IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT

IN AND FOR LEON COUNTY, FLORIDA

MICHAEL C. VOELTZ, Plaintiff, vs. BARACK H. OBAMA, Florida Democrat nominee for President, to the 2012 Democrat National Convention FLORIDA LEGISLATURE KURT BROWNING, Secretary of State of Florida FLORIDA ELECTIONS CANVASSING COMMISSION Defendants,	)	Case No.:

Contest of Election

Statements of Fact

(I) Barack H. Obama has shown a picture of a purported birth certificate indicating his birth in Honolulu, Hawaii on August 4, 1961 to American citizen mother, Stanley Ann Dunham, and Kenyan British subject father, Barack Obama Senior.

(II) Barack Obama Sr. was born in the British Colony of Kenya on June 18, 1936.

(III) Birth in Kenya made Barack Obama Sr. a British subject, according to and governed by the British Nationality Act of 1948, Part I, Section 1.

(IV) The British National Act of 1948 indicates that Barack H. Obama II was born a British subject, since father, Barack Obama Senior, was a citizen of the British Colony of Kenya. (British Nationality Act of 1948, Part II, Section 5)

(V) Upon receiving the Democrat Party nomination to run for President of the United States in the 2008 General Election, the Democrat Party sent to the Department of State of Florida a nomination certificate stating that Barack H. Obama was "Duly Nominated" to run for President on the Democrat ticket.

(Exhibit A)

(VI) The Republican Party Nomination certificate, sent to the Department of State of Florida, nominating John S. McCain for President, and Sarah Palin for Vice President, states that the candidates meet "the constitutional requirements" of those offices.

(Exhibit B)

(VII) The Secretary of State of Florida has a ministerial duty with regard to placing names of the candidates on election ballots. There is no claim made by the Secretary that any candidate on any ballot is eligible constitutionally for the office they seek, only that they have been "duly qualified."
(Fl. ss 99.061(6), Cherry v. Stone, 265 So. 2d. 56,58 (Fl. 1972)

(VIII) Neither John McCain nor Barack H. Obama signed the "Federal Candidate Oath" of Florida Statute 99.021(2), avowing Constitutional eligibility that was required of "all Federal candidates" prior to the 2008 General Election.

(2008 Fl. ss. 99.02(2))

(IX) 2011-Chapter 40 Florida Statutes (HB 1355), enacted in May 2011, has excused Presidential and Vice Presidential candidates from taking the Federal Candidate Oath, which asserts Constitutional eligibility, by the insertion of Fl. ss. 99.021(3).

(X) Article 2 Section 1, U.S. Constitution, requires that the President be at least 35 years old, 14 years a resident of the United States, and "shall" be a natural born citizen. (Article 2, Section 1, U.S. Constitution).

(XI) The purpose of the requirement that the President be a natural born citizen is rooted in the desire to prevent foreign influence into the top executive offices of the United States government, and in the Commander in chief of the United States armed forces. (Letter from John Jay to George Washington, Federalist #68, Alexander Hamilton, March 1778).

(XII) Barack H. Obama's campaign, paid for by Obama for America, has claimed that he is a "native citizen" and an 'American-born citizen." (www.fightthesmears.com/birth), (www.AttackWatch.com).

(XIII) Secretary of State, Kurt Browning, has taken an oath to "support the U.S. Constitution." (2011 Fl. ss.876.05)

(XIV) Secretary of State of Florida, Kurt Browning, by statute, must provide "voter education." (2011 Fl. ss. 97.21(6))

(XV) Plaintiff, Michael C. Voeltz, as a Florida registered voter, has taken an oath to "protect and defend" the U.S. Constitution and the Constitution of Florida.

(2011 Fl. ss. 97.051)

(XVI) The Supreme Court case of Minor v. Happersett, 88 Wall. 162, 167, 168 (1874), held that natural born citizens are those "born in the U.S. of U.S. parents (plural)." It also held that the term "citizen" implied "membership in a nation, and nothing more."
Minor v. Happersett, 88 Wall. 162, 166-168 (1874)) Ex Parte Lockwood, 154 US 116 (1874)

(XVII) Bush v. Gore, 531 U.S. 98 (2000) held that the ministerial duty of the Secretary of State must show discretion to Article 2 of the U.S. Constitution.

(XVIII) 2011 Florida Statutes allows for a "contest of election or nomination" by a voter "qualified to vote in the election related to such candidacy" (2011 FL. ss. 102.168 (1)

(XIX) The Florida Democrat delegation has nominated Barack H. Obama, Democrat candidate, to be President of the United States at the Democrat National Convention, and has cancelled the Florida Democrat Primary for President of 1/31/2012. The State of Florida has certified that nomination per Fl. Ss. 102.111(2).

(XX) There is no provision for the Democrat Party of Florida to vet any Presidential candidate for Constitutional Eligibility in the Presidential Primary Selection Committee, in which Secretary of State Kurt Browning is non-voting chair.
(2011 Fl. ss. 103.021, Fl. ss. 103.101)

(XXI) Article 3 Section 2 Clause 1 of the U.S. Constitution states that "the judicial power shall extend to all cases, in Law and Equity, arising under the Constitution, the Laws of the United States…"
(Article 3 Section 2 Clause 1, U.S. Constitution)

(XXII) The Supreme Court of Florida has held that the Secretary of State of Florida has only ministerial duty, and can make no claim to their constitutional eligibility. Eligibility of candidates shall be determined by a judicial authority "upon any contest properly made." (Cherry v. Stone, 265 So. 2d. 56, 58, (Fl. 1972))

(XXIII) Circuit Courts of Florida, by statute, have jurisdiction to "declare rights, status, and other equitable or legal relations" (2011 Fl. ss. 86-011(1)), and of "any fact upon which the existence or non-existence of such immunity, power, privilege or right does depend." (2011 Fl. ss. 86.011(2)). "Any person seeking declaratory judgment may also demand additional coercive, subsequent or supplemental relief in the same action. (2011 Fl. ss. 86.011(2)).

"The Court has power to give as full and complete equitable relief as it would have had if such proceeding had been instituted in chancery." (2011 Fl. ss. 86.111)

"The existence of another adequate remedy does not preclude judgment for declaratory relief." (2011 Fl. ss. 86.111)

Contest of Election

Plaintiff, Michael C. Voeltz, is a registered Democrat voter in Broward County, who was an eligible elector for the Florida Primary of January 31, 2012 to select a national Democrat candidate for President.

Plaintiff asserts that no government authority in the state of Florida, charged with conducting elections, has made any claim that Barack H. Obama is an eligible natural born citizen, as required by Article 2 Section 1 Clause 5 of the U.S. Constitution.

Plaintiff has taken an oath to "protect and defend" the U. S. Constitution.

Plaintiff has determined that Barack H. Obama, born a British subject, of a British subject father, is not a natural born citizen of the United States.

Plaintiff brings this action within the proper time frame and venue established by the "contest of election" statutes of Florida contained in Fl. ss. 102.168. Plaintiff brings this action to the Circuit Court of Leon County in accordance with Fl. ss. 102.1685.

Plaintiff brings this action as a Petition for Declaratory Judgment provided in Fl. ss 86.011 and Declaratory Judgment Act, 28 US Code Section as an action through the Court of Equity.

Ministerial Duty of Florida Secretary of State

The election statutes of the State of Florida have systematically and illegally reduced the ministerial duty of the Florida Secretary of State to the point where no discretion to the U.S. Constitution is left at all. Although the Secretary has taken an oath to "support" the U.S. Constitution, his duties are so watered down with regard to the election of the President of the United States that they have no regard at all for constitutional eligibility. By present standards, the real possibility exists that no Presidential candidate on the general election ballot in Florida is constitutionally eligible for the office.

"Once the candidate states, under oath, the Secretary's ministerial determination for the office is at an end."
Cherry v. Stone, 265 So. 2d, ex rel. Taylor v. Crawford, 116 So. 41, 41 (Fl. 1928)

This describes a minimum ministerial duty to be performed by the Secretary that cannot simply be legislated away to a body, the Presidential Primary Selection Committee, that does no qualifying duty at all.

With no authority to determine the eligibility of a Presidential candidate vested in the Secretary of State of Florida, the Federal Candidate Oath (Fl. ss. 99.021(2)) served to educate the voters and to purchase leverage, in the form of legal liability, that would be held by any candidate caught

swearing falsely to eligibility. In that sense, the Federal Candidate Oath served as a firewall to prevent the application of ineligible candidates.

The Department of Election's own advisory opinions support the performance of an oath of eligibility as a way to place the burden of the candidates' eligibility on the candidates themselves. "Falsely swearing an oath arising out of an election is a felony in the third degree (Fl. SS. 104.011(1)). The responsibility, therefore, is on the candidate, not the qualifying officer, to ensure that the candidate is qualified for the office the candidate is seeking."
(Fl. DE 11-05 Qualifying – Role of Qualifying Officers)

It is simply inconceivable that eligibility oaths are performed on state legislators, candidates for Federal House of Representatives and Senators, but no oath is performed, applying liability leverage, on a candidate for President of the United States. There has been a systematic and purposeful reduction in liability for eligibility of any Presidential candidate.

It must be assumed that since no governmental agency charged with conducting elections is required to vet the Constitutional eligibility of any Presidential candidate, that the qualifying responsibility must fall to Florida qualified electors. After all, the qualified electors have an oath to "protect and defend" the U.S. Constitution, while the Secretary of State of Florida takes an oath to "support" the U.S. Constitution – a much lower standard.

The actions of the Florida legislature and the Secretary of State are a dereliction of duty to apply ministerial duty with discretion and regard for the U.S. Constitution, and have placed an undue and untenable burden upon the Florida electors who receive no guidance as to the Constitutional eligibility of Presidential candidates.

Florida electors, in the 2012 Primaries or General Election, cannot even look for guidance from the Democratic National Committee, whose nomination certificate from the 2008 General Election, signed by Nancy Pelosi, claimed Barack H. Obama was "duly nominated." "Duly" only means procedurally, as it does in Florida Statutes 99.061(6), where the Secretary of State of Florida has placed the names of the candidates on the ballot with no claim to Constitutional

eligibility, and has “duly qualified” them. Despite this fact, the Secretary has apparently relied on the DNC's Non- certification of Mr. Obama's constitutional eligibility.

No government agency in Florida, charged with conducting national elections, nor Barack H. Obama himself, will claim that Barack H. Obama is constitutionally eligible for the office of President. Plaintiff must assume that he is not eligible.

No Florida governmental or Democrat Party agency, nor Barack H. Obama himself, will state plainly and affirmatively that Barack H. Obama, Democrat Candidate for President of the United States in 2012, is an eligible natural born citizen. Plaintiff must assume that he is not.
Even an attorney for the Florida Department of State, Mr. Gary Holland, is aware that the policies of the Florida Department of State, with regard to ministerial duty, leaving the real possibility that no candidate for President of the United States on the general election ballot in Florida is eligible.

(Exhibit C)

The policies of ministerial duty for placing candidates for President of the United States on the Florida ballot used by the Florida Department of State reflect no discretion, and no deference to the eligibility requirements of the U.S. Constitution. The general rule of the Presidential Primary Selection Committee can certainly coexist with the specific rule of a Federal Candidate Eligibility Oath. The Secretary even sits as non-voting chair of the PPSC (Fl ss. 103.021, Fl ss. 103.101) There can be no other reason to not perform the oath except a complete disregard for the U.S. Constitution. Prior to the application of Chapter 2011-40 Florida Statutes, there was no statutory exclusion for any Presidential candidate in taking the oath of Fl. ss. 99.021(2). Minimal ministerial duties, meant to inform and educate the public and place the statutory burden of truthfulness on the swearing Presidential candidate has been legislated away by Chapter 2011-40 Florida Statutes (HB 1355). The Florida legislature, by those acts, has attempted to legislate away past transgressions of non-performance of the candidate oath. It is also a violation of Fl. ss. 97.021(6), that the Secretary of State must educate the voters.

Plaintiff asserts that the legal performance of the Federal Candidate Oath (Fl. ss. 92.021(2)), and the statutory liability associated with its performance, would prevent Barack H. Obama from seeking to be placed on the Florida ballot.

"A ministerial Duty, the performance of which may, in proper cases, be required of the head of a department by judicial process, is one in respect to which nothing is left to discretion. It is a simple definite duty arising under conditions admitted or proved to exist and imposed by law." Mississippi v. Johnson, 71 US 4 Wall, 475 (1866)

The actions of the Florida legislature and the Secretary of State, in legislating away the Federal candidate oath in May 2011, have left a wide open door for an ineligible candidate for President, and have robbed the Florida electors of the chance to use their discretion in deciding whether that candidate is eligible. There is no reason that ss. 99.021(2) and ss. 103.101 cannot exist together, especially since no qualifying for eligibility is done or mandated by the Presidential Primary Selection Committee. Any ineligible candidate can run for President on the Florida ballot with no fear or any repercussion for non eligibility.

In Marbury v. Madison, (5 U.S. 37), it was held that the performance of ministerial duty may be imposed mandamus.

The ministerial duty of performance of the Federal Candidate Oath must be viewed in light of the Secretary of State's oath to "support" the U.S. Constitution. Ministerial duty must, by law, show discretion to the eligibility requirements of the US constitution. It is a definite duty that arises under the conditions imposed by the law of Article 2 Section 1, US Constitution, that the President be 35 years old, 14 years resident and a natural born citizen.

The Supreme Court has ruled that no law can be created, by states, that change Article 2 of the US Constitution.

"As we noted in *Bush* v. *Palm Beach County Canvassing Bd., ante,* at 78:
Since § 5 contains a principle of federal law that would assure finality of the State's determination

> If made pursuant to a state law in effect before the election, a legislative wish to take advantage of the 'safe harbor' would counsel against any construction of the Election Code that Congress might deem to be a change in the law. If we are to respect the legislature's Article II powers, therefore, we must ensure that post-election state-court actions do not frustrate the legislative desire to attain the "safe harbor" provided by § 5."
> (Bush v. Gore, 531 U.S 98 (2000))

Florida has done just such an act. The Secretary of State has no duty to determine if a Presidential or Vice Presidential candidate is eligible. By not requiring that the candidates perform the "Federal Candidate Oath" (2011 Fl. ss. 99.021 (3)), and by not requiring the DNC to provide a Nomination Certificate stating the Presidential and Vice Presidential candidates are "Constitutionally Eligible", the state of Florida has made new Constitutional law that voids the Presidential requirements of Article 2 Section 1. According to the laws of Florida, the President, and Vice President of the US don't even have to be citizens, much less natural born Citizens, required by Article 2 Section 1 Clause 5.

Declaratory Judgment and Equity

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the laws of the United States, and Treaties made, of which shall be made, under their authority."
Article 3 Section 2 Clause 1, U.S. Constitution

It stands to reason that where plain adequate and complete remedy does not exist, that courts of equity shall be sustained. This is just such a case.

The State Legislature of Florida has used its power to make law to expunge, exclude and impinge the right of We the People, the Florida electors, from concluding whether a Presidential candidate is constitutionally eligible for the office they seek.

By the enactment of Florida Statutes 2011-Chapter 40 Florida Statutes (HB 1355), the Florida Legislature has removed the mechanism to place the burden on the Presidential candidates for their own eligibility. The bill also removes the provisions where a candidate can be removed by his own party from the ballot (Pre 2011 Fl ss. 103.101). While the Department of State says that "qualifying" is done by the Presidential Primary Selection Committee (Fl. ss. 103.101), rather than by the Federal Candidate Oath (FL ss. 99.21(2)), there is no mechanism for removal and no "qualifying" actually done.

While the Statutes of Florida allow for a "contest of election or nomination" in Fl. ss. 102.168, there is no mechanism in the statutes to actually annul the nomination or election of the winning candidate.

This action is certainly judicial in nature, not political. The U.S. Constitution states that the President "shall" be a natural born citizen. To say that no one knows what natural born citizen means is patently ridiculous. Plaintiff will show the consistency of 250 years of thought on the matter of the meaning of the security clause in the requirements to be President, of which there are only three. To claim that requiring the Presidential candidate to follow the law of the Constitution is a political question is frankly a lie.

As it stands, a political entity, political parties, have claimed to be the sole diviner of the Constitutional eligibility of Presidential candidates. The Secretary of State of Florida relies solely on their certification of a Presidential candidate, yet as we have seen by Exhibit B, neither the Florida Democrat delegation, nor the DNC is making any claim to the eligibility of their candidate.

A circle of exclusion is created by the laws of Florida. The Secretary claims that he has no authority to determine eligibility, and supposedly leaves that duty to the political parties. Laws have been enacted that prevent the placement of any liability for eligibility on the Presidential candidate.
2011 Florida Statute 99.021(3)

The Presidential candidate swears no oath of eligibility, the National Democrat party makes no claim to eligibility, and the Secretary of State makes no claim to eligibility; only that the candidate is "duly nominated." The Florida Democrat delegation makes no claim to their candidate's eligibility. While there are laws to allow electors to contest elections and nominations, no law is in place to annul that election or nomination if the contest is successful. This intolerable situation makes this case classically ripe as a case in Equity via the Declaratory Judgment Statutes (Fl ss. 86.011) of the State of Florida. Florida Statutes 86.011 – 86.111 are the last vestige We the People have to turn back the tyranny imposed upon by laws enacted by the Florida legislature.

"The question of the most common and undoubted jurisdiction of a court of equity, an agreement which the defendant sets us as conclusive to bar all relief, and the Plaintiff asks to

be declared void, on grounds of the most clear and appropriate cognizance in equity, and not cognizable in a court of law. A false representation made by one party, confided in by the other as to a fact on which the whole cause depends, the execution of the agreement, and all proceedings under it, founded on the mistaken belief of the fact presented."
Rhode Island v. Massachusetts 37 U.S. 657, 735

This citation from Rhode Island v. Massachusetts, 37 U.S. 657, 735 is simply declaratory of Section 16 of the current Declaratory Judgment Act, 28 US Code.

The claim relied upon by the Secretary of State of Florida, of Mr. Obama's eligibility, comes from the Democratic National Committee (DNC). The DNC certainly is not a sovereign, and political parties are not even contemplated in the U.S. Constitution. We the people, on the other hand, the U.S. citizen "electors" of the State of Florida are sovereign. The compact and the judiciary protects us, and we are given the power to "protect and defend" the U.S. Constitution by our Florida Elector Oath, and by the judgment of the judiciary, to interpret the laws of the compact.

"These definitions lead to the definition of political versus judicial power and questions; the former is that which a sovereign or state exerts by his or its own authority – the latter is that which is granted to a court or judicial tribunal."
37 U.S. 657, 738

Neither the Democratic Party nor the Department of State of Florida is making a claim to the State that Barack H. Obama is a natural born citizen. The Democrat Party is simply a political faction that has no authority to say what the meaning of the term, natural born citizen is, and neither do they claim that Mr. Obama is indeed a natural born citizen. The DNC has simply engaged in the art of lawyerly wordsmith. The authority to define Constitutional terms comes from the judiciary. Certainly, as we have seen, this is a judicial question, not political, and this plea is certainly of the most common standing for judgment in a court of Equity.

"A judicial power means the power to interpret and not to make laws (Id. 673)." Plaintiff is making a prayer that the judiciary defines a term that the DNC legally cannot.

"If state legislature may annul the judgments of the courts of the United States, and the rights thereby acquired, the Constitution becomes a solemn mockery, and the nation is deprived of the means of enforcing its laws, by its own tribunal."
37 U.S. 657, 751

The Oath of Florida Electors to protect and defend the U.S. Constitution is a power given to them by the laws of Florida. There is no oath if there is no power to follow and carry out the thing that is sworn to. By that power, Plaintiff brings this plea for relief by Declaratory Judgment.

"It is a universal axiom, that the grant of a principal power, ipso facto, includes in it all the minor subsidiary powers necessary for the exercise of the main power, as incident to it."
37 U.S. 657, 705

There certainly is not "plain, adequate, and complete" remedy available, by Florida statutes, to the lack of discretion allowed by the Secretary of State, and the political parties, in Florida statutes.

No plain remedy is described in Florida Statutes for a "contest of election or nomination" action brought by a qualified elector of taxpayer against an ineligible candidate.

Fl. ss. 102.1682 describes a remedy available to another candidate in the same election or nomination race.

Fl. ss. 102.1682 (2) describes the remedy available when a referendum is successfully challenged. There is no like statute that voids an election or nomination of an ineligible candidate upon a successful contest of that election or nomination by a qualified elector or taxpayer.

According to the Declaratory Judgment Act, 28 US Code, courts of Equity are available to We the People if there is "no adequate and complete" remedy available in Florida law. Even if the facts of the contest were proven true, there is no statute describing the voidance of the election or nomination. Nevertheless, Florida, even if there was a remedy, has seen fit to allow a pleading in a court of equity, by Fl ss. 86.111 in the Circuit Court. Even if there were a statute to void the election or nomination, the intolerable situation that brought us to this point would remain. There is no statute applicable to the political parties, Secretary of State of Florida, or to the Presidential and Vice Presidential candidates themselves, that bars an ineligible candidate from seeking the highest offices in the land.

Florida statutes are a classic example of the allowance of "a false representation, made by one party, confided in by the other as to a fact on which the whole cause depends."
37 U.S. 657, 735

The behavior of the Florida State Legislature and the political parties is obviously a question of the "most common and undoubted jurisdiction of a court of equity." (Id. 735)

To have adequate and complete remedy, the lack of discretion to protect against the usurpation of the presidency must be acknowledged and fixed.

Purpose of the Natural Born Citizen Requirement

To ascertain the purpose of the requirement that the President and Vice President be natural born citizens, one must only look at two sources from the founding era. The purpose also gives way to the logical meaning that matches Supreme Court precedent.

In a letter from John Jay to George Washington on July 25, 1787, the future first Chief Justice of the Supreme Court writes:
"…to provide a strong check to the admission of foreigners into the administration of our national government, and to declare the Commander in Chief of the American Army, not to be given, nor devolve on, any but a natural born citizen."

And there is more from the men who were present at the Constitutional Convention; men who actually participated in the framing of the U.S. Constitution.

Alexander Hamilton had already proposed that the President be “born a citizen,” but was overruled in favor of “natural born citizen” after Jay’s letter to Washington. Shortly thereafter, in March, 1788, Hamilton wrote Federalist #68 concerning the election of the President.

“…but chiefly from the desire in foreign powers to gain improper ascendant in our councils. How could they better gratify this than by raising a creature of their own to the chief magistrate of the union? But the convention have guarded against all dangers of this sort with the most provident attention.”
Federalist #68, Alexander Hamilton, March 1788

The 1813 edition of Webster’s Dictionary reveals that the singular noun "ascendant" preceded by the indefinite article "an" means "ancestor". When examined in this light, it is clear that the prescription for the prevention of foreign influence, by way of an improper ancestor, is to "raise a creature of their own to the chief magistrate of the Union." If a "creature of the own" was the antidote, then the "improper ancestor" must be one who is not a member of the political community--- an alien. "Raising a creature of their own to the chief magistrate" certainly implies raising from birth, as a parent would raise a child to adulthood. Hamilton must have been referring to raising from birth a citizen, from within the US citizenry, a citizen insulated from any outside allegiance or interference. No other construction would make sense.

Barack Obama Sr. was a Kenyan British subject, never a U.S. citizen, or resident, or national, according to the U.S. INC. He is an "improper ascendant (ancestor)" to Barack H. Obama 2 for Article 2 Section 1, Clause 5 purposes. Thus Barack H. Obama 2 cannot be considered an Article 2 natural born citizen, eligible for President of the U.S.

(Exhibit D)

It is not possible that the framers, vehemently against foreign influence into the Oval office, could have allowed one born of foreign citizenship to be eligible. John Jay, as a matter of fact, wrote no less than 5 Federalist Papers on the subject of the dangers of foreign influence. It is interesting that the Obama campaign is using "American-born citizen" in describing Obama's eligibility, which is similar to Hamilton's initial suggestion of "born a citizen," which was rejected. "Born a Citizen" is the same definition used by Judge Malihi, in a Georgia administrative decision (OSAH-SECSTATE-CE 11215136-60-MALIHI), ignoring the fact that Congress' only Constitutional duty, with respect to citizenship is naturalization. (Article 1 Section 8 Clause 4)

The reality is quite the opposite. As we will see, no Supreme Court decision has ever held that "born a Citizen" equals "natural born citizen." Allegiance and parentage are the most important factors, in divining who is a natural born citizen, according to the Supreme Court, not simple birth within the territory. If the laws of the U.S. make anyone born in the U.S., without regard to parentage, a U.S. Citizen, then Congress has done that by its power to make naturalization law. Article 2, Section 1, Clause 5 is outside of the purview of naturalization law. Those children are "naturalized" not "born," even if they are called "citizens at birth" they are only made so by naturalization. If anyone born in the U.S. of any alien parent were eligible, then it certainly would not uphold the ideal of preventing foreign influence "with the most provident attention."

To guard against all danger of foreign influence cannot possibly include the allowance of one having allegiance to a foreign country at birth to be eligible.

"A creature of their own" cannot possibly mean birth to a Kenyan British subject father, who was never an American citizen or resident.

Further "a creature of our own" matches Vattel's Law of Nations' (1758) descriptive term, "indigenes," meaning "from within." It matches Minor v. Happersett, 88 Wall, 162, 167, 168

(1874) definition of "one born in the U.S. of U.S. citizen parents." It also matches the Tribe/Olsen advisory opinion from Resolution 511 hearings, March 17, 2008, "one born within the territory and allegiance of a nation." One cannot be born "within the allegiance" of a nation and be born with allegiance to another. Allegiance is singular in character. If birth within the territory is all that is needed, then Tribe and Olson, preeminent Constitutional scholars, would not have to say "within the allegiance." They are obviously referring to the two parts of the makeup of a natural born citizen, Blood and Soil, soli and sanguinas.

The consistency of the definition of "natural born citizen" over 250 years in indicative of the true meaning.

It is simply not possible that, in their abject fear of foreign influence, that the framers could have possibly allowed one born of foreign citizenship and allegiance to be eligible for President. The framers only trusted themselves in this regard, grandfathering themselves into eligibility with Article 2 Section 1 Clause 5, "…or a citizen at the time of ratification…"

Barack H. Obama was born 172 years too late to take advantage of that clause. That one is "born a citizen" is not enough. One must be born a natural born citizen, where no statute is needed to affirm citizenship, and born with allegiance to the United States only. Natural born citizenship was a security measure, and an eligible President is chosen from the largest sector of citizens in America, those that are naturally occurring, and those that are born on U.S. soil of two U.S. citizen parents.

Supreme Court Precedent

"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 indigenes are those born in the country of parents who are its citizens."
E. Vattel, "Law of Nations" (1758), Chapter 1 Section 212

This description from the Natural Law treatise, "Law of Nations," is quoted virtually verbatim in the dicta of the Supreme Court of the United States' case, The Venus, 12 U.S. 253 (1814) by none other than John Marshall, only 25 years after the ratification of the U.S. Constitution. Vattel's definition of citizenship and natural born citizenship is also mirrored in the unanimously decided case, Minor v. Happersett, 88 Wall 162 (1874).

"The Constitution does not, in words, say who shall be natural born citizens. Resort must be held elsewhere to ascertain that. At common law, with the nomenclature of which the framers were familiar, it was never doubted that all children born in a country of parents who were its citizens became themselves citizens also. These were the natives or natural born citizens, as opposed to aliens or foreigners." Minor v. Happersett, (88 U.S. 162, 167 (1874))

The Supreme Court cases Inglis v. Sailors of Snug Harbor, 28 U.S. 99, 126 (1830): Shanks v. Dupont, 28 U.S. 242, 245 (1830); The Slaughterhouse Cases, 16 Wall. 36, 73 (1872); and Elk v. Wilkins, 112 U.S 94, 101 (1884), all point to US Citizenship being decided by parentage, and allegiance through that US Citizen parentage, not mere birth within the territory of the U.S. This is contrary to Justice Gray's assertion, in Wong Kim Ark, that only birth within the territory was the determining factor in those cases.

Minor v. Happersett is the only Supreme Court case that construes Article 2 Section 1 Clause 5 of the U.S. Constitution. It was used to determine that Virginia Minor was a U.S. Citizen before the enactment of the 14th Amendment. It is precedent because it was a material fact in support of the holding of the case, that U.S. citizenship did not confer the right to suffrage. Virginia Minor claimed that the "privileges and immunities" clause of the 14th Amendment conferred the right to vote. The test applied by the Judge Waite-led court was whether there was a right to vote before the enactment of the 14th Amendment, since no new "privileges and immunities," were conferred by the 14th Amendment.

"It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted. This makes it proper to inquire whether suffrage was coextensive with the citizenship of the states

at the time of its adoption. If it was, then it may be with force argued that suffrage was one of the rights that belonged to citizenship, and in the enjoyment of which every citizen must be protected. But if not, the contrary must be assumed."
Minor v. Happersett (88 U.S. 162, 172)

That is the test that was applied to determine whether privileges and immunities of the 14th Amendment included the right to vote. To determine whether, prior to the 14th amendment, the right of suffrage existed, Virginia Minor's original citizenship, prior to the 14th Amendment had to be determined. The Court itself says that Ms. Minor's citizenship was a necessary holding of the case.

"Thus by the Constitution, the judicial power of the U.S. is made to extend to controversies between citizens of different states. Under this it has been uniformly held that the citizenship necessary to give the courts jurisdiction of a cause must be affirmatively shown on the record." Minor v. Happersett, 88 U.S. 162, 169 (1874)

Virginia Minor's U.S. citizenship, via her natural born citizenship, was ascertained by construing Article 2 Section 1 Clause 5, and thus the Court had jurisdiction to apply the test and defined the class of natural born citizen, to the exclusion of all other classes. It was a definition that was "never doubted," according to the Court.

Virginia Minor's natural born citizenship was a material fact necessary to make the decision that "privileges and immunities" never included the right to vote. If the court uses a reason as independent ground in support of its decision, then it is not simply dictum. Precedence for Supreme Court holding versus dictum is found in Ogilvie et al. v. United States (1996).

"Although we gave other reasons for our holding in Schleier as well, we explicitly labeled this reason as an independent ground in support of our decision, id. at 334. We cannot accept petitioners claim that it was simply dictum."
Ogilvie et al v. U.S., 519 U.S. 79 (1996)

Judge Waite, in the unanimous Minor court, labeled the independent ground in support of the decision thusly:

"To determine then, who were citizens of the United States before the adoption of the Amendment, it is necessary to ascertain what persons originally associated themselves together to form a nation, and what were afterwards admitted to membership." Minor v. Happersett, 88 U.S. 162, 166 (1874)

It must be determined then that the definition of natural born citizen in Minor v. Happersett is holding rather than dictum. This is further evidenced by the fact that the original citizenship holdings of Minor were repeated and cited in subsequent Supreme Court cases.

Wong Kim Ark (169 U.S. 649, 679, 680 (1898), repeated verbatim the same natural born citizen passage as Minor and never disagreed. Ex parte Lockwood ,154 U.S. 116 (1894) also cites the original citizenship holding of Minor v. Happersett.

"In Minor v. Happersett, 21 Wall. 163, this Court held that the word "citizen" is often used to convey the idea of membership in a nation, and, in that sense, women, if born of citizen parents within the jurisdiction of the United States, have always been considered citizens of the United States, as much so before the 14th Amendment as since."
Lockwood, Ex Parte, 154 U.S. 116 (1894).

In Boyd v. Nebraska ex rel. Theyer, 143 U.S. 135, Minor v. Happersett's original citizenship holdings were also cited (Id. 176).

<u>Ankeny v. Governor of Indiana, 916 N.E. 2d. 678 is not Precedent</u>

It should be noted that a Georgia administrative judge, Michael Malihi, has cited Ankeny v. Governor, 91 N.E. 2d. 678, an Indiana state appeals court case, as precedent for the definition of the term, natural born citizen, in an advisory opinion related to a challenge to Mr. Obama's

eligibility to be placed on the Ga. ballot (OSAH-SECSTATE-CE 11215136-60-MALIHI)) in Atlanta Superior Court.

It cannot possibly be considered that a state appeals court in Indiana can override Supreme court precedent. It is entirely under the authority of the U.S. Supreme Court to define constitutional terms. (Marbury v. Madison 5 U.S. 137 (1802))

The Ankeny court, in dicta, stated that a "citizen at birth" is the same as a natural born citizen. Of course, that thought violates the laws of statutory construction. "Where there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one, regardless of the priority of enactment."
Bulova Watch Co. v. U.S. 365 U.S. 753, 758 (1961)
Rodgers v. U.S., 185 U.S. 83, 87-89 (1902)

By basic laws of statutory construction, it cannot possibly be thought that the 14th Amendment and Article 2 Section 1 Clause 5 should be read "in tandem." Marbury v. Madison, with finality and forcefulness, quashes any thought that the two clauses can be read "in tandem."

"It cannot be presumed that any clause in the Constitution is intended without effect; and therefore, such construction is inadmissible, unless the words require it."
Marbury v. Madison, 5 U.S. 137, 174 (1803)

If the 14th Amendment was held to declare that all persons born in the country, and subject to the jurisdiction thereof were natural born citizens, then Article 2 Section 1 Clause 5 would not be needed and would be superfluous. Article 2's specific provision would be governed by the general provision of the 14th Amendment, which determines who is a "U.S. Citizen." Judge John Marshall said that an argument such as that is inadmissible (Id. 174). Further, it must be noted that absolutely no evidence exists that those that drafted the 14th Amendment had any intention of "changing", or to "define" Article 2 Section 1 Clause 5. The opening sentences were purely within the purview of Congress to set and administer naturalization law. Examination of the Congressional Globe shows that those in attendance only sought to create

naturalization law that coexisted with Article 2 Section 1, Clause 5. Congressional Globe, 39th Cong. 1st sess. pt1, pp. 498, 573, 574

Further, to say that a "citizen at birth" is the same as a "natural born citizen" would subject the requirements of Presidential eligibility to the whim of Congressional naturalization statutes. This is clearly unconstitutional, as the body of the Constitution can only be changed by amendment, not by the statutory provisions of Congress.

If a "citizen at birth" was a natural born citizen, then according to USC 8 Section 1401 (g), a person born outside the U.S. to one alien parent would be eligible to be President or Vice President. This is clearly not in any way possible, especially in light of the purpose of the natural born citizen requirement – to prevent foreign influence.

While the Ankeny case relies heavily on Wong Kim Ark, 169 U.S. 649 (1898), the Wong Kim Ark case actually cites the Minor definition of natural born citizen verbatim, and never disagrees. (Id. 679, 680)

To even consider that a natural born citizen is the same as a "natural born subject" of England is totally disingenuous. All U.S. citizens are sovereign, and are ruled by a compact of law (U.S. Constitution) and can become the chief magistrate if they qualify. British Common Law is based on an amalgamation of judicial decisions, and British subjects have no right to the British Crown, except by blood, and are merely subjected to the whims of the rule of the Royal Crown. Didn't we, as Americans, throw off "subjectship" in the American Revolution? Our laws are based on the law of nature, as stated in the Declaration of Independence; i.e. " law of nature and nature's God," in 1776. The body of law known as "natural law", as described by Vattel, Pufendorf, et al., is inscribed in the Constitution in Article 1 Section 8 Clause 10 (law of nations). While some elements of British Common Law were used, it certainly was not adopted whole cloth, as a body of law, into the US Constitution.

The definition that natural born citizens are born in the U.S. of U.S. citizen parents (88 U.S. 163, 167) was cited in Wong Kim Ark. That the definition of natural born citizen "was not in

the Constitution," means that it was not in the 14th Amendment, as both Minor and Wong King Ark were decided the enactment of that amendment.

Judge Malihi attempts to claim that the definition of natural born citizen in Minor (Id. 168) "leaves open" the question of whether those born of alien parents in the U.S. are natural Born citizens. This is totally false.

"Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their parents. As to this class there have been doubts, but never as to the first." 88 U.S. 162, 168 (1874)

First, "authorities" did not differ on whether those children, born of aliens within the U.S., were "natural born citizens." They differed on whether those children were "citizens." Judge Malihi is inserting words that are not in the decision. As we have seen before, "citizen" refers to membership in the nation, "and nothing more," (Id. 166). The court in Minor was determining if, before the 14th Amendment, women were members of the nation; and whether they had the right to vote. They construed Article 2 Section 1 Clause 5, in order to establish the necessary holding of Virginia Minor's citizen ship before the 14th Amendment, to establish standing as to the test of whether citizens, before the 14th Amendment, had the right of suffrage as a privilege and immunity. Judge Waite was not attempting to establish that Virginia Minor was eligible to be President or Vice President. He used Article 2 to establish that women were citizens before the enactment of the 14th Amendment.

Judge Malihi makes a footnote of the fact that the Wong Kim Ark case was not about whether Wong Kim Ark was eligible to be President (Footnote 6 OSAH – Secretary of State – CE – (215136, 215137) – 60 Malihi, 1216216-60, 1216823-60), which is correct. Nowhere in the holding does the Wong Kim Ark court ever say that Wong Kim Ark was a natural born citizen, only whether Wong Kim Ark was a citizen by the 14th Amendment, the more general statute, which refers to the constitutional responsibility of Congress to establish naturalization laws. The more specific statute, Article 2 Section 1 Clause 5 establishes by natural laws who

were the first U.S. citizens, those residing in the colonies at the time the U.S. Constitution was ratified, and natural born citizens, those born in the U.S. of U.S. citizens. Natural born Citizens need no congressional statute, including the 14th Amendment, to make them U.S. citizens. Their citizenship is self-evident, what else would they be? The citizenship of natural born citizens is not within the constitutional purview of Congress. Wong Kim Ark, according to the Wong Kim Ark case, was naturalized at birth by the 14th Amendment. Left out of the equation by both Judge Horace Gray and Judge Malihi was that Wong Kim Ark's parents were indeed "subject to the jurisdiction" of the U.S. The Burlingame Treaty, in operation at the time, allowed Chinese immigrants to subject themselves to the jurisdiction of the U.S., but not to naturalize (Article 5, Burlingame-Seward Treaty). They were nationals of the U.S., but not U.S. citizens.

"The evident intention, and the necessary effect, of the submission of the case to the decision of the Court upon the facts agreed by the parities were to present for determination the single questioned stated at the beginning of this opinion, namely, whether a child born in the United States, of parent of Chinese descent, who at the time of his birth, are subjects of the Emperor or China, but have a permanent domicile and residence in the United States, and are there carrying on business, and are not employed in any diplomatic or official capacity under the Emperor of China, becomes at the time of his birth a citizen of the United States. For the reasons above stated, this Court is of the opinion that the question must be answered in the affirmative. *Order affirmed.*"

Wong Kim Ark, 169 U.S. 649, 705 (1898)

Reading anything more than "Wong Kim Ark was a citizen at birth because his parents were subject to the jurisdiction of the U.S." is a failure to follow the rules of statutory construction. Judge Gray, in the same case, even says so.

"In weighing a remark uttered under such circumstances, it is well to bear in mind the often quoted words of Chief Justice Marshall. It is a maxim not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The

reason of this maxim is obvious. The question actually before the court is investigated with care, and considered in its full extent. Other principles which may serve to illustrate it are considered in their relation to the case decided, but their possible bearing on all other cases in seldom completely investigated. Wong Kim Ark, 169 U.S. 649, 679 (1898)."

Any dicta in Wong Kim Ark about "natural-born Subjects" is simply that, obiter dicta, and are not related to the ruling, which was that Wong Kim Ark was a U.S. Citizen by application of the 14th Amendment, i.e. the Congressional determination of whom is a U.S. citizen, a member of the nation.

Article 2 Section 1 Clause 5 is the natural law the framers used to establish who was a U.S. citizen, eligible for President. Children of aliens and foreigners, certainly were not admitted to citizenship by Article 2, nor by the first congress' naturalization acts, only children of U.S. Citizens, and those that were present at the time of Constitutional ratification were admitted as members of the nation. All others in between those born in the U.S. of U.S. citizens, and the polar opposite of "aliens and foreigners" fall under the purveyance of Congressional Naturalization Acts. As we have seen, Article 2 Section 1 Clause 5 and the 14th Amendment have separate effect, can operate side by side, complementary to each other, and make no explicit statement that they operate "in tandem." Indeed, citizens may be born or naturalized, but all those not born of U.S. citizens on U.S. soil are naturalized in some way, either by the 14th Amendment, or by Congressional statute, such as US. Code 8 Section 1401 (citizens at birth). By operation of the law of statutory construction those naturalized by Congressional statute are separate from those naturalized by natural law in Article 2 Section 1 Clause 5, and are not eligible to become President or Vice President of the United States.

The dicta, in Wong Kim Ark, about "natural born subjects," is not an independent factor "in support" of, has no weight, and has no relation to the holding of the case. The holding of the case is that the children of Chinese resident aliens, subject to the operation of the Burlingame Treaty, and "subject to the jurisdiction of the U.S." were "citizens," or members of the nation. The citation of the exact passage defining natural born citizens of Minor, without disagreement, shows that the Wong Kim Ark court was construing the 14th Amendment to

determine if Wong Kim Ark was a "citizen," naturalized by the 14th Amendment, not by Article 2 Section 1 Clause 5.

That Judge Malihi admits, in footnote (6) that Wong Kim Ark was not about whether Wong Kim Ark was eligible to be President proves that he violates one of the tenets of statutory construction.

"In the absence of words of limitation, words in a statute should be given their ordinary and everyday meaning. Because there is no other natural and reasonable construction of the statutory language, this court is not authorized to either read into or read out that which would add to or change its meaning."
Six Flags Over Ga. V. Kull, 276 Ga. 210, 211 (2003)

Lastly, even though Plaintiff disputes the dicta of Ankeny forcefully, it should be noted that any discussion in the case about natural born citizens should be disregarded, since the case ruling was that since the Governor of Indiana, Mitch Daniels, had no duty to ascertain eligibility of Presidential candidates, that the case was dismissed for standing. The evident ruling, was failure to state a claim upon which relief can be granted, since the governor has no duty to ascertain eligibility. It did not matter if Mr. Obama or Mr. McCain were eligible or not.

"Thus, we conclude that Plaintiffs argument that the Governor has allowed President Barack Obama <u>and</u> Senator John McCain to be appointed "Elector in Chief" is in violation of Article II, Section 1, Clause 2's prohibition against sitting Senators being appointed Elector for any State that fails to state a claim upon which relief can be granted." Ankeny v. Governor of Indiana, 916 N.E. 2d. 678 ,10 (2009)

"The sole issue is whether the trial court erred when it dismissed Plaintiffs complaint."Ankeny v. Governor of Indiana, 916 N.E. 2d. 678, 3 (2009)"

Anything that the Ankeny Court said about who is a natural born Citizen conflicts with the Supreme Court, and is simply dicta. Judge Malihi simply cannot rely on dicta from an Indiana appeals court case, which is identified as dicta within that case, over the precedence of a multitude of Supreme Court cases, with a straight face.

Conclusion

It cannot be left to stand that the Florida electorate is left in the dark regarding the constitutional eligibility of Presidential Candidates on the Florida ballot. There must be accountability, preferably by the Federal Candidate Oath of eligibility, and a requirement that the Nomination Certificates from the political parties state plainly that the candidates are "Constitutionally Eligible," for the office they seek.

The Florida legislature and Department of State have thumbed their noses at the electorate. They insist that "by law" no one has to verify or confirm any constitutional eligibility. Thus, "by law," there exists the possibility that no one on the general election ballot for President of the U.S. in Florida is eligible. The Florida statutes have made new law with regard to Article 2 Section 1 of the US Constitution, saying that, in essence, Presidents and Vice Presidents do not even have to be "Citizens", much less "natural born Citizens."

An attorney for the Florida Department of State, Mr. Gary Holland, has said directly:
"It is possible that all candidates for president in Florida in any presidential election could be constitutionally ineligible since currently the Secretary of State has no authority to pass upon the eligibility of the candidates."

Plaintiff realizes that there is release of liability language in the exhibited email, and also appreciates Mr. Holland's candor. The real reason that there exists that possibility is that the Secretary of State of Florida, aided by the Florida legislature, is following new law that excuses him of doing minimal ministerial duty, which would prevent most ineligible candidates from running, under the penalty of fraud. Again, if prior to the enactment of 2011 Florida Statutes Chapter 40 (HB 1355), the candidates did not legally have to take the oath, why was Fl. Ss. 99.021 (3) slid into the statute now? Prior to 2011 Florida Statutes chapter 40, Fl. Ss. 99.021 (2) said ALL Federal candidates "SHALL" take the oath, as it does now. It did not conflict with the PPSC, and neither was there any exclusionary language. As custodian of elections, the Secretary of State (or the state legislature) could also require the political parties to issue to them a nomination certificate stating that the nominated candidate is

"constitutionally qualified." Neither of these simple steps could be seen as a judgment of the candidate's eligibility by the Secretary.

Can it possibly be okay that the candidates on the Florida ballot are not eligible, just because Florida law "allows" it?

Just as importantly, why does the DNC, the Florida Democrat delegation and Barack Obama himself refuse to certify or make a claim that Barack H. Obama is eligible for the Office of President?

The explicit words, "Barack Obama is a natural born citizen," are even avoided at Mr. Obama's own campaign websites, paid for by "Obama for America." There he is only said to be a "native citizen" and an "American born citizen."

For these reasons, and by exhaustive research into the matter, Plaintiff finds that Barack H. Obama must not be eligible. Conforming to his oath to protect and defend the U.S. Constitution, Plaintiff brings his findings to this venerable court of equity, in order to verify the veracity of what he has found. For the benefit of the nation, and the voters of Florida, Plaintiff asks that the Department of State of Florida reform its qualifying process so as to reflect deference to the requirements of the U.S. Constitution, and to ask two simple questions. What is a natural born citizen? Is Barack H. Obama, born a British subject, of a British subject father, an eligible natural born citizen, according to Article 2 of the U.S. Constitution?

According to the U.S. Department of State, the concept of dual nationality exists, but "U.S. Law" does not mention Dual Nationality."

"Persons may have dual nationality by automatic operation of different laws, rather than by choice."

"Dual nationals owe allegiance to both the United States and the foreign country. They are required to obey the laws of both countries."
www.Travel.State.gov

At 7FAM 081 of the U.S. Department of State Foreign Affairs Manual, the U.S. policy on Dual Nationality can be found.

"While recognizing the existence of dual nationality, the U.S. Government does not encourage it as a matter of policy because of the problems it may cause." 7FAM 081(e)

The Foreign Affairs Manual also states:

"A person may have and exercise rights of nationality in two countries and subject to the responsibilities of both." Kawakita v. U.S., 343 U.S. 717 (1952)
7FAM 082

At best, Barack H. Obama, Democrat candidate for President, was born a dual citizen of Britain, and the U.S., by his own admission.

It is a fact that the natural born citizen requirement of the President is a security requirement. Its intent is to ensure, to the highest degree possible, allegiance and attachment to country. It is meant to prevent the Commander in Chief from having to choose between competing loyalties. As the laws of the United States acknowledge problems associated with dual citizenship, it is impossible to think that the framers would have allowed these contradictions by allowing one born a dual citizen to become President.

While many different terms are used to describe those either born in the United States or "born a U.S. citizen," the correct Article 2 term is "natural born citizen". "Native-citizen," "native-born citizen," "U.S. citizen at birth," and "American-born citizen," are all similar terms. While a "natural born citizen" may be all of those descriptive terms, only those born of two U.S. citizens on U.S. soil are Article 2, constitutional natural born citizens, eligible to be President. The words of the Constitution must be given specific meaning, according to Justice Marshall, in Marbury v. Madison.

Children of aliens, born within the United States are only presumed to assume U.S. citizenship in the laws of the United States. The Supreme court has yet to specifically rule on that matter. As a matter of fact, Justice Antonin Scalia deemed Yaser Handi a "presumed citizen," in the dissent of Handi v. Rumsfeld, 542 U.S. 507 (2004), since Mr. Handi was born in America to Saudi nationals, not U.S. citizens. Justice Sandra O'Connor, writing the decision, deemed him "born an American citizen." Ironically, that is how Barack H. Obama's own campaign website, paid for by "Obama for America," describes him, an "American-born citizen." If a "citizen at birth," as Judge Malihi asserts, is a natural born citizen, eligible for President, then how is it possible that segments of that denotation are only "presumed citizens" in the eyes of Supreme Court justices? That Barack H. Obama, a constitutional scholar, has refused to deem himself by the exact Constitutional term is telling. It's telling the Plaintiff that Mr. Obama knows he is not eligible.

Interpretations of the laws of the United States also make a definite delineation between native born and natural born citizens in "Interpretation 324.2 Reacquisition of citizenship lost by marriage," Interpretation 324.2 (a) (3) provides:

"The words shall be deemed to be a citizen of the United States to the same extent as though her marriage had taken place on or after September 22, 1992," as they appeared in the 1936 and 1940 statutes, are prospective and restore the status of native-born or natural-born citizen (whichever existed prior to the loss) as of the date citizenship was reacquired."

Clearly, the INS of the United States makes a distinction between "native-born" and "natural –born" when it says, "whichever existed prior to the loss."

Yet again, the INS makes that distinction clear at Interpretation 324.2 (b):

"The effect of naturalization under the above statutes was not to erase the previous period of alienage, but to restore the person to the status if naturalized, native, or natural-born citizen, as determined by her status prior to loss."

And there you have it. The U.S. government officially recognizes a distinction between "native born citizens" and "natural born citizens." Further, the State Department recognizes problems and conflicts associated with dual citizenship. It certainly cannot be possible that the framers, in their infinite wisdom, would allow those conflicts to permeate the office of President and Commander in Chief of the Armed Forces.

No Supreme Court case affords the status of natural born citizen to anyone but those born in the U.S. to two U.S. citizen parents. As late as 1964, the U.S. Supreme Court has made the distinction between native born citizens, presumed to be naturalized by Congress at birth, by birth in the U.S., and natural-born citizens, those eligible to be President.

"We start from the premise that the rights of citizenship of the native born and of the naturalized person are of the same dignity and are extensive. The only difference drawn by the Constitution is that only the "natural born" citizen is eligible to be President. Article 2, Section 1."
Schneider v. Rusk, 377 U.S. 163, 165 (1964)

This statement by the Supreme Court specifically recognizes natural born citizens as a subset of native-born citizens. It also clarifies that a natural born citizen must be native born. No naturalized citizens, even born of U.S. citizens outside of the U.S., are eligible. That the Court refused to identify all native born citizens as "natural born," and the use of quotes around the exact Constitutional term should be seen as intentional.

Alexander Hamilton, a founder of the country, present during the framing of the U.S. Constitution, would find Barack Obama Senior, Barack H. Obama's father, as an "improper ancestor." An "improper ancestor" presents a clear and present danger of foreign intrigue and influence to the Commander in chief. There is no way that the son of a Communist Kenyan, British subject would be considered a "creature of our own" by the founders.

Article 2 Section 1 Clause 5 has never been changed or amended. If it is to be changed it must be done by amendment, not congressional statutes, nor by usurpation. "Natural born citizen," means what is did in 1787, and its meaning is well documented. If the purpose of the requirement was the

prevention of foreign influence, then how is it possible that Barack H. Obama, born a British subject of a British subject father, is an eligible natural born citizen?

It is not possible, and Plaintiff brings his prayer for relief here to the court of equity. The allowance of persons like Barack H. Obama, to appear on the Florida ballot must be stopped. At the very least, he should be made to take an eligibility oath, under penalty of fraud, a felony, in order to be on the ballot. At the very least, the political parties should be mandated to affirm that their candidates for President and Vice President are "Constitutionally Eligible". It is noted that the Republican nomination makes that claim, but the DNC certificate from 2008 does not--- Why? These simple steps would correct the ministerial duty of the Secretary of State of Florida, and would show discretion to the security requirements of Article 2 Section 1. The Florida Secretary of State, and the Florida legislature, have failed miserably to uphold the holding from the Supreme Court, in Bush v. Gore, 531 US 98 (2000), that the ministerial duties associated with Presidential elections show discretion to Article 2 of the U.S. Constitution.

Plaintiff asks that judicial attention be paid to the Amicus Brief of Leo Donofrio, Esq., entered to the Office of Administrative Hearings, State of Georgia, Docket number: OSAH-SECSTATE-CE-1215136-60 MALIHI

(Exhibit E)

Be it entered Humbly,

Plaintiff
MICHAEL C. VOELTZ

Remedies

(I) Pursuant to Florida Statutes 97.021 (6), requiring the Secretary of State to educate the electorate and the oath of the Secretary of State of Florida to support the U.S. Constitution, Plaintiff requests, by Declaratory Judgment, a definition of natural born citizen of Article 2 Section 1 Clause 5.

(II) An injunction on the certification, by the Florida Election Canvassing Commission, of the certification of Barack H. Obama II as Democrat nominee to the Democrat National Convention by the Florida Democrat Delegation.

(III) An injunction against the provisions of 2011-Chapter 40 Florida Statutes (HB 1355), signed by Governor Rick Scott, and enacted in May 2011, that excuse the President and Vice Presidential candidates from taking the "Federal Candidate Oath" of 99.021 (2). The specific statute regarding this exclusion is 99.021 (3).

(IV) An injunction on the placement of Barack H. Obama on the Florida General Election ballot.

(V) Writ of Mandamus requiring that the Florida Secretary of State perform the Federal Candidate Oath (Fl. Ss 99.021 (2)) on all Presidential and Vice Presidential candidates on the Florida General Election ballot in the Presidential Primaries.

(VI) Writ of Mandamus requiring that the Florida Secretary of State perform the Federal Candidate Oath (Fl. Ss 99.021 (2)) on all Presidential and Vice Presidential candidates on the Florida General Election ballot for the General Election of November 2012.

(VII) Writ of Mandamus that the nomination certificate, after the party conventions, for all political parties, to the Florida Department of State, for the 2012 General Election onward, shall state plainly that the President and Vice Presidential candidates certified meet the Constitutional qualifications of the office.

Plaintiff

Michael C. Voeltz

Plaintiff