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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Captain Pamela Barnett, et al.,
Plaintiffs,

v.

Barack Hussein Obama,
Michelle L.R. Obama,
Hillary Rodham Clinton, Secretary of State,
Robert M. Gates, Secretary of Defense,
Joseph R. Biden, Vice-President and
President of the Senate,
Defendants.



Civil Action:

SACV09-00082-DOC-AN

**REQUEST FOR
JUDICIAL NOTICE**

Here come all the plaintiffs (aside from plaintiffs Markham Robinson and Willey Drake represented by Gary Kreep) and request a judicial notice of the holding in the Berg v Obama et al. 08-43-40 Circuit Court of Appeals for the Third District judges Sloviter, Fuentes and Hardiner. Opinion written by judge Sloviter. While this case lingered in the Third Circuit Court of Appeals for a year or so, by stroke of providence, the opinion came down yesterday, November 12, 2009, only a couple of days after the undersigned has filed a Motion for Reconsideration. While this three judge panel confirmed the dismissal of the underlying case by the district court, noting that a voter does not have standing, as his injuries are generalized, a number of holdings of this case are pertinent and determinative for the current case in front of your Honor and confirm legal reasoning provided by the undersigned counsel in her Motion for Reconsideration.

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3 • The plaintiff in Berg was seeking Declaratory and Injunctive Relief under
4 Article 2 Section 1 Natural Born Citizen and under 42 USC §1983, seeking
5 determination of eligibility for presidency of Barack Husein Obama. In his
6 opinion judge Sloviter finds that though the election is over, the court has
7 jurisdiction to hear it as it “fits squarely” as an issue “capable of repetition yet
8 evading review”. *Merle v US*, 351, 3d 92,94 (3d Cir 2003) Based on this
9 argument there is Article 3 jurisdiction to hear the case as long as the plaintiff
10 can show standing with specialized injury. While Berg’s holding finds that a
11 regular voter does not have standing, Presidential and vice presidential
12 candidates such as plaintiffs Ambassador Alan Keyes and Gail Lightfoot have
13 standing. Judge Sloviter proceeds by arguing that both parties with **actual** and
14 **imminent injuries** would have standing in this case. Nearly 40 plaintiffs in
15 this case are members of the military. A number of them are either active
16 military or in active reserves. For example plaintiff Lita Lott is in active
17 drilling reserves. Within only a few days of notice she will be required to
18 leave her family behind and deploy, this can happen any day. This satisfies the
19 **imminent injury** prong for the purpose of standing. Plaintiff Matthew
20 Michael Edwards is in the National Guard and would be required to deploy on
21 a few days notice, therefore satisfying the imminent injury prong. It is
22 important to note that previously the defendants in current case requested
23 judicial Notice of *Rhodes v MacDonald*, which incorporates *Cook v Good*.
24 Notice of appeal for both cases has been filed in 11th circuit court of Appeals.
25 Both cases were brought by the undersigned counsel in front of Judge Land
26 in Middle district of GA. In the first case *Cook v Good* the undersigned
27 argued precisely that point, that this is an issue “capable of repetition but
28 evading review”. The only difference being that the undersigned has brought
forward *Roe v Wade* as a controlling authority, and judge Sloviter is

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3 understandably using *Merle v US* out of the third district 351,3d 92,94, (3rd
4 circuit 2003). The undersigned has argued this point to no avail as judge Land
5 dismissed *Cook v Good* claiming that the case is moot due to the fact that the
6 deployment orders for Major Cook were revoked. In the second case *Rhodes v*
7 *MacDonald* judge Land has dismissed the whole case 2 days after the
8 defendant's motion to dismiss was filed without giving the undersigned as
9 much as 10 days provided by local rules to respond to the motion, and
10 completely disregarding the whole 54 pages of pleading on all the points,
11 while the undersigned precisely argued that there is a need for Declaratory
12 relief and judicial determination as this is an issue capable of repetition, yet
13 evading review. To add insult to injury judge Land has asserted \$20,000 of
14 sanctions against the undersigned in order to prevent her from arguing similar
15 cases and in order to endanger her license and livelihood. The assistant US
16 attorneys in this case have submitted Land's order as some type of ruling
17 authority for this case, and it became a lynching festival for pro Obama
18 media thugs. While your Honor might have reservations regarding the
19 Injunctive relief, at the very minimum based on Judge Sloviter's ruling this
20 court has at least jurisdiction to render an opinion and provide Declaratory
21 relief and 42 USC §1983 relief. Based on the Declaratory relief from your
22 Honor further action can be taken based on Quo Warranto or by Congress in
23 impeachment proceedings.

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1. Second important ruling in *Berg* is the fact that judge Sloviter brings forward *Robinson v McCain* 567 F Supp 2d at 1147. Judge Sloviter agrees with the findings in *Robinson* in that during the election the case is unripe, meaning there is no injury until the candidate takes office. Logical conclusion will be that the undersigned counsel was correct in bringing the current case on the inauguration day as it would be unripe previously and there was no fault of

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counsel, no latches.

Additionally, the undersigned brought prior to the election Writ of Mandamus on behalf of the presidential candidate Ambassador Keyes and on behalf of the Vice Presidential Candidate Gail Lightfoot against the secretary of state of California Deborah Bowen.

Wherefore the undersigned prays that the court take the Judicial notice of the Third Circuit court of appeals ruling in Berg v Obama et al in conjunction with the plaintiffs Motion for Reconsideration.

NOVEMBER 13, 2009

Respectfully submitted,

/s/ DR ORLY TAITZ ESQ
By: _____
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PROOF OF SERVICE

I the undersigned Orly Taitz, being over the age of 18 and not a party to this case, so hereby declare under penalty of perjury that on this, November 5, 2009, I provided electronic copies of the Plaintiffs’ above-and-foregoing Notice of Filing to all of the following non-party attorneys whose names were affixed to the “STATEMENT OF INTEREST” who have appeared in this case in accordance with the local rules of the Central District of California, to wit:

ROGER E. WEST roger.west4@usdoj.gov (designated as lead counsel for President Barack Hussein Obama on August 7, 2009)

DAVID A. DeJUTE

FACSIMILE (213) 894-7819

DONE AND EXECUTED ON THIS 5th day of November, 2009

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/s/Orly Taitz

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