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IN THE DISTRICT COURT
OF SHAWNEE COUNTY, KANSAS

ORLY TAITZ, ESQ.

and

ROGER WALTERS

Plaintiffs

v.

KRIS KOBACH,
SECRETARY OF STATE OF KANSAS,

and

KANSAS OBJECTION BOARD

Defendants.

Case No. 12-C-001027
Chapter 60

OPPOSITION TO MOTION TO DISMISS

Plaintiffs have standing to proceed beyond 12b motion.

Plaintiff Walters is a resident of the state of Kansas.

In regards to standing of Taitz, not resident of Kansas Supreme Court of the United States repeatedly allowed third parties to represent the rights of others, when there is n obstacle or difficulty for others to uphold their rights. *Singleton*

v. Wulff, 428 U.S. 106, 114-15 (1976). Where doctors have sought to assert the rights

of patients, for example, and where property owners sue to invalidate racial covenants discriminating against a third party, the Supreme Court has permitted third party standing. *Id.* at 115 (citing *Eisenstadt v. Baird*, 405 U.S. 438, 445-446 (1972); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Barrows v. Jackson*, 346 U.S. 249 (1953)).

The other factual element to which the Court has looked is the ability of the third party to assert his own right. . . . If there is some genuine obstacle to such assertion, however, the third party's absence from court loses its tendency to suggest that his right is not truly at stake, or truly important to him, and the party who is in court becomes by default the right's best available proponent.

Singleton, 428 U.S. at 115-18. Where there is a "genuine obstacle" to individuals defending their own rights, "[to] require that [the right] be claimed by the [individuals] themselves would result in nullification of the right at the very moment of its assertion." *NAACP v. Alabama*, 357 U.S. 449, 459 (1958). Taitz is the President of a non-profit foundation devoted to constitutional freedoms and a civil rights attorney. Today we live in an environment of an unprecedented censorship of the "main stream" or more appropriately "back water" media. U.S. media is pretty much under the same marching orders as the

rest of the establishment to silence and sweep under the rug the issue of Obama's usurpation of the U.S. Presidency with forged IDs. There is a campaign of targeted persecutions of ones who dare to speak up about this issue: they are fired, sanctioned, defamed, harassed, destroyed financially and as human beings. In this environment the citizens need civil rights leaders like Taitz to uphold their rights, just as civil rights leaders, like Thurgood Marshall and other NAACP attorneys, who fought for the rights of African -Americans in the South. Taitz can proceed in upholding civil rights of citizens of Kansas, just as NAACP proceeded in upholding the civil rights of African American citizens in South.

2. During the Commission hearing Defense admitted that initial Plaintiff Joseph Montgomery referred to intimidation and harassment of him and his family as a reason for his withdrawal of the complaint, which is indeed evidence of duress negating intent.

3. Defense admitted that before the second committee hearing, when the complaint was dismissed, Taitz e-mailed and wrote to the Secretary of State Kobach, where she stated that she wanted to join Montgomery and she provided all the evidence of forgery to them. There is no law preventing individuals to join an ongoing complaint, just as there is no prohibition from parties joining a law suit as interveners.

4. In their own filing the Defense admitted that there were multiple challenges to Obama, therefore they improperly dismissed all of those challenges when only one of the parties, Montgomery withdrew his objection under duress.

Exhibit 4 September 11, 2012 letter from Secretary of State Kris Kobach to the Attorney General states "...Mr. Montgomery's objection is attached as Exhibit 8. All other objections received regarding President Obama will be consolidated into this Objection Board meeting". So, in his own letter submitted to court as exhibit 4 to motion to dismiss Secretary of State admitted that there multiple objections. So the board erred, when it dismissed all of them, when only one person, Joseph Montgomery withdrew his objection.

5. Through their own exhibits defense admitted that Plaintiff Montgomery withdrew his objection to candidate Obama under duress. Defense Exhibit 3 e-mail from Joe Montgomery. "...There has been a great deal of animosity and intimidation directed not only at me, but at people around me, who are both personal and professional associations". Montgomery clearly articulates great deal of intimidation, which equates to duress and negates free will. Just as NAACP could step in the shoes of African -American citizens in Alabama, who were intimidated and got standing in NAACP v Alabama, Taitz can step in the shoes of a Kansas resident who were intimidated by Chicago thugs, who believe that they can make forgery disappear by intimidation of plaintiffs.

6. Defendants were served.

Defense admits that Secretary of State was served.

Additionally the Objection board was served two-fold

- a. personally, through a professional server of process by serving the Secretary of State, who is the chair of this three member board
- b. by serving yet another copy on Athena Andaya, attorney got the Attorney General, at Athena.Andaya@KSAG.org. Shortly after Mr. Obama's attorney Kip Wainscott forwarded to Secretary of State his September 13 letter, on September 14 Taitz e-mailed and mailed to Secretary of State Kobach and Wainscott all the evidence, showing Obama using forged IDs and a social security number, which was not assigned to him. Taitz received an answer originally from Kabach and from 15th of September correspondence went through his attorney Ryan Kriegshouser and attorney for the Attorney General Athena Andaya was included in the correspondence. Kriegshouser actually asked for e-mail communication, so the original challenge and further correspondence in regards to the ensuing legal action was forwarded to the Attorney general through his attorney Athena Andaya.

7. Additionally, Taitz acted as a Federal whistle blower, who provided defendants with evidence of most serious crimes. Taitz provided them with a detailed complaint with numerous affidavits and documents, showing that candidate for

President, Barack Obama is a citizen of Indonesia, who is using a last name, which is not legally his and forged IDs and a fraudulently obtained Connecticut Social Security number, which was never assigned to him according to E-Verify and SSNVS.

While Lieutenant governor is a doctor and might be clueless about law and evidence, Secretary of state and Attorney General are licensed attorneys.

They know that according to FRCP 1002-1004 and corresponding rules of evidence in any state an original is required in order to prove the content of a writing. A copy is allowed for a business or an official record only if there is no genuine question of authenticity of the original. When there is a genuine question of authenticity, an original is required to be produced for an examination.

All of the evidence provided by both Montgomery and Taitz showed that there is a genuine question of authenticity of the birth certificate and all the other IDs Obama is using.

If members of the Inquiry board were genuinely concerned and wanted to get to the truth and wanted to assure lawful elections, free of fraud and forgery, they had to seek original documents.

Instead, they held a second meeting, where they simply waived a copy sent to them by Alvin Onaka, registrar in Hawaii, who produced the forgery in the first place and who is currently a person of interest in a criminal investigation by

Sheriff Arpaio, and they announced that a copy from this person is enough of a proof of authenticity and they dismissed the whole case.

Secretary of state Chris Kobach stated that this is enough for him, he is satisfied that Obama is natural born in spite of all the objections by Taitz.

After the hearing Taitz was verbally attacked by a yelling and screaming mob, who called her every name in the book, she got multiple threats, her standing in the community was lowered by dishonest actions of the Secretary of State and the board.

Moreover, this is a Presidential election. Actions of each and every Secretary of State affect every citizen of the nation. This is not a local election for Topeka school board, which does not affect others. Actions of every Secretary of State affect others, particularly in a very close election as this one, where the candidates are tied and any state, even the smallest state, can make a difference in the final tally.

Additionally, actions by Kobach are even more devastating than actions of others. Kobach is known as one of the leaders and rising stars of the Republican party, a conservative leader, a tea party leader. His actions were more devastating to Taitz, who fought this fight for four years, more so than actions of anyone else. the media had a field day and article appeared in Huffington Post and other National publications that were in essence saying "If someone like Kobach does

not believe her, neither should anyone else. All of her ongoing law suits are frivolous"

It is impossible to believe that a Yale law school graduate like Kobach is not familiar with the most basic rules of evidence. He is familiar, but he apparently sold out, sold his integrity to the ruling establishment by announcing that a copy presented by a person, who is a suspect in criminal investigation for uttering forged documents, is enough for him to authenticate the document. How exactly did Kobach sell out, Taitz does not know. Was it simply a desire to move up within the regime? Were there other considerations? It will take a criminal investigation to ascertain all of the reasons and incentives. One thing is clear, integrity of elections process was deeply compromised in the state of Kansas. Actions of the Secretary of state and the Board amount to Misprision of multiple felonies, aiding and abetting forgery, aiding and abetting elections fraud, aiding and abetting Social Security fraud and committing treason against the United States of America, by allowing a foreign national with all forged IDs to be on the ballot and have a 50-50 chance to stay in the White House for four more years and cause even more damage to this nation. If this court does not allow this case to proceed, this court will become complicit as well.

In this situation extraordinary remedy is justified

Extraordinary remedy is justified when there is evidence of fraud, corruption or oppression:

- a. As stated previously there was fraud and corruption, when the board dismissed all of the challenges against Obama, when only one challenger, Montgomery withdrew. They committed fraud by stating that there is no more challenge to Obama, when they clearly knew that all the other challenges were active and alive
- b. There was an oppression of the Plaintiff Montgomery, he was intimidated. There was further fraud by the members of the board, who claimed that Montgomery was not intimidated, that there was no duress and that his withdrawal was voluntary
- c. There was fraud, when Secretary announced that the alleged copy of Obama's birth certificate, which came from Registrar Onaka was a sufficient verification of authenticity, when the members of the board got evidence from Taitz, which was forwarded to them on September 14, 15 and 17, which had sworn affidavits, showing that the alleged birth certificate is a forgery, that Onaka released a forgery to the public. They had a sworn affidavit from Sheriff Joseph Arpaio attesting that there is an investigation and the documents in question are forgeries. There was fraud and corruption by the members of the board in their announcement that this is a valid verification.

7. Proper remedy exists.

Defense claims that there is no adequate remedy. That is not the case. This court can order the Board to reconsider its' opinion. Additionally, in situations, where removal from the ballot is not possible or not practicable, a stay of certification of votes can be ordered awaiting adjudication on the merits and a decision on Permanent Injunction. Plaintiffs attach an order in Miller v Campbell 10-v-252 where U.S. District Court Judge Ralph Beistline stayed certification of election results for U.S. senate in Alaska pending resolution of all Constitutional issues. Plaintiffs are seeking to deny current motion to dismiss and order a stay pending adjudication on the merits.

Conclusion

Due to all of the above motion to dismissed should be denied. Plaintiffs have shown that they have standing and the issues at hand have to be heard on the merits.

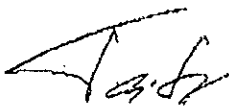
Respectfully submitted 

/s/ Dr. Orly Taitz ESQ

10.19.2012

Per request of the defense current pleadings were served on the defense via e-mail.

At Ryan.Kriegshouser@sos.KS.gov and Athena.Andaya@KSAG.gov

A handwritten signature in black ink, appearing to read 'Orly Taitz', is positioned above the typed name.

/s/ Orly Taitz

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOE MILLER,

Plaintiff,

vs.

LIEUTENANT GOVERNOR CRAIG
CAMPBELL, in his official
capacity; and the STATE OF
ALASKA, DIVISION OF ELECTIONS,

Defendants.

Case No. 3:10-cv-0252-RRB

ORDER REGARDING PENDING
MOTIONS AND STAYING
PROCEEDINGS

Before the Court, at Docket 13, is Plaintiff Joe Miller with a Motion for Preliminary Injunction in which he seeks to enjoin the Lieutenant Governor of Alaska, through the Division of Elections, from counting the votes cast in the race for United States Senator for Alaska. Defendants oppose at Docket 26 and Plaintiff replies at Docket 35. At Docket 33 Plaintiff seeks to file an Amended Motion for Preliminary Injunction and includes his arguments for this additional relief in his filing at Docket 35. In order to expedite this matter, the Court hereby **GRANTS** the Motion to Amend at Docket 33 without seeking response from Defendants, for Plaintiff's request was certainly anticipated and implicit in his earlier filings.

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The Court has federal question jurisdiction to hear this matter given the significant constitutional questions arising from the dispute between the parties as to whether the Division of Elections has, among other things, violated the Alaska Legislature's prerogative by counting votes in a manner contrary to the legislative directive.

As indicated by the Court in its Order at Docket 16, the process for counting votes and segregating disputed ballots appears to have been carefully thought out and provides ample protection for both parties. There simply is no just reason to delay or enjoin the counting of ballots. Plaintiff's Motion for Preliminary Injunction at Docket 13 regarding the counting of ballots is therefore **DENIED**.

Plaintiff also asks the Court to enjoin the Defendants from certifying the results of the 2010 general election for the office of U.S. Senator and prohibit the Division from accepting as valid any write-in votes in which a candidate's name is misspelled or is not written on the ballot as it appears on the candidate's write-in declaration of candidacy. Plaintiff is asking this Court to order Defendants to count write-in ballots as set forth in AS 15.15.360(a)10, (a)(11) and (b), without deviation. In making this latter request, Plaintiff asks the Court to determine purely Alaska law, i.e. how this Alaska Statute should be applied to the

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current dispute. More specifically, Plaintiff contends that if candidate Murkowski's name is misspelled on the write-in ballot or deviates in any way from the manner the name appeared on the declaration of candidacy, that ballot should not be counted. This is certainly one very possible interpretation of the disputed statute. Defendants contend, however, that if the spelling of "Lisa Murkowski" or "Murkowski" is such that the voter's intent to vote for candidate Murkowski is clear, that should be sufficient and the ballot should be counted for her. This too is a viable interpretation of the disputed statute. The issue now is who should properly determine the answer to this question, the Federal Court or the State Court? And the answer appears clear to the undersigned. This is a State-wide election, conducted under State law, involving State candidates and impacting State citizens. The Courts of the State of Alaska are in the best position, at least initially, to apply Alaska law and to determine who won this election. While it is not the role of the State Court to ignore or re-write the law, it certainly can interpret it when necessary.

Therefore, prudence, propriety, principles of judicial restraint, and a desire to avoid unnecessary constitutional adjudication lead this Court to abstain¹ from resolving the current

¹ Railroad Commission v. Pullman Co., 312 U.S. 496 (1941); Burdick v. Takushi, 846 F.2d 587, 588-89 (9th Cir. 1988)

dispute and refer the parties to the appropriate State tribunal. The Court is confident that the Courts of Alaska can quickly address and resolve these matters. So long as the United States Constitution is not violated, this really is a State matter.

Therefore, for the reasons articulated above and by Defendants in their Motion to Dismiss for Lack of Federal Question Jurisdiction or in the Alternative to Abstain at Docket 17, which Plaintiff responded to at Docket 20, this matter is hereby **STAYED** so that the parties may bring this dispute before the appropriate State tribunal. The Court shall retain jurisdiction pursuant to Pullman and will remain available to review any constitutional issues that may exist once the State remedies have been exhausted. In order to ensure that these serious State law issues are resolved prior to certification of the election, the Court hereby conditionally **GRANTS** Plaintiff's motion to enjoin certification of the election. If an action is filed in State Court on or before **November 22, 2010**, the results of this election shall not be certified until the legal issues raised therein have been fully and finally resolved.

IT IS SO ORDERED.

ENTERED this 19th day of November, 2010.

S/RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE

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