quo warranto*.

124. If Officers were prevented from supporting the U.S. CONSTITUTION, would it

⁶⁵ 45 How., 110, 14 Abb. N. S., 191; 24 N. Y., 86.

⁶⁷ Newman v. United States ex Rel. Frizzell, 238 U.S. 537 (1915)

not become a dead letter, nullified by “death of a thousand cuts” of official misprision? Would not raising the “Doctrine of Standing” above inviolability and supremacy of the U.S. CONSTITUTION in itself breach the Oath of Office?⁶⁸

B. Military obligation under oath to support the U.S. CONSTITUTION

125. Relators who are members of the armed forces have defined constitutional positions.⁶⁹ As members of the Executive under the President as Commander in Chief, Military Relators are bound by oath to support the CONSTITUTION.⁷⁰

126. Relators represent the Army, Navy, Marines, and Police, in active duty, active reserves, and as retired officers subject to recall.

127. Military Relators find the Founders established qualifications to elect a Commander in Chief having sole allegiance to the United States, free from foreign allegiances. Relators find information in the public record raises major concerns that Respondent Obama has not qualified for President.

128. Active and retired armed forces members are under the Uniform Code of Military Justice (UCMJ).⁷¹ Armed forces members can only request redress of wrongs by commanding officers.⁷² As the CONSTITUTION appoints a civilian President, UCMJ has no “*quo warranto*” writ, giving no basis for military members to test title to their Commander in Chief.

⁶⁸ U.S. CONST. art. VI, ¶ 3.

⁶⁹ U.S. CONST. art. I, § 8 and art. II, § 2.

⁷⁰ U.S. CONST., art. VI, ¶ 3.

129. Information challenging Respondent's qualifications raises difficult choices for enlisted Members on oath to both support the U.S. CONSTITUTION and obey their Commander in Chief. Military Relators are in danger of being misunderstood and charged with mutiny, or sedition, carrying the penalty of death.⁷³ Attorney for Relators knows of one military person who has been ordered to not speak about Obama's eligibility.

130. Military personnel are directly affected by whether Respondent is replaced, by UMCJ, and by their oath, giving interest in *quo warranto* above citizens and taxpayers.

C. Legislative obligation under Oath to support the U.S. CONSTITUTION

131. State Legislator Relators are bound by oath to support the U.S. CONSTITUTION, which establishes their offices, guaranteeing States a "republican form of government", assistance against "domestic violence," and ratification of amendments.⁷⁴

132. State Legislators have constitutional budgetary and allocation obligations reciprocal to Federal funds dispersed under the President's signature. State Rep. Martinez was affected by his Governor, giving interest and standing to bring *quo*

⁷¹ UCMJ 802(4)

⁷² UCMJ 938 art. 138.

⁷³ UMCJ §894.

⁷⁴ U.S. CONST. art. IV, § 4, & art. V.

warranto.⁷⁵

133. Legislative Relators have both constitutional obligation, and interest above citizens to bring information for *quo warranto* on Obama.

D. Elector's obligation under Oath to support the U.S. CONSTITUTION

134. Relator Robert Cusanelli cast his vote as Elector for the State of Alabama's 7th District in the Electoral College on Dec. 15, 2008.

135. Elector Cusanelli, bound by oath to support the U.S. CONSTITUTION is obligated to ensure the President has qualified, or found to have failed to qualify.⁷⁶

136. Elector Cusanelli has interest in *quo warranto* above citizens by his duty to elect another President should Respondent fail his burden of proof.

137. Both constitutional obligations grant Elector Cusanelli access to relate information for *quo warranto* testing Respondent's title to the office President.

E. Presidential Candidate's Oath to support the U.S. CONSTITUTION

138. Relator Keyes has been bound by oath to support the U.S. CONSTITUTION, on taking the office of Assistant Secretary of State, and then the office of Ambassador to the United Nations Economic and Social Council.

139. Keyes was candidate for President in 2008 in California.

140. Relator Keyes has a personal interest as a candidate eligible for election

⁷⁵ *Martinez v. Martinez*, 545 So. 2d 1338, 1339 (June 22, 1989)

⁷⁶ U.S. CONST. art. VI, ¶ 3.

under Amendment XX, should the Respondent fail his burden of proof.

141. Keyes' constitutional obligation and personal interest grant access and "standing" to relate this *quo warranto*.

142. Keyes explicitly does not claim title to the Presidency under this *quo warranto*.

F. People's sovereign right to uphold U.S. CONST.'S safeguards

143. The security of CONSTITUTION, secures both petition for redress of grievances and inviolability of constitution as supreme law. This was codified in Magna Carta (1215) § 61, affirmed in the Bill of Rights (1689), restored by the DECLARATION OF INDEPENDENCE (1776), and preserved in U.S. CONSTITUTION article VI and amendment I.

" . . . if we or our justiciar, or our bailiffs, or any of our servants shall have done wrong in any way toward any one, **or shall have transgressed any of the articles of peace or security**; . . . **We will not seek** to procure from anyone, either by our own efforts or those of a third party, **anything by which any part of these concessions or liberties might be revoked or diminished**. Should such a thing be procured, it shall be null and void . . ." ⁷⁷

144. This Court emphasized the inviolability of the U.S. CONSTITUTION. as established by the People.⁷⁸ Restating Marbury for this case:

"It is a proposition too plain to be contested, that the constitution controls any [President elect's] act repugnant to it . . . The constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with [the President elect's] ordinary[] act[ion]s, and like other act[ion]s, is alterable when the [President elect] shall please to alter it."

⁷⁷ Magna Carta (1215) § 61

⁷⁸ Marbury v. Madison, 5 U.S. 137, 176-177

145. Furthermore, the COMMON LAW empowered *quo warranto* at the “relation” of *any* person.⁷⁹ Should not challenges to the CONSTITUTION’s inviolability grant citizens to bring *quo warranto*, to uphold the People’s sovereign rights, without requiring “personal injury”?

146. Under the U.S. CONSTITUTION, Congress tabulates Electoral College’s votes and announces the President elect. Should “the President elect [] have failed to qualify”, the U.S. CONSTITUTION voids such election, provides for appointing the Vice President to act as President until a qualifying president is elected.⁸⁰

147. Furthermore, the People by supreme right to establish government, and the States by ratification, reserve all powers necessary to uphold the inviolability of U.S. CONSTITUTION as supreme law.⁸¹

“ . . . this grant of power to the elector can in no way impair the right of the people, in their sovereign capacity, to inquire into the authority by which any person assumes to exercise the functions of a public office or franchise, and to remove him therefrom if it be made to appear that he is a usurper having no legal title thereto.”⁸²

148. J. McDonald affirmed stating:

“In *quo warranto* proceedings seeking the enforcement of a public right³ the people are the real party to the action and the person bringing suit ‘need not show that he has any real or personal interest in it.’⁸³”

149. The People’s sovereign right to uphold the Constitution and by redress

⁷⁹ 9 Anne c. 20 (1710)

⁸⁰ U.S. CONST. amend. XX, § 3

⁸¹ U.S. CONST. amend. I, IX, and X

⁸² People v. Holden, 28 Cal. 123; James L. High, Treatise on Extraordinary Legal Remedies § 624, p 453 Callaghan & Co. Chicago (1874)

⁸³ Martinez v. Martinez, 545 So. 2d at 1339 (1989); quoting State ex rel. Pooser v. Wester, 126 Fla.

petition, explicitly covers breach or misprision by Presidents or Chief Justices.^{84, 85}

150. When constitutional officers fail their duties and oaths, the U.S. CONSTITUTION, of necessity, authorizes Relators as citizens to uphold the People's sovereign rights to the safeguards of a President who qualifies, and a Commander in Chief having no foreign influence.

151. Would not preventing Citizens from preserving the People's sovereign rights to constitutional safeguards, by any Doctrine of "Standing", in itself breach the inviolability of U.S. CONSTITUTION? If the People were denied their sovereign right to support the Constitution, would that not destroy the accountability by which the Rule of Law is maintained?

VI. BURDEN OF PROOF AND STANDARD OF PROOF

A. Burden of Proof on Respondent under *quo warranto*

152. In *quo warranto*, Relators upholding the People's rights need only provide general information while Respondent has the burden of a rule *nisi*.

153. Justice Breeze ruled:

"This court has decided that the people are not called upon to show anything; The entire onus is on the defendant, and he must show by his plea, and prove that he has a valid title to his office, . . ." ^{86, 87}

154. Burr Jones reviewed *quo warranto* :

49, 53, 170 So. 736, 737 (1936).

⁸⁴ Magna Carta (1215) § 61.

⁸⁵ U.S. CONST. amend. I.

“... the ordinary rules as to burden of proof do not apply in *quo warranto* proceedings. One who is exercising the privilege of a public office is considered an usurper unless he can maintain his title;”⁸⁸

“In *quo warranto* proceedings undertaken by the people the burden is so far cast upon the respondent that he cannot rely upon presumptions, but he must prove the continued existence of every qualification necessary to the enjoyment of the office.”⁸⁹

“ . . .the *certificate*, and *returns* on which [the election] is based are *open to investigation*, and that judgment will be rendered according to real facts.”⁹⁰

“It is not enough to allege generally that he was duly elected or appointed to the office or has been granted the franchise. He must plead facts showing on the face of the plea that he has valid title to the office or franchise.”⁹¹

B. Burden of Proof on Respondent under U.S. CONST. amend. XX, § 3

155. By prescribing the (conditional) active voice “have qualified” (rather than the passive “have been qualified”) the U.S. CONSTITUTION placed on the Respondent a fallible burden of proof.⁹²

156. The future perfect tense established Respondent’s deadline of the Inauguration Jan. 20th to have qualified after being declared President Elect.⁹³

157. By placing the qualification burden on the Respondent, Amendment XX empowers election officers to challenge Respondent’s qualifications and to validate *prima facie* evidence submitted by the Respondent.

⁸⁶ *People v. Ridgley*, 21 Ill. 67; *People v. Baldrige*, 267 Ill. 190; p 519

⁸⁷ James L. High, *Treatise on Extraordinary Legal Remedies*, Chicago, Callaghan & Co. (1874) p 519

⁸⁸ Burr W. Jones, *The Law of Evidence in Civil Cases*, § 193, 2nd Ed., (1908) p 234. *People v. Mayworm*, 5 Mich. 146.

⁸⁹ Jones *id.*, p 234; *State v. Beecher*, 15 Ohio 723.

⁹⁰ Jones *id.*, p 235; *People v. Thacher* 55 N.Y. 525.

⁹¹ William M. McKinney *Ruling Case Law*, Vol. 22, Edward Thompson, (1918) p 717. *State v. Harris*, 3 Ark. 570.

⁹² U.S. CONST. amend. XX, § 3.

⁹³ U.S. CONST. amend. XX, § 1.

158. With or without Respondent having the burden of proof, Officers still have a constitutional duty for due diligence over the President elect's qualifications, including evaluating other evidence testing his qualifications.⁹⁴

159. Election officers then have the constitutional duty to declare if the President elect had met or had failed to qualify.⁹⁵

C. Burden of Proof on Respondent by Statutes

160. Respondent should at least have met standards required of citizens, voters and drivers. Statutes place the burden of proof on applicants for privilege and trust.

“Applicants have the burden of proving by a preponderance of the evidence their identity (22 CFR 51.23) and that they are citizens of the United States (22 CFR 51.40).”⁹⁶

161. Passport applicants must submit evidence affirmed by oath.⁹⁷ U.S. citizenship law places the burden of proof on applicants.⁹⁸

162. Driver's license applicants must demonstrate true name, age, residency, and Social Security Number.⁹⁹

163. By his seeking to govern air travel and control the U.S.A.'s most hazardous material - its nuclear arsenal - Relators submit that the Respondent should have met identity and citizenship requirements for Airline Transport Pilots and

⁹⁴ U.S. CONST. amend. XX, § 3.

⁹⁵ U.S. CONST., art. II, § 2.

⁹⁶ 7 FAM 1313(b) Entitlement to Services, US. Dept. State.

⁹⁷ 22 USC § 213.

⁹⁸ 8 USC 5 Sec. 1361; 8. U.S.C. 1429(b).

⁹⁹ Form DL 44, California Dept. Motor Vehicles.

Hazardous Material Drivers.¹⁰⁰

164. Relators come only to test if Obama qualifies as a “natural born citizen”, not to remove his U.S. citizenship.

D. Burden of Proof on Respondent by Ethical Duties

165. The President is bound by Oath or Affirmation to: “the best of my ability, preserve, protect and defend the Constitution of the United States” “. . . and to “take Care that the Laws be faithfully executed, . . .”¹⁰¹

166. Seeking the highest office of public trust to execute the Laws imposes the highest ethical duty to state true facts to constitutionally required qualifications:

“It is the duty of a person to make to another person, to whom he holds a trust or fiduciary relationship, a full disclosure of any and all material facts within his knowledge . . .”¹⁰²

E. Standard of Evidence

167. On uncertain evidence, U.S. Dept. State may require more evidence.¹⁰³

168. When uncertainty exists the Hawaiian Dept. Homelands requires further evidence of qualification.¹⁰⁴

169. If citizen’s and lower officers bear increasingly stringent burdens to qualify, should not the Constitution’s highest officer bear the most stringent standards and

¹⁰⁰ 14 CFR 61 *et seq.* & Table II; “Application for a Hazardous Materials Endorsement (HME)” Trans. Sec. Admin. 49 U.S.C. 5103a.

¹⁰¹ U.S. CONST., art. II, §2 ¶ 8, § 3.

¹⁰² American Nat’l Ins. Co., etc. v. Murray, 383 F.2d 81 ¶29, 30.

¹⁰³ 22 CFR 51.44; 7 FAM 1313.

¹⁰⁴ *Applying for Hawaiian Home Lands*. Hawaiian Dept. Homelands

Easterling et al. v. Obama et al. *Quo Warranto* Mar. 13 ’09

the most thorough examination?

170. To hold title to the highest executive office responsible to see that laws are enforced, Relators submit that Respondent should have met at least the civil standard of “Clear and convincing evidence.”

VII. NATURAL BORN CITIZEN: WITHOUT FOREIGN INFLUENCE

171. Relators detail the qualification of “natural born citizen” as framed and understood by the Founders and those establishing the XIVth Amendment undivided loyalty including both parents’ allegiance and birth place, with no foreign allegiance or influence.

A. Definition: “natural born citizen” *jus sanguinis & jus soli*

172. Contemporary Emmerich de Vattel defined “natural born citizen” as combining both parents’ allegiance (*jus sanguinis*) with birthplace (*jus soli*):

“The natives, or **natural-born citizens, are those born in the country, of parents who are citizens. . .**” “ to be of the country, it is necessary to be born of a person who is a citizen, for if he be born there of a foreigner, it will be only the place of his birth, and not his country. . .”¹⁰⁵

de Vattel’s *Law of Nations* highly influenced THE DECLARATION and the CONSTITUTION.¹⁰⁶ This Court has cited de Vattel more than 150 times.

¹⁰⁵ Emmerich de Vattel, *The Law of Nations* (1758), Bk. 1, Ch. 19, § 212, § 215; p 101 cited in Scott v. Sanford, 60 U.S. 393, 476 (1856).

¹⁰⁶ Daniel A. Farber & Suzanna Sherry, *A History of the American Constitution*, 367-372 (2nd ed. 2005) West Pub.; Robert Trout, *Life, Liberty, and The Pursuit of Happiness*, FIDELIO Mag. V. VI No.1, Spring, 1997.

B. Natural Born: a citizen by “natural law” from birth

173. The original States established the U.S.A. by the DECLARATION OF INDEPENDENCE (1776). By Acts enabling 13 States, all States mutually required these principles for equal standing in the Union. I.e., by requiring that Constitutions and laws of new States ‘shall **not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence**’ including Hawaii.¹⁰⁷

174. The U.S.A. was thus founded on an appeal to the “laws of Nature and of Nature’s God.” The plain meaning of “natural born citizen” is that the person is a citizen from birth by those “laws of nature”. I.e., by birth place and by allegiance of both parents, and not by any Legislative Act, Judicial ruling, or Executive fiat.

C. Intent: Undivided Loyalty for Commander in Chief

175. The Founders explicitly designed the election and choice of President to exclude foreign influence over the Command in Chief. Alexander Hamilton explained:

“. . . every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government . . . [come] chiefly from the desire in foreign powers to gain an improper ascendant in our councils.” To protect the President’s election from foreign powers: “. . . raising a creature of their own to the chief magistracy . . . the convention have guarded against all danger of this sort, . . .”¹⁰⁸

176. Rejecting the Legislature’s selection, the Convention created the Electoral

¹⁰⁷ Act of March 18, 1959, Pub. L. 86-3, § 1, 73 Stat. 4.

College where:

“. . . the appointment of the President [does not] depend on any preexisting bodies of men, . . . but . . . [on] an immediate act of the people of America, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment.”¹⁰⁹

177. Compared to requiring 7 years citizenship for Representatives and 9 for Senators, Hamilton proposed the President: “be born a Citizen of the United States.”¹¹⁰ This required citizenship for at least 35 years.

178. John Jay, Continental Congress President and first Chief Justice, proposed “natural *born* citizen” for the “commander in chief of the American army” as excluding all foreign influence from birth (emphasizing *born*). He wrote Convention President Washington:

“Permit me to hint, whether it would be wise and seasonable to provide a **strong check on the admission of Foreigners** into the administration of our national Government; and to declare expressly that **the commander in chief of the American army shall not be given to, nor devolve on any but a natural *born* citizen.**”¹¹¹

179. Washington acknowledged, and the Convention changed “citizen” to “natural born citizen” without debate.¹¹²

180. To squelch rumors of foreign princes becoming president, the framers published regarding “send[ing] for (Prince Frederick Augustus) . . .we never once

¹⁰⁸ THE FEDERALIST No. 68

¹⁰⁹ *Id.*, U.S. CONST. art. II, § 1.

¹¹⁰ 3 M. Farrand, *Rec. Fed. Conv.* 617, 629, June 18, 1787.

¹¹¹ *Rec. Fed. Conv.* 1787 LXVIII. John Jay to George Washington.3 (New York, July 25, 1787).

¹¹² *Rec. Fed. Conv.* 2:494; *Journal*, 4 Sept. 1787; 1 J. Eliot, 284, 302.

thought of a king.”¹¹³

181. Constitution Drafting Sub-committee Chair Senator Charles Pinckney explained this qualification as excluding children of alien fathers for President:

“It was intended to give your President the command of your forces, . . . **to insure experience and attachment to the country, . . . A child born to an American mother and alien father could** be said to be a citizen of the United States by some affirmative act of law but **never entitled to be a natural-born citizen** because through laws of nature the child inherits the condition of their father.”¹¹⁴

182. Constitutional expert Judge Tucker affirmed:

“That provision in the constitution which requires that the president shall be a native-born citizen . . . is a happy means of **security against foreign influence**, which, where-ever it is capable of being exerted, is to be dreaded more than the plague. The **admission of foreigners into our councils, consequently, cannot be too much guarded against**.”¹¹⁵

183. This interpretation is affirmed by James Kent and Joseph Story.¹¹⁶

D. Amendment XIV Framers: “natural born” as undivided allegiance

184. Rep. John A. Bingham, appointed Union Army Judge Advocate by Lincoln, stated regarding the Act of April 9, 1866.¹¹⁷

““[I] find no fault with the introductory clause [S 61 Bill], which is simply declaratory of what is written in the Constitution, that **every human being born within the jurisdiction of the United States of parents not owing allegiance to any foreign sovereignty is, in the language of your Constitution itself, a natural born citizen**”.”¹¹⁸

¹¹³ Pennsylvania J. Aug. 22, 1787.

¹¹⁴ Rec. Fed. Conv. 1787 CCLXXXVIII p 385, 387 (March 28, 1800).

¹¹⁵ St. George Tucker, Blackstone’s Commentaries with notes of reference to the Constitution and Laws,(1803) Bk. 1 p 323.

¹¹⁶ James Kent *Commentaries, Lecture 13* (1826-30); Joseph Story, *Commentaries 3* § 1473 (1833).

¹¹⁷ Act of April 9, 1866 U.S. Revised. Stat. 1878 Sec. 1992

¹¹⁸ 39 Cong. 1st Sess., Globe 1291 (Mar. 9, 1866) Statement Rep. Bingham.

185. That month, Rep. Bingham crafted that same language into the XIVth Amendment (final April 28, 1866.)

186. Sen. Lyman Trumbull, Chairman of the Judiciary Committee, inserted the phrase “**subject to the complete jurisdiction thereof**” into U.S. CONSTITUTION’S Amendment XIV. He explained:

“That means 'subject to the complete jurisdiction thereof.' What do we mean by 'complete jurisdiction thereof?' **Not owing allegiance to anybody else. That is what it means.**”¹¹⁹

187. In debating Amendment XIV, Sen. Howard confirmed:

“all this amendment [citizenship clause] provides is, that all persons born in the United States and **not subject to some foreign Power**. . .shall be considered as citizens of the United States.”¹²⁰

188. Justice Gray affirmed:

“the language used about the same time by the very Congress which framed the Fourteenth Amendment, in the first section of the Civil Rights Act of April 9, 1866, declaring who shall be citizens of the United States, is ‘**all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed.**’”¹²¹

189. Chief Justice Fuller dissenting stated:

“Considering the circumstances surrounding the framing of the constitution, I submit that **it is unreasonable to conclude that 'natural born citizen'** applied to everybody born within the geographical tract known as the United States, irrespective of circumstances; and **that the children of foreigners, . . . were eligible to the presidency, while children of our citizens, born abroad, were not.**” . . . “The act was passed and the amendment proposed by the same congress, and it is not open to reasonable doubt that **the words “subject to the jurisdiction thereof,” in the amendment were used as synonymous with the words “and not subject to any foreign power, . . .”** This was distinctly so

¹¹⁹ 39 Cong. Globe, Mar. 9, 1866 pg. 1293, Statement of Sen. Trumbull.

¹²⁰ 39 Cong. Globe (1866) p 2893 Stmt. Sen. Howard

¹²¹ 14 Stat. 27; Rev. Stat. § 1992.”Elk v. Wilkins, 112 U.S. 94, 103 (1884).

ruled in Elk v. Wilkins, 112 U.S. 101, 5 Sup. Ct. 41."¹²²

190. Rep. Bingham, Sen. Trumbull, Sen. Howard, Justice Gray, and Chief Justice Fuller each confirmed de Vattel's (1758) definition that birth "to two citizens within U.S. jurisdiction" grants "natural born citizen[ship]." This affirms Jay's qualification of no foreign influence for the Commander in Chief.

E. Most Stringent Constitutional Qualifications for President

191. Applicants for greater public trust face stricter constitutional qualifications. E.g., age and training qualifications increase rapidly from Private, to Commercial, to Airline Transport Pilots.¹²³

192. Representatives bear responsibility for a district, Senators for a State, and the President for the nation. Their age qualifications increase from 25 to 30 to 35 years.

193. Citizenship duration increases from 7 to 9 years for Representatives and Senators. It jumps to 35 years for President, requiring citizenship from birth, plus requiring 14 years residency within the USA.

194. The framers placed much more stringent qualifications on the President, consistent with Hamilton and Jay's statements on excluding foreign influence.

195. This parallel sequence of constitutional qualifications infers that the "natural born citizen" qualification for President must be much more stringent than

¹²² United States v. Wong Kim Ark, 169 U.S. 649, 716, 721.

¹²³ 14 CFR 61 *et seq.*

“citizen” for Representatives and Senators.

196. Relators submit that this sequence in stringency of constitutional qualifications supports the interpretation that “natural born citizen” requires birth within the “complete jurisdiction of the United States” without foreign allegiance. I.e. birth within both the USA’s political jurisdiction (*jus sanguinis*), and civil jurisdiction (*jus soli*).

F. Primary allegiance by father’s allegiance at birth

197. In the Judeo-Christian legal tradition, allegiance flowed through the father.¹²⁴

198. de Vattel finds allegiance follows ‘born of the parents’ (*jus sanguinis*) especially through fathers:

“ . .the children of the citizens, those children naturally follow the condition of their fathers, and succeed to all their rights. . . .The country of the fathers is therefore that of the children.”¹²⁵

199. Blackstone affirms allegiance through fathers:

“ . . . so that all children, born out of the king’s licence, whose fathers were natural-born subjects, are now natural-born subjects themselves, to all intents and purposes, . . .”¹²⁶

200. The Founders codified citizenship as passing through the father:

“the right of citizenship shall not descend to persons whose fathers have never been resident in the United States....”¹²⁷

201. Drafting Chairman Senator Charles Pinckney affirms:

¹²⁴ Bible Ruth 4:6; Rushdoony (1973), *Inst. Biblical Law*, Craig Press p 99.

¹²⁵ Emmerich de Vattel, *Law of Nations* (1758), Bk. 1, Ch. 19, Citizens & Nations, p 101 sect. 212, sect. 215.

¹²⁶ William Blackstone, *Commentaries* (1765) *154-57.

¹²⁷ Naturalization Act 1790 March 26, 1790.

“. . .through laws of nature the child inherits the condition of their father.”¹²⁸

202. The father’s allegiance was held to control a man’s natural citizenship:

“As a man is a “citizen” of the country to which his father owes allegiance, it was incumbent on one alleging in an election contest that a **voter was not a citizen** of the United States to show that such **voter’s father was not a citizen thereof during his son’s minority.**”¹²⁹

203. Justice Harlan affirmed this historical paternal citizenship, while noting that Congress extended citizenship rights in 1934 to foreign-born children of citizen mothers.^{130, 131}

G. Foreign Allegiance to Britain, Kenya, Indonesia

1. Primary Foreign Allegiance to Britain

204. By their Hawaiian divorce decree, Barack H. Obama & Stanley Ann D. Obama acknowledged Barack Hussein Obama II as their issue:

“That one child has been born to said Libelant and Libeled as issue of said marriage, to wit: BARACK HUSSEIN OBAMA, II, a son, born August 4, 1961.”¹³²

205. Obama acknowledged allegiance to Britain’s sovereign at birth through his father Barack Hussein Obama, a student from the British East African Protectorate of Zanzibar (“Kenya”).¹³³

¹²⁸ Rec. Fed. Conv. 1787 CCLXXXVIII p 385, 387 (March 28, 1800).

¹²⁹ Savage v. Umphries (TX) 118 S. W. 893, 909; Judicial Definitions Words and Phrases 2nd Ser. (1914) West Pub. p 697.

¹³⁰ Montana v. Kennedy, 366 U.S. 308 (1961)

¹³¹ 10 Stat. 604; 48 Stat. 797.

¹³² HI, 1st Cir. Domestic Relations, divorce decree D. No. 57972 Stanley Ann D. Obama v. Barack H. Obama p 2 § IV. Posted at: <http://www.plainsradio.com>

¹³³ British Nationality Act of 1948, Pt. II, § 5 ¶ 1.

206. Respondent acknowledges that his colonial father Barack H. Obama had British citizenship at Obama (II)'s birth.¹³⁴

“As a Kenyan native, Barack Obama Sr. was a British subject whose citizenship status was governed by The British Nationality Act of 1948. That same act governed the status of Obama Sr.'s children.”¹³⁵

207. Obama thus acknowledged that he held British allegiance at birth.

208. The Annenberg Foundation affirms Obama's British citizenship:

“. . .at the time of his birth, Barack Obama Jr. was both a U.S. citizen (by virtue of being born in Hawaii) and a citizen of the United Kingdom and Colonies (or the UKC) by virtue of being born to a father who was a citizen of the UKC”.¹³⁶

2. For Primary Foreign Allegiance to Republic of Kenya

209. On independence of the Republic of Kenya from Britain in 1963, Respondent gained Kenyan citizenship through his father Barack H. Obama (Sr.):

. . .So given that Obama qualified for citizen of the UKC status at birth and given that Obama's father became a Kenyan citizen via subsection (1), it follows that Obama did in fact have Kenyan citizenship after 1963. . . . Sen. Obama has neither renounced his U.S. citizenship nor sworn an oath of allegiance to Kenya, his Kenyan citizenship automatically expired on Aug. 4,1982.” *Id.*,¹³⁷

3. Evidence of de facto Foreign Allegiance to the Republic of Kenya

210. After his election Obama was considered to be *jus soli* before Kenya's Parliament:

“The President-elect, Mr. **Obama**, is a son of the soil of this country. . . . It is

¹³⁴ British Nationality Act (1948) § 5 (1)

¹³⁵ <http://www.Fightthesmears.com>

¹³⁶ Joe Miller, *Does Barack Obama have Kenyan citizenship?* FactCheck.org August 29, 2008

¹³⁷ Constitution of Kenya, Ch. VI, § 87 (1), (2).

only proper and fitting that **the country which he originates from** should show the same excitement, pomp and colour. . . ”¹³⁸

211. Kenya’s Vice President declared Obama to have Kenyan origin. His solving Obama’s personal request implies having influence over Respondent Obama:

“We now have an African American **of Kenyan origin** being President-elect. . . **. to support that blood relation**, . . . this year Senator Barack Obama called me at midnight and told me: "Mr. Vice President, could you make sure you sort out this problem?" I want to assure him that the problem has since been sorted out. . . ”¹³⁹

212. Obama’s step-grandmother stated she attended his birth in Mombasa.¹⁴⁰

213. Barack Obama campaigned for Raila Odinga in 2006, being of the same Luo tribe. *Id.*

214. Hon. Odinga, now Prime Minister of Kenya, sealed records of Obama’s birth in Mombasa alleged to exist by the Principal Registrar, and forbade his relatives from speaking with reporters without permission. *Id.*

215. Kenyan President Mwai Kibaki, declared a national holiday on Nov. 6th in Obama’s honor.¹⁴¹

216. Obama has provided no evidence clarifying “this problem” during his election year which required Kenya’s Vice President’s assistance, nor of P.M. Odinga’s sealing Obama’s alleged birth records, nor of his gagging Obama’s relatives.

138 Statement of Ms. Odhiambo, 10 Parl. Deb. Kenya, (2008) Nov. 5 p 3275-3276.

¹³⁹ Statement of The Vice-President and Minister for Home Affairs (Mr. Musyoka): 10 PARL. DEB. Kenya, (2008) Nov. 5 p 3277- 3278.

¹⁴⁰ Berg v. Obama, SC No. 08A50 (F.3d. No. 08-cv-04083) affidavit of Bishop Ron McRae Oct. 27,

217. Relators submit that Respondent gives the appearance of having foreign influence from and at least *de facto* allegiance to the Republic of Kenya.

218. Relators submit that before his inauguration Respondent had failed to prove undivided loyalty to the United States of America as necessary for the Commander in Chief, and had failed to prove that he was under no influence from nor held *de facto* allegiance to Kenya.

4. Foreign allegiance to Indonesia by Adoption

219. In his divorce decree, Lolo Soetoro, acknowledged allegiance to Indonesia and implicitly acknowledged adopting Obama, declaring one child under age 18 and one child over age 18.¹⁴²

220. On Obama's school records, Lolo Soetoro declared Respondent's name as "Barry Soetoro", birth place and date as "Honolulu 4-8-1961", and citizenship as "Indonesian".¹⁴³

221. As Lolo Soetoro (Mangunharjo), an Indonesian male, had acknowledged the child Barry Soetoro as his son, Indonesian law deemed that son to be a citizen of the Republic of Indonesia.¹⁴⁴

2008, & Exhibit 1.

¹⁴¹ The Chair, 10 PARL. DEB. Kenya, (2008) Nov. 5 p 3277.

¹⁴² Stanley Ann Soetoro v. Lolo Soetoro, 1st Ckt. Ct. Haw. FC.D.No.117619 Divorce Decree Aug. 28, 1980.

¹⁴³ Record #203 of Fransiskus Assisi School, Jakarta, Indonesia. Broe v. Reed, No. 8-2-473-8, S.C.WA (2008), Joint Affidavit of Plaintiffs, pp 6-8.

¹⁴⁴ Constitution of Republic of Indonesia. Law No. 62 of 1958 Art. 2 (1) concerning Immigration Affairs and Indonesian Civil Code (Kitab Undang-undang Hukum Perdata) (KUHP) (Burgerlijk
Easterling et al. v. Obama et al. *Quo Warranto* Mar. 13 '09

5. Foreign allegiance to Indonesia by actions after age of suffrage.

222. Obtaining a passport or certificate of citizenship involves an allegiance to that nation. “. . . taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state” can result in loss of US citizenship when combined with an intent to relinquish citizenship.¹⁴⁵

223. Obama described traveling to Indonesia and Pakistan in spring 1981.

224. Obama showed no evidence that he traveled under a U.S. passport in 1981.

225. As President elect, Obama had showed no evidence to rebut appearance of traveling to Indonesia & Pakistan on an Indonesian passport.

226. Renewing his Indonesian passport required declaring allegiance to Indonesia after reaching his age of suffrage in 1979.¹⁴⁶

227. Relators submit that President elect Obama had failed to prove that he had not held allegiance to, and that he had not affirmed allegiance to the Republic of Indonesia, and had failed to prove undivided loyalty to the United States of America as necessary for the Commander in Chief.

6. Natural Born excludes naturalized citizens.

228. The framers made explicit exception for:

“. . .a citizen of the United States at the time of the adoption of this

Wetboek voor Indonesie).

¹⁴⁵ *Vance v. Terrazas*, 444 U.S. 252 (1980); Immigration and Nationality Act Sects. 349(a)(2).

¹⁴⁶ U.S. CONST. amend. XXVI.

Constitution”.¹⁴⁷

229. By this grandfather exception the Founders defined “natural born citizen” as excluding naturalized persons, inhabitants, and aliens, having held foreign allegiance by birth place or either parent’s allegiance.

230. As “natural born subjects” of Britain by birth in British colonies to British colonial subjects in America, Presidents Washington, Adams, Jefferson, Madison, Monroe, Quincy Adams, Jackson and Harrison failed to qualify as “natural born citizens,” though made citizens by the DECLARATION OF INDEPENDENCE (1776).

231. These Presidents qualified under the CONSTITUTION’S grandfather exception.

232. In 1790, Congress stated foreign born children of citizens were “natural born”, but promptly reverted that to “citizen” in 1795.¹⁴⁸¹⁴⁹

233. This Court affirmed that “natural born citizen” is from birth in America and excludes naturalized citizenship.¹⁵⁰

234. As a “natural born subject” of Britain by birth in a British colony to a Kenyan colonist and British subject, Obama had failed to qualify as a “natural born citizen” though he claims U.S. citizenship by the 14th Amendment.

235. Obama could not claim the grandfather exception.

VIII. Obama’s Negligence & Actions Would Nullify U.S. CONSTITUTION

¹⁴⁷ U.S. CONSTITUTION Article II, § 1 ¶ 5.

¹⁴⁸ The Naturalization act of 1790,

¹⁴⁹ The *Naturalization act of 1795*, 1 Sess. II Ch. 21 414, 415 (1795) Sec. 3

A. Nullification of U.S. CONST. by failure to submit *prima facie* proofs

236. Relators understand Respondent Obama to have relied on his declaration as presidential candidate that he qualified for president. Relators know of no *prima facie* evidence that Obama had submitted to election officers while President elect to prove his identity, age, residency, or citizenship, that would satisfy objective standards of Federal or State statutes.

237. Relators submit that by default President elect Obama had failed to qualify.

238. Relators submit that the preponderance of evidence on the available public record shows Respondent Obama held primary allegiance to the United Kingdom, the Republic of Kenya, and the Republic of Indonesia, through his biological and adoptive fathers by their having those citizenships and no U.S. citizenship.

239. Relators submit that the preponderance of evidence shows Respondent Obama, after his age of suffrage, gave the appearance of influence by and at least *de facto* if not formal allegiance to the Republics of Kenya and Indonesia.

240. Relators submit that before inauguration, Respondent Obama had failed to submit evidence of being a “natural born citizen” with no foreign influence.

241. Relators submit that Respondent had failed to rebut public evidence and appearance of having foreign allegiance and foreign influence after his age of suffrage.

¹⁵⁰ 377 U.S. 163, 165 (1964); 322, U.S. 665, 673 (1944); 231 U.S. 9, 22 (1913).

242. Can negligence be allowed to nullify the Constitution?

243. In Marbury v. Madison, this Court addressed the need to review legislative acts for constitutionality. Relators submit that by its constitutional empowerment for Original Jurisdiction and by Justices' Oath of Office, this Court has the corresponding duty to evaluate if actions of constitutionally defined persons satisfy or violate constitutionally defined actions.

244. Relators submit this Court has original jurisdiction over whether President elect Obama had evidenced his qualifications, OR whether he had "failed to qualify", where Obama's negligence and actions would have nullified the Constitution's safeguards.¹⁵¹

B. Failure to qualify by Obstruction of Constitutional Validation Duties

245. By seeking the office of President, the President Elect has a constitutional and ethical duty to "take care that the laws be faithfully executed", including requirements to submit *prima facie* evidence to satisfy his burden of proof that he qualifies for president before his inauguration.¹⁵²

246. The Courts hold that public trust imposes an ethical duty to state true facts when legally required. E.g., Circuit Judge Rives observes:

" . . . particular circumstances may **impose upon a party a duty to speak** rather than to remain silent in respect of **facts within his knowledge and of which another party is ignorant**. It is the duty of a person to make to

¹⁵¹ U.S. CONST. amend. XX, § 3.

¹⁵² U.S. CONST., art. II, § 3, & amend. XX, § 3

another person, to whom he holds a trust or fiduciary relationship, **a full disclosure of any and all material facts within his knowledge**,. . ."153

247. Failure to so disclose necessary information is construed as negligence or fraud:

“Silence can only be equated with fraud where there is a **legal or moral duty to speak** or where an **inquiry left unanswered would be intentionally misleading**.”154

248. Judge Tuttle opined:

“. . .the traditional definition of "fraud and deceit," since such terms can apply to an implied misstatement of the existing facts or **the failure to state the true facts when such statement is legally required**, . . .”155

249. In the face of numerous court challenges to his qualifications for President, Respondent Obama systematically withheld access to his Hawaiian birth records. When \$10 would have provided a certified birth certificate, Obama engaged three law firms and incurred well over half a million dollars to oppose citizens challenging his qualifications.

250. Obama sealed all his educational records in Punahou High School, Occidental College, Columbia University, and Harvard Law School that might shed light on his legal name and allegiances.

251. Did Respondent Obama, as constitutionally defined President elect, satisfy his constitutional burden of proof to demonstrate that he qualifies? Relators submit that Respondent Obama gives the impression he is hiding evidence regarding his

¹⁵³ Circuit Judge Rives, American Nat'l Ins. Co., etc. v. Murray, 383 F.2d 81 ¶29, 30.

¹⁵⁴ United States v. Prudden 424 F.2d, 1021, 1032 ¶43.

¹⁵⁵ Judge Tuttle, Atilus v. United States, 406 F.2d 694, 698 ¶24 (5th Cir. 1969).

qualifications.

252. Relators submit that Respondent Obama has obstructed efforts by election officers to perform constitutional duties to validate or evaluate his qualifications for President. He opposed efforts by citizens challenging his qualifications in Court to uphold the People's rights.

253. As in Marbury v. Madison, Relators submit that this Court has Original Jurisdiction to evaluate whether the President Elect had fulfilled his ethical duty in applying for U.S. CONSTITUTION's highest office of public trust, or if he had violated those constitutional duties by obstructing election officers in their constitutional duties to validate or evaluate of proof to qualify before taking his Oath of Office.¹⁵⁶

IX. MANDAMUS ON SEC. CLINTON TO REQUEST DOCUMENTS

254. Officers have a duty of due diligence to validate and evaluate Respondent's qualifications to uphold the People's sovereign rights to safeguards of presidential qualifications, especially when the public record reveals such uncertainty over Obama's qualifications.

255. Due diligence requires evaluating and documenting allegiance(s) to the United Kingdom, the Republic of Kenya, and the Republic of Indonesia, by birth, independence, adoption, and by Obama's actions after his age of suffrage, and to resolve the conflict between Kenyan and Hawai'ian Registrars over Obama's birth.

¹⁵⁶ U.S. CONST., art. II, § 3, & amend. XX, § 3.

256. However, Secretary of State Hillary Rodham Clinton was appointed by Obama and has an intrinsic conflict of interest regarding requesting such information.

257. Relators request leave to move for a Writ of Mandamus on the Secretary of State Hillary Rodham Clinton, to request information from foreign States as follows:

258. From the Hon. Raila Odinga, Prime Minister of the Republic of Kenya, relating to Respondent's qualifications, including all his birth records and associated supporting evidence, and eye witness testimony.

259. From the United Kingdom for evidence it may have regarding Obama's British citizenship through his father, his alleged birth in Mombasa, and related information pertaining to Obama's citizenship qualifications allegiance(s) and identity.

260. From the Republic of Indonesia relating to Respondent's adoption, change of name, Indonesian citizenship, passports, and actions after his age of suffrage, of affirming allegiance to Indonesia and traveling on Indonesian passport(s).

261. From the Islamic Republic of Pakistan requesting information regarding Respondent's travel to Pakistan in 1981, including what name he traveled under, what allegiance he claimed, which passport he traveled on, and details regarding his activities in Pakistan relevant to Respondent's allegiance.

262. Preferably, this Court will request appointment of an independent emissary to request and obtain such information, to best uphold the People's sovereign rights and interests.

X. PRAYER FOR RELIEF

263. **WHEREFORE**, Plaintiff prays for relief and judgment as follows:

264. That Respondent Obama be declared to have failed to qualify for President of the United States of America.

265. That this finding be communicated to the Electoral College and Congress for action by the XXth Amendment to the United States Constitution.

266. Allow plaintiffs to recover costs, expert witness fees, and attorney fees, as may be allowed by law; and

267. Order such other and further relief as the Court may deem proper.

"I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

_____, March 13, 2009
Orly Taitz, Attorney for Petitioners
26302 La Paz
Mission Viejo CA 92691 USA
dr_taitz@yahoo.com
+1-949-683-5411

XI. APPENDIX - DRAFT

A. CONSTITUTION of the United States of America (1787)

U.S. CONST., preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Prosterity, do ordain and establish this Constitution for the United States of America.

U.S. CONST. art. I, § 3, ¶ 6

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

U.S. Const. art. I, § 3, para. 6

The Senate shall have the sole Power to try al Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation.

U.S. CONST. art. II, § 1, para. 5.

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.

U.S. CONST. art. II, § 1, para. 8.

Before he enter on the Execution of his Office, *he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."* (Emphasis added.)

U.S. CONST. art. II § 2

"The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States;"

U.S. CONST. art. III, § 3.

Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort.

U.S. CONST. amend. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

U.S. CONST. amend. X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

U.S. CONST. amend. XIV, § 1

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. CONST. amend. XXVI § 1

The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

3 USC 15 § 15 Counting electoral votes in congress para. 4

“Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received.”

8 USC 5 Sec. 1361. Burden of proof upon alien

“Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this chapter, . . . In any removal proceeding under part IV of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, . . . If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.”

8 USC Sec. 1481 Loss of nationality by native-born . . burden of proof

“(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after September 26, 1961 under, or by virtue of, the provisions of this chapter or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this chapter or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.”

10 USC A II Ch 31 § 502. Enlistment oath

(a) Enlistment Oath.— Each person enlisting in an armed force shall take the following oath: “I, XXXXXXXXXXXX, do solemnly swear (or affirm) that I will 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; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.”

16 USC Sec. 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.

18 U.S.C § 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.”

c. Oaths of Enlistment and Oaths of Office

Oath for commissioned officers:

"I, _____ (SSAN), having been appointed an officer in the Army of the United States, as indicated above in the grade of _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic, that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; So help me God." (DA Form 71, 1 August 1959, for officers.) ***

10 USC § 4346. Cadets: requirements for admission

(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

"I, XXXXXXXXXXXX, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice."

32 USC Ch 3 § 312. Appointment oath

Each person who is appointed as an officer of the National Guard shall subscribe to the following oath:

"I, XXXXXX, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of XXXXXX against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of XXXXXX, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of XXXX in the National Guard of the State of XXXXXX upon which I am about to enter, so help me God."

DC CODE D. II, T. 16, Chapter 35. Quo Warranto. (Current through Dec. 1, 2008)

Subchapter I. Actions Against Officers of the United States.

§ 16-3501. Persons against whom issued; civil action.

"A quo warranto may be issued from the United States District Court for the District of Columbia in the name of the United States against a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises, a franchise conferred by the United States or a public office of the United States, civil or military. The proceedings shall be deemed a civil action."

§ 16-3502. Parties who may institute; ex rel. proceedings.

“The Attorney General of the United States or the United States attorney may institute a proceeding pursuant to this subchapter on his own motion or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.”

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§ 16-3503. Refusal of Attorney General or United States attorney to act; procedure.

“If the Attorney General or United States attorney refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of the interested person on his compliance with the condition prescribed by section 16-3502 as to security for costs.”

Subchapter III. Procedures and Judgments.

§ 16-3542. Notice to defendant.

“On the issuing of a writ of quo warranto the court may fix a time within which the defendant may appear and answer the writ. When the defendant cannot

be found in the District of Columbia, the court may direct notice to be given to him by publication as in other cases of proceedings against nonresident defendants, and upon proof of publication, if the defendant does not appear, judgment may be rendered as if he had been personally served.”

§ 16-3543. Proceedings on default.

“If the defendant does not appear as required by a writ of quo warranto, after being served, the court may proceed to hear proof in support of the writ and render judgment accordingly.”

§ 16-3544. Pleading; jury trial.

“In a quo warranto proceeding, the defendant may demur, plead specially, or plead “not guilty” as the general issue, and the United States or the District of Columbia, as the case may be, may reply as in other actions of a civil character. Issues of fact shall be tried by a jury if either party requests it. Otherwise they shall be determined by the court.”

§ 16-3545. Verdict and judgment.

“Where a defendant in a quo warranto proceeding is found by the jury to have usurped, intruded into, or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.”

§ 16-3548. Recovery of damages from usurper; limitation.

“At any time within a year from a judgment in a quo warranto proceeding, the relator may bring an action against the party ousted and recover the damages sustained by the relator by reason of the ousted party's usurpation of the office to which the relator was entitled.”

f. State of California Statutes VC Div. 6 Ch1 Art. 1 § 215 Driving for Hire or Truck Driving: Age Limit

“(a) No person under the age of 18 years shall be employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(b) No person under the age of 21 years shall be employed for compensation by another to drive, and no person under the age of 21 years may drive a motor vehicle, as defined in Section 34500 or subdivision (b) of Section 15210, that is engaged in interstate commerce, or any motor vehicle that is engaged in the interstate or intrastate transportation of hazardous material, as defined in Section 353.”

Cal. Code 12505 (a)(1) Residency.

“ . . . residency shall be determined as a person’s state of domicile. . . .where a person has his or her true, fixed, and permanent home and principal residence and to which he or she has manifested the intention of returning whenever he or she is absent.”

“Prima facie evidence of residency” includes:

- “(A) Address where registered to vote.
- (B) Payment of resident tuition at a public institution of higher education.
- (C) Filing a homeowner’s property tax exemption. . . .”

g. Hawaii Revised Statutes H.R.S. § 338-17.7 Establishment of new certificates of birth

(a) The department of health shall establish, in the following circumstances, a new certificate of birth for a person born in this State who already has a birth certificate filed with the department and who is referred to below as the “birth registrant”:

- (1) Upon receipt of an affidavit of paternity, a court order establishing paternity, or a certificate of marriage establishing the marriage of the natural parents to each other, together with a request from the birth registrant, or the birth registrant’s parent or other person having legal custody of the birth registrant, that a new birth certificate be prepared because previously recorded information has been altered pursuant to law; . . .
- (3) Upon receipt of a certified copy of a final adoption decree, or of an abstract of the decree, pursuant to sections 338-20 and 578-14;

(b) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed. Such sealed document shall be opened only by an order of a court of record.

H.R.S. § 338-18 Disclosure of records.

(a) To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of any such record, except as authorized by this part or by rules adopted by the department of health.

(b) The department shall not permit inspection of public health statistics records, or issue a certified copy of any such record or part thereof, unless it is satisfied that the applicant has a direct and tangible interest in the record. The following persons shall be considered to have a direct and tangible interest in a public health statistics record:

- (1) The registrant; . . .
- (7) A person or agency acting on behalf of the registrant; . . .
- (9) A person whose right to inspect or obtain a certified copy of the record is established by an order of a court of competent jurisdiction;
 - (g) The department shall not issue a verification in lieu of a certified copy of any such record, or any part thereof, unless it is satisfied that the applicant requesting a verification is:
 - (4) A private or government attorney who seeks to confirm information about a vital event relating to any such record which was acquired during the course of or for purposes of legal proceedings; or

h. Naturalization statutes

The *Naturalization act of 1790*,

"...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..."

The *Naturalization act of 1795*, 1 Sess. II Ch. 21 414, 415 (1795) SEC. 3

"And be it further enacted, that the children of persons duly naturalized, dwelling within the United States, and being under the age of twenty-one years at the time of such naturalization, and the children of citizens of the United States born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States. Provided, that the right of citizenship shall not descend on persons whose fathers have never been resident of the United States."

E. Founders on Natural Born Citizen

"Sketch of a plan of government which was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose ... in ... future discussion"... Article IX Section 1: "No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be born a Citizen of the United States." Alexander Hamilton, June 18, 1787, 3 M. Farrand, *The Records of the Federal Convention of 1787*, at 617, 629.

"What better way to insure attachment to the country than to require the President to have inherited his American citizenship through his American father and not through a foreign father. Any child can be born anywhere in the country and removed by their father to be raised in his native country. The risks would be for the child the return in later life to reside in this country bringing with him foreign influences and intrigues.

Therefore, we can say with confidence that a natural-born citizen of the United States means those persons born whose father the United States already

has an established jurisdiction over, i.e., born to father's who are themselves citizens of the United States. A person who had been born under a double allegiance cannot be said to be a natural-born citizen of the United States because such status is not recognized (only in fiction of law). A child born to an American mother and alien father could be said to be a citizen of the United States by some affirmative act of law but never entitled to be a natural-born citizen because through laws of nature the child inherits the condition of their father." Charles Pinckney 1800 ***

"the president should be a natural born citizen ... Considering the greatness of the trust... these restrictions will not appear altogether useless or unimportant. As the president is required to be a native citizen of the United States, ambitious foreigners cannot intrigue for the office, and the qualification of birth cuts off all those inducements from abroad to corruption, negotiation, and war, which have frequently and fatally harassed the elective monarchies of Germany and Poland, as well as the Pontificate at Rome." James Kent, Lecture 13 Of the President (2.), Commentaries on American Law (1826-1830).

"It is indispensable, too, that the president should be a natural born citizen of the United States; or a citizen at the adoption of the constitution, and for fourteen years before his election. This permission of a naturalized citizen to become president is an exception from the great fundamental policy of all governments, to exclude foreign influence from their executive councils and duties. It was doubtless introduced (for it has now become by lapse of time merely nominal, and will soon become wholly extinct) out of respect to those distinguished revolutionary patriots, who were born in a foreign land, and yet had entitled themselves to high honours in their adopted country. A positive exclusion of them from the office would have been unjust to their merits, and painful to their sensibilities. But the general propriety of the exclusion of foreigners, in common cases, will scarcely be doubted by any sound statesman. It cuts off all chances for ambitious foreigners, who might otherwise be intriguing for the office; and interposes a barrier against those corrupt interferences of foreign governments in executive elections, which have inflicted the most serious evils upon the elective monarchies of Europe. Germany, Poland, and even the pontificate of Rome, are sad, but instructive examples of the enduring mischiefs arising from this source." Joseph Story, Commentaries on the Constitution 3 § 1473 on Art II § 1 Cl. 5 (1833)

F. Barack Obama, on Ethics

1. Transparency and Open Government

"My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration.

Openness will strengthen our democracy and promote efficiency and effectiveness in Government.

Government should be transparent. Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public. Executive departments and agencies should also solicit public feedback to identify information of greatest use to the public. . . .” Barack Obama, Memorandum for the Heads of Executive Departments and Agencies, The Whitehouse, Mon, January 26, 12:27 PM EST

i. Natural Law, Law of Nations, Emmerich de Vattel"§ 212. Citizens and natives.

“The citizens are the members of the civil society; bound to this society by certain duties, and subject to its authority, they equally participate in its advantages. The natives, or natural-born citizens, are those born in the country, of parents who are citizens. As the society cannot exist and perpetuate itself otherwise than by the children of the citizens, those children naturally follow the condition of their fathers, and succeed to all their rights. The society is supposed to desire this, in consequence of what it owes to its own preservation; and it is presumed, as matter of course, that each citizen, on entering into society, reserves to his children the right of becoming members of it. The country of the fathers is therefore that of the children; and these become true citizens merely by their tacit consent. We shall soon see whether, on their coming to the years of discretion, they may renounce their right, and what they owe to the society in which they were born. I say, that, in order to be of the country, it is necessary that a person be born of a father who is a citizen; for, if he is born there of a foreigner, it will be only the place of his birth, and not his country.” Emmerich de Vattel, Law of Nations, Book I, c.19, § 212.

“§ 215. Children of citizens born in a foreign country.

“It is asked whether the children born of citizens in a foreign country are citizens? The laws have decided this question in several countries, and their regulations must be followed.(59) By the law of nature alone, children follow the condition of their fathers, and enter into all their rights (§ 212); the place of birth produces no change in this particular, and cannot, of itself, furnish any reason for taking from a child what nature has given him; I say "of itself," for, civil or political laws may, for particular reasons, ordain otherwise. But I suppose that the father has not entirely quitted his country in order to settle elsewhere. If he has fixed his abode in a foreign country, he is become a member of another society, at least as a

perpetual inhabitant; and his children will be members of it also.” Emmerich de Vattel, Law of Nations, Book I, c.19, § 215.

"I am much obliged by the kind present you have made us of your edition of Vattel. It came to us in good season, when the circumstances of a rising state make it necessary frequently to consult the Law of Nations. Accordingly, that copy which I kept, has been continually in the hands of the members of our congress, now sitting." Benjamin Franklin, letter to Charles W.F. Dumas, December 1775

j. Common Law, British & Kenyan Citizenship *Magna Carta* (1215) § 61

“If we, our chief justice, our officials, or any of our servants offend in any respect against any man, or transgress any of the articles of the peace or of this security”Hague Convention Article 4, 1930

Extracts and authorities on the Rule of Law:

The Declaration and Resolves, Continental Congress, Tansill 1--5 #2 (14 Oct. 1774) preserved ‘immutable laws of nature, the principles of the English constitution and the several Charters.’ These included ‘rights, liberties, and immunities’ and ‘common law’ via their ancestors. Those Codes, Charters, Acts and ‘unalienable rights’ acknowledged God and were secured by swearing before God, commonly on the Bible.

When King and Parliament breached their unalienable rights, the Colonies interposed, establishing the U.S.A. by the DECLARATION OF INDEPENDENCE para. 2.

Provide alternatives for the sake of conscience, whenever government touches religion, especially involving deeply held sectarian religious practices, like swearing before God. SC Justice James Iredell defined the Oath as:

“a solemn appeal to the Supreme Being for the truth of what is said by a person who believes in the existence of a Supreme Being and in the state of rewards and punishments according to that form which would bind his conscience most,” 4 Elliott’s Debates p. 196 (30 July 1788).

He described other forms of oaths for other religions.

28 USC § 453, requires each Judge or Justice to “solemnly swear (or affirm) [to] administer justice.” Alternatives to militia duty and union fees are provided for conscientious objectors and those with religious convictions. 10 USC 312b; 29 USC 169.

The Magna Carta (1215) and the DECLARATION OF INDEPENDENCE (U.S. 1776) were both secured before God by Oath or sacred pledge.

“Know that, having regard to God . . . Both we and the barons have sworn that all this shall be observed in good faith and without deceit.” Magna Carta (1215).

“[W]ith a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.”
DECLARATION OF INDEPENDENCE (1776) para. 32.

The Constitution is secured by Oath or Affirmation:

“The Senators and Representatives . . . all members of the several state legislatures and all executive and judicial officers . . . shall be bound by Oath or Affirmation to support this Constitution.” U.S. Const. art. VI ¶ 3.

See also U.S. CONST., art. II, § 1, ¶ 8; 5 USC 3331 Oath of Office, Story, J. *Commentaries*, Ch. 43 §1837-1840.

The Oath is a religious act, based on biblical principles:

“Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice?” Washington, *Farewell Address* (1796).

1. Petition for redress of President elect’s failure to qualify

Citizen David L. Hagen submitted to Congress the following Petition for redress of grievances that Barack Obama II failed to qualify to become President.

“Re: Petition for Point of order: Barack H. Obama II is not qualified to become president.

Grievance: Barry Soetoro/a.k.a. Barack Hussein Obama II is not qualified to become president, having had primary allegiances to other nations, and not providing unambiguous evidence he is a “natural born Citizen” without other allegiance, to satisfy the Constitution Article 2 Sect. 1.

Prayer: By your oath to uphold the Constitution, your privilege to raise a Point of Order, by the 10th Amendment powers retained by We the People, and by the right of petition for redress of grievances, I pray that you cosign/raise an Objection/Point of Order in Congress on January 8th 2009, with a member of the other House, on the reading of each State’s electoral certificates/of the total vote for Barack Hussein Obama II, per 3 USC Ch. 1, §15, §17, §19(a) (1), and §19 (c) (1), namely:

“We/I Object/raise a Point of Order that Mr. Barack Hussein Obama II, is not qualified to become president per the Constitution Article Two, §1, having “Foreign Allegiances” by birth and adoption, by renouncing US citizenship, and by failing to provide unambiguous evidence that he is “a natural born Citizen” without other allegiance, election of a President who does qualify having precedence over other business of this House per Amend. 20 §3 and 3 USC 1. In particular:

1 Mr. Obama having had conflicting “Foreign Allegiance”(s) cannot become Commander in Chief having sole allegiance to the USA, and thus cannot qualify as “a natural born Citizen”.

1.1 Barry Soetoro, a.k.a. Barak Obama, has first allegiance to Indonesia, having Indonesian citizenship with renunciation of US citizenship, by adoption/legal acknowledgment by Lolo Soetoro Mangunharjo, a citizen of Indonesia, per Constitution of Indonesia, Law No. 62 of 1958, Art. 2 (1), as required to enroll in Indonesian schools, per school records and travel to Pakistan in 1981; and

1.2 Mr. Obama had first allegiance to the British Crown and to Kenya, being born a citizen of Kenya through his Kenyan birth father Barack Obama, Sr., per Chapter VI. Sections 87 and 97 of the Constitution of Kenya;

Table 1: Stringency of Leadership Qualifications			
	Member of Congress		President
	Representative	Senator	Commander in Chief
Responsibility	Part State	State	All States
Minimum Age years	25*	30**	35***
Citizen/ Resident	7 years citizen*	9 years citizen**	14 years a resident ***
Citizen Type	Any *	Any **	Natural born ***
US allegiance	Sole or divided	Sole or divided	Undivided
Father a citizen	Option	Option	Yes
Mother a citizen	Option	Option	Yes
Naturalized	Option+	Option+	No+
Born in US jurisdiction	Option+	Option+	Yes (or Residency)+
*U.S. CONST. art. I, § 1; **U.S. CONST. art. I, § 3; ***U.S. CONST. art. II, § 1; +U.S. CONST. amend. XIV §1 with statutory citizenship requirements			

Pilot Qualifications

Table 2 Pilot Qualifications			
License Type: Qualification	Private Pilot*	Commercial Pilot**	Airline Transport Pilot ***
Age years	17	18	23
Training hours	40	250	1,500
Instrument Rating	No	Typical	Yes
Medical Certificate	3 rd Class	2 nd Class	1 st Class
Passengers	Not for hire	Non-airline	Airline service
*14 CFR 61(E) FAR61.102; **14 CFR 61(F)FAR61.123; *** 14 CFR 61(G) FAR61.153			

Civilians killed by 20th Century Tyrants

Historians and experts estimate that some 100-176 million people were executed or starved by dictators and tyrants - in the 20th century. E.g., typical ranges from Hagen & Irish (2000):

Murder by Government

Tyrant	Civilians killed
Mao Tse-tung, China	50-70 million
Stalin, USSR	20-40 million
Hitler, Europe	10-20 million
Lenin, USSR	4 million
Talaat Pasha, Turkey	2 million
Sudan Arab vs Nebo	2 million
Franco, Spain	2 million
Pol Pot, Cambodia	1.7 million
Kim Il-sung, N. Korea	1 million?
Mengistu, Ethiopia	1 million
Sukarno, Indonesia	0.6-1 million
Rawanda Hutu v. Tutsi	800,000
Tito, Yugoslavia	500,000
Ho Chi Minh, Vietnam	200,000
Milosovic, Yugoslavia	200,000
Nehru-Gandhi, India	200,000

The greatest danger to the People and the USA is not external but INTERNAL. Dictators have killed about three times the 38 million killed in all 20th Century wars.

Republics and Democracies succumbing to Tyrants

At least thirty three Democracies succumbed to tyrants in the 20th Century when they failed to uphold Oaths and constitutions. Taken from Hagen & Irish (2000):

Argentina: Juan Peron; **Cambodia:** Pol Pot & Khmer Rouge; **USSR - Ukraine:** Stalin; **USSR - Russia:** Stalin; **China:** Mao Tse-Tung & China's "Great Leap Forward"; **Central African Republic:** Jena-Bédal Bokassa; **Cote D'Ivoire:** Felix Houphouet-Boigny; **Dominican Republic:** Diederich B ernard Trujillo; **Germany:** Adolf Hitler, GDR; **Ghana:** Kwame Nkrumah; **Haiti:** Dr. François Duvalier; **Indonesia:** Sukarno, Suharto; **Iran:** Shah Pahlavi, Khomeini; **Iraq:** Saddam Hussein; **Italy:** Benito Mussolini; **Malawi:** Dr. Hastings Kamuzu Banda; **Malaysia:** Dr. Mahathir Mohammad; **North Korea:** Kim Il-Song; **Panama:** General Noriega; **Philippines:** President Ferdinand Marcos; **Romania:** Ion Antonescu, Gheorghiu-Dej, Nicolae Ceausescu;; **Senegal:** Leopold Sedar Senghor; **Spain:** Primo De Rivera, General Francisco Franco; **Sudan:** Arab-Islamist military; **Tanzania:** Mwalimu Julius Nyerere; **Turkey:** Prime Minister Talaat Pasha (Ottoman Empire); **Turkmenistan:** Saparmurat Nyazov; **Uganda:** Idi Amin; **Uruguay:** Gregorio Alvarez; **Zaire:** Mobutu Sese Seko; **Zimbabwe:** Robert Mugabe.

See also: **Rome:** Julius Caesar, Nero, Domitian.

Chester Arthur, British by birth

Chester Arthur was born in Vermont on October 5, 1829, to William & Malvina Arthur. Thomas Reeves, Gentleman Boss, (1991) Am. Pol. Bio. Press ISBN: 0945707037. William Arthur, was born in Ireland in 1796 and eloped to Canada with Malvina of Vermont in 1821. William Arthur was naturalized as a US citizen in New York in August 31, 1843 Washington County Clerk, NY, Lib. Cong. Chester Arthur was thus born when his father was still a British citizen, 14 years before William was naturalized, giving Chester primary British citizenship through his father. It appears that Chester Arthur explicitly hid his British citizenship when running for Vice President. Arthur took the unusual step of burning all his records. He appears to have sufficiently dissembled regarding his father's history that no one discovered that William had been a British citizen at Chester's birth, and that Chester was ineligible to become President, not being a "natural born citizen" for

having foreign allegiance.

Period for qualifying, Sunday excepted.

Verifying the qualifications of the President elect before inauguration is of great public importance. January 19th the Martin King Luther Federal holiday, while January 20th is a holiday for federal workers in the District of Columbia and surrounding counties. 5 USC § 6103 (a) & (c). Excluding weekends, the period between the constitutional “election” of the President elect January 6th to Inauguration on January 20th, typically leaves only seven business days to submit a motion between the formal “election” of the President elect, and the Supreme Court’s last Friday conference to review such a motion (5 days from Jan 8th in 2009.)

Resolving this issue before the Inauguration of the President Elect on Jan. 20th is of the highest public importance. Should the President Elect be found ineligible to become President after inauguration, that would cause a major constitutional “crisis” of the first order. It would seriously damage the public trust in the Rule of Law, and in the honor and reputation of Congress, the Electoral College and the Judiciary in the eyes of the public. If the President elect’s qualifications are challenged, but the Inauguration proceeded without word from the Court would give the impression of *fait accompli* creating enormous political barriers that make it difficult to obtain effective redress by the Petitioner.

However, the Constitution only excludes Sunday as days in which the government is required to act. U.S. Const. art. I, § 7 ¶ 2. Preservation of the Constitution as supreme law empowers overrides subsidiary laws, rules and customs. If necessary, the Supreme Court could meet on Saturdays, Martin Luther King day, or January 20th to consider motions regarding qualification of the President elect. This provides ten days in which the Supreme Court can act.

Burden of Proof on the Defendant in Quo Warranto

“In a long line of decisions this court has held that in proceedings by information in the nature of quo warranto the defendant, if he justifies, must set out his title specifically, and must show on the face of the plea that he has a valid title to the office; that the people are not called upon to show anything; that the entire onus is on the defendant, and that he must not only show by his plea, but prove that he has valid title to his office, and if this proof is not made, the people will be entitled to judgment of ouster. . . .The form of the issue in quo warranto between the state and the respondent is not like in other civil proceedings, but the defendant is called on to show title by his plea, which presents an issue of fact, and the burden of proof is upon him to establish it.” *People v. Baldrige*, 267 Ill. 190, 108 N.E. 49; ANN. CAS. 1917B Ed. Thompson p 468.

“The people here are the ultimate source of the right to hold a public office; and now, as heretofore, when the right of a person exercising an office is challenged in a direct proceeding by the attorney general, the defendant must establish his title, or judgment will be rendered against him. . . The possession of the office was not in this action evidence of his right. The burden was upon him to show by affirmative evidence that his possession was a legal and rightful one.” *People v. Thacher*, 55 N.Y. 525, 14 Am. Rep. 312; ANN. CAS. 1917B Ed. Thompson p 468

Standing in Quo Warranto

“In quo warranto proceedings seeking the enforcement of a public right the people are the real party to the action and the person bringing suit "need not show that he has any real or personal interest in it." *State ex rel. Pooser v. Wester*, 126 Fla. 49, 53, 170 So. 736, 737 (1936).

Information relating to Obama’s Kenyan Birth

Rev. Kweli Shuhubia personally recorded Sarah Hussein Obama’s statement that she was present in Mombasa at the birth of her grandson Senator Barack Obama (Jr). Respondent Obama's cousin Prime Minister Raila Odinga has sealed public records that allegedly contain Ann Dunham's birth records in Mombasa Kenya.

“Bishop McRae asked Ms. Obama specifically, “Were you present when your grandson Barack Obama was born in Kenya?” This was asked to her in translation twice, and both times she specifically replied, “Yes”. . . . "I left Kisumu City and traveled to Mombosa, Kenya. I interviewed personnel at the hospital in which Senator Obama was born in Kenya. I then had meetings with the Provincial Civil Registrar. I learned there were records of Ann Dunham giving birth to Barack Hussein Obama, III in Mombosa, Kenya on August 4, 1961. I spoke directly with an Official, the Principal Registrar, who openly confirmed the birthing records of Senator Barack H. Obama, Jr. and his mother were present, however, the file on Barack H. Obama, Jr. was classified and profiled. The Official explained Barack Hussein Obama, Jr. birth in Kenya is top secret. I was further instructed to go to the Attorney General’s Office and to the Minister in Charge of Immigration if I wanted further information" *Berg v. Obama*, SC No. 08A50 (F.3d. No. 08-cv-04083) affidavit of Rev. Kweli Shuhubia Oct. 27,2008.