

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHAEL C. VOELTZ,
Plaintiff,

Case No.: 2012 CA 003857

vs.

BARACK HUSSEIN OBAMA, et. al.
Defendants.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT OBAMA'S NOTICE OF
APPLICABILITY OF 3 USC § 5**

Plaintiff Michael Voeltz, by and through his undersigned counsel, hereby files his Response in Opposition to Defendant Obama's Notice of Applicability of 3 U.S.C. § 5.

The Florida Contest of Election was intended to work in tandem with federal law and provides for an immediate hearing in order to resolve any problems with the election process. Section 102.168(7), Florida Statutes, provides that “[a]ny candidate, qualified elector, or taxpayer presenting such a contest to a circuit judge is entitled to an immediate hearing.” Plaintiff properly requested an expedited hearing and is entitled to one.

Plaintiff Michael Voeltz filed his lawsuit timely on November 29, 2012 in the time provided for by the Florida Contest of Election statutes, and specifically requested an expedited hearing in his Prayer for Relief. Compl. ¶ II. Yet even if he had not specifically requested such relief, which he did, the Florida Statutes still mandate that Plaintiff is entitled to an immediate hearing by law simply through the act of filing the lawsuit in front of a circuit judge. Section

102.168(7), Florida Statutes. Thus, by filing this lawsuit, Plaintiff has met the requirements for an immediate hearing and was and remains entitled to one.¹

The text of 3 U.S.C. § 5 provides that:

"[I]f any State shall have provided by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned."

Read simply, it provides that any conclusive determination made prior to that particular date "shall be conclusive, and shall govern in the counting of the electoral votes." This creates a sense of finality for Florida court decisions and mandates that these state decisions govern, as the states are responsible for the determination of electoral votes. **This law does not end timely filed and continuing litigation nor does it state that any decision made after the deadline is not conclusive.** The Florida courts have the power and the duty to decide any election contest, and must do so in this case. See *State ex rel. Cherry v. Stone*, 265 So. 2d 56, 58 (Fla. Dist. Ct. App. 1st Dist. 1972); *Shevin v. Stone* 279 So. 2d. 17, 22 (1972). Indeed, the 10th Amendment to the Constitution guarantees that states such as Florida have jurisdiction in their own voting procedures, preserving the sanctity of state law.

¹ Plaintiff has also asked for declaratory relief, and specifically asked for an expedited hearing due to the looming Elector meeting, specifically invoking Section 86.011, Florida Statutes, which further negates Defendants' nonsensical, frivolous, and false argument that Plaintiff failed to notify the court that expedited hearing was requested. Section 86.111 states as follows:

86.111 Existence of another adequate remedy; effect.—The existence of another adequate remedy does not preclude a judgment for declaratory relief. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar. The court has power to give as full and complete equitable relief as it would have had if such proceeding had been instituted as an action in chancery.

Plaintiff has dealt with this shell game for far too long. Defendants argued in other cases that this case or controversy is not ripe before the election, and after the election now say that there is not enough time for these proceedings. While a convenient "Catch 22" heads I win tails the Florida voter loses analysis, the bottom line is that Barack H. Obama is likely not eligible to hold the Office of President of the United States, and to this date there has not been a single real effort as is required through a court eligibility contest to confirm if he is or is not eligible. To the contrary, investigation by official sources shows that Barack H. Obama is likely ineligible to the nation's 44th president. Exhibit 1. It is time for the Defendants' charade to come to an end and for the Florida courts, as so required by law, to finally resolve this issue once and for all.

Dated: December 14, 2012

Respectfully submitted,

/s/ Larry Klayman
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Counsel for Plaintiff

CERTIFICATION

I HEREBY CERTIFY that a true copy of the foregoing Response in Opposition to Defendant Obama's Notice of Applicability of 3 U.S.C. § 5 has been filed electronically and served by U.S. mail this 14th day of December, 2012 upon the following:

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Respectfully submitted,

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Exhibit 1

State of Arizona)
) ss.
County of Maricopa)

AFFIDAVIT

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury that the facts are true:


1. I am over the age of 18 and am a resident of Arizona. The information contained in this affidavit is based upon my own personal knowledge and, if called as a witness, could testify competently thereto. I am an investigator with Maricopa County Sheriff's Cold Case Posse.
2. In August 2011, approximately 250 members of the Surprise, Arizona, Tea Party, who are residents of Maricopa County, presented a signed petition asking Sheriff Joe Arpaio to undertake an investigation to address concerns regarding President Barack Obama's long-form birth certificate released by the White House on April 27, 2011.
3. Residents of Maricopa County were concerned that document released was suspected to be a computer-generated forgery, not a scan of an original 1961 paper document, as represented by the White House when the long-form birth certificate was made public.
4. The Tea Party members petitioned under the premise that if a forged birth certificate was utilized to obtain a position for Barack Obama on the 2012 Arizona presidential ballot, their rights as Maricopa County voters could be compromised.
5. In October 2011, Sheriff Arpaio commissioned the Maricopa County Sheriff's Office Cold Case Posse, which is comprised of former law enforcement investigators and practicing attorneys, to investigate President Barack Obama's long-form birth certificate released by the White House on April 27, 2011. The purpose of this investigation was to determine if the document was, in fact, authentic.
6. As lead investigator for the Cold Case Posse, I agreed to Sheriff Arpaio's request to undertake the investigation into President Obama's birth certificate and his eligibility to be president.

7. In February, 2012, Cold Case Posse investigators advised Sheriff Joe Arpaio that the forgers most likely committed two crimes: first, in fraudulently creating a forgery that the White House characterized, knowingly or unknowingly, as an officially produced governmental birth record; and second, in fraudulently presenting to the residents of Maricopa County and to the American public at large, a forgery the White House represented as “proof positive” of President Obama’s authentic 1961 Hawaii long-form birth certificate. These conclusions were based upon, but not limited to, input from numerous experts in the areas of typesetting, computer generated documents, forensic document analysis and Adobe computer programs, as well as, review of Hawaii state law, Hawaii Department of Health policies and procedures, and comparisons with numerous other birth records.
8. The Cold Case investigators further determined that the Hawaii Department of Health has engaged in what Sheriff’s investigators believe is a systematic effort to hide from public inspection whatever original 1961 birth records the Hawaii Department of Health may have in their possession, including changing policies and procedures and denying valid Freedom of Information Act (FOIA) requests for information related to the 1961 birth records (said requests were not for any birth records).
9. Among the evidence released at the March 1, 2012, press conference were five videos the Cold Case Posse produced to demonstrate why the Obama long-form birth certificate is suspected to be a computer-generated forgery.
10. The videos provide a true and correct point-by-point illustration of the investigators’ conclusion that the features and anomalies observed on the Obama long-form birth certificate were inconsistent with features produced when a paper document is scanned, even if the scan of the paper document had been enhanced by Optical Character Recognition (OCR) and optimized.
11. Additionally, the videos demonstrated that the Hawaii Department of Health Registrar’s name stamp and the Registrar’s date stamp were computer-generated images imported into an electronic document, as opposed to actual rubber stamp imprints inked by hand or machine onto a paper document. Based upon this, the document published on the White House website, is, at a minimum, misleading to the public as it has no legal import and cannot be relied on as a legal document verifying the date, place and circumstance of Barack Obama’s birth.

12. The investigators also chronicled a series of inconsistent and misleading representations that various Hawaii government officials have made over the past five years regarding what, if any, original birth records are held by the Hawaii Department of Health.

13. The Cold Case Posse's law enforcement investigation into Barack Obama's birth certificate and his eligibility to be president is continuing, as additional information has been obtained and developed supporting the current findings of the Cold Case Posse. As soon as that information is properly sourced and verified, that additional information will be released to the public at the direction of Maricopa County Sheriff Joe Arpaio.

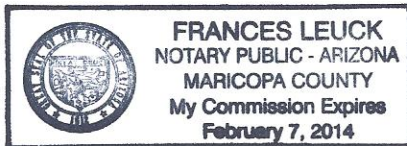
Executed this 11 day of June, 2012, in
Maricopa County, Arizona.



Michael Zullo

Sworn to and subscribed before me this
11th day of June, 2012.





State of Arizona)
) ss.
County of Maricopa)

AFFIDAVIT

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury that the facts are true:

1. I am over the age of 18 and am a resident of Arizona. The information contained in this affidavit is based upon my own personal knowledge and, if called as a witness, could testify competently thereto. I am the duly elected Sheriff of Maricopa County, Arizona, and I have been a law enforcement officer and official, in both state and federal government, for 51 years.
2. In August of last year, a group of citizens from the Surprise Arizona Tea Party organization met with me in my office and presented a petition signed by approximately 250 residents of Maricopa County, asking if I would investigate the controversy surrounding President Barrack Obama’s birth certificate authenticity and his eligibility to serve as the President of the United States.
3. This group expressed its concern that, up until that point, no law enforcement agency in the country had ever gone on record indicating that they had either looked into this or that they were willing to do so, citing lack of resources and jurisdictional challenges.
4. The Maricopa County Sheriff’s Office is in a rather unique position. Under the Arizona Constitution and Arizona Revised Statutes, as the elected Sheriff of Maricopa County, I have the authority to request the aid of the volunteer posse, located in the county, to assist me in the execution of my duties. Having organized a volunteer posse of approximately 3,000 members, I, as the Sheriff of the Maricopa County Sheriff’s Office, can authorize an investigation go forward to answer these questions at virtually no expense to the tax payer.
5. The Cold Case posse agreed to undertake the investigation requested by the 250 citizens of Maricopa County. This posse consists of former police officers and attorneys who have worked investigating the controversy surrounding Barack Obama. The investigation mainly focused on the electronic document that was

presented as President Obama's long form birth certificate to the American people and to citizens of Maricopa County by the White House on April 27, 2011.

6. The investigation led to a closer examination of the procedures regarding the registration of births at the Hawaii Department of Health and various statements made by Hawaii government officials regarding the Obama birth controversy over the last five years.
7. Upon close examination of the evidence, it is my belief that forgery and fraud was likely committed in key identity documents including President Obama's long-form birth certificate, his Selective Service Registration card, and his Social Security number.
8. My investigators and I believe that President Obama's long-form birth certificate is a computer-generated document, was manufactured electronically, and that it did not originate in a paper format, as claimed by the White House. Most importantly, the "registrar's stamp" in the computer generated document released by the White House and posted on the White House website, may have been imported from another unknown source document. The effect of the stamp not being placed on the document pursuant to state and federal laws means that there is probable cause that the document is a forgery, and therefore, it cannot be used as a verification, legal or otherwise, of the date, place or circumstances of Barack Obama's birth.
9. The Cold Case Posse law enforcement investigation into Barack Obama's birth certificate and his eligibility to be president is on-going. The on-going nature of the investigation is due to additional information that has come to light since we held the press conference in March, 2012. As soon as that information has been properly verified by the Cold Case Posse, I will release that information to the public.

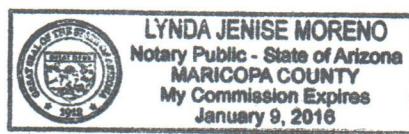
Executed this 12 day of June, 2012, in
Maricopa County, Arizona.



Joseph M. Arpaio, Maricopa County Sheriff

Sworn to and subscribed before me this
12th day of June, 2012.

Lynda Jenise Moreno



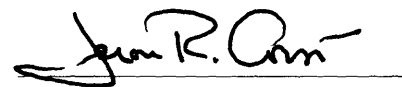
AFFIDAVIT

1. I am currently employed as a Senior Staff Reporter at WND.com.
2. On August 17, 2011, I spoke at a meeting of the Surprise, Arizona, Tea Party, where approximately 250 residents of Maricopa County, signed a petition asking Sheriff Arpaio to undertake an investigation to address concerns regarding President Barack Obama's long-form birth certificate released by the White House on April 27, 2011.
3. The following day, August 18, 2011, I met with members of the Surprise, Arizona, Tea Party with Sheriff Arpaio and his staff in Sheriff Arpaio's Maricopa County Sheriff's Office in downtown Phoenix. The Tea Party group presented the Sheriff with the petition and asked that he undertake the investigation. Sheriff Arpaio suggested he would take the request under consideration, with the possibility he might assign the investigation to the Cold Case Posse.
4. I reported the speech and the meeting with Sheriff Arpaio in an article I published in WND.com, on April 22, 2011, at <http://www.wnd.com/2011/08/336473/>.
5. In September 2011, Sheriff Arpaio agreed to assign the Obama investigation to his Cold Case Posse, headed by lead investigator Mike Zullo. I reported this in WND.com, on September 16, 2011, at <http://www.wnd.com/2011/09/345685/>.
6. At Sheriff Arpaio's request, I agreed to turn over to the Cold Case Posse all the research I conducted to write my book "Where's the Birth Certificate: The Case that Barack Obama is Not Eligible To Be President," published May 17, 2011, as well as all relevant research I conducted subsequently.
7. At Mike Zullo's request, I flew to Phoenix and met with the Cold Case Posse on Friday, October 14, 2011, and Saturday, October 15, 2011, for approximately 8 hours each day, to present the research requested.
8. My research, published and/or provided to date, reveals and shows a likelihood that key identity papers for President Obama have been forged,

including his long-form birth certificate released by the White House on April 27, 2011, and his Social Security Number.

9. Based as well on extensive research and investigation, I have written and published a book on the subject of Barack Obama's eligibility to be president of the United States and found that, at a minimum, there are significant issues of fact that are in dispute as to where he was born, Hawaii as he claims, or outside of the United States and its territories. I am incorporating into this affidavit the contents of my book: "Where's the Birth Certificate?: The Case that Barack Obama is Not Eligible to be President" which sets forth my findings, as Exhibit 1. I attest to the accuracy of my book.

Sworn to and executed under oath this 12th day of June, 2012 in Morris Plains, NJ



Jerome Corsi, Ph.D.

Sworn to and subscribed before me this
12 day of JUNE, 2012

