

CIVIL ACTION

NO. 08-1001-C368

JODY A. BROCKHAUSEN

Plaintiff

vs.

**ESPERANZA ANDRADE,
ACTING IN THE OFFICE OF
TEXAS STATE,
SECRETARY OF STATE**

Defendant

1. MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR AN INJUNCTIVE RELIEF ORDER

1.1. Plaintiff

Jody A. Brockhausen, [hereinafter "Plaintiff"] hereby offers this memorandum in support of his motion for injunctive relief, to demand performance of constitutional duties related to the Office of Texas State, Secretary of State by Esperanza Andrade, a/k/a Hope Andrade, [hereinafter "Defendant"].

1.2. Plaintiff's complaint challenges the presidential candidate Mr. Barack Obama's eligibility to run for the Office of President and demands that the Office of Secretary of State make such determination by acquisition of original documentation or by receipt of verifiable information from another government entity so charged with overseeing the election process such as the Federal Elections Commission.

1.3. Plaintiff argues that when a challenge is received by the Texas State, Secretary of State to the qualification for office of a candidate appearing on the Texas State Ballot that the entire burden of proof falls on the Candidate for Office to present such information and documentation to the Texas State, Secretary of State as would be normal and customary to establish ones minimum qualifications for office.

1.4. Plaintiff argues that the Office of Secretary of State has the Constitutional and Statutory authority to make such determinations as part of certifying and executing fair and open elections.

1.5. Plaintiff argues that it is only sufficient to show reasonable cause for complaint to the Secretary of State for his Office to require documentation of the respective candidate relevant to determination of minimum qualification; that lacking explicit statute defining the requisite documentation that the Secretary of State has the intrinsic authority to set those reasonable standards that would establish certain confidence in the people in the electoral process.

1.6. Plaintiff seeks focused and expedited review, to protect the veracity of the electoral process and maintain the people's confidence in the government.

2. COMPLAINT FOR INJUNCTIVE RELIEF - PRELIMINARY STATEMENT

2.1. Article II, Section I of the United States Constitution, states in particular part, "No Person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the Office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen years a resident within the United States." .

2.2. Mr. Barack H. Obama is a candidate for United States Office of the President. However, Mr. Obama must meet the qualifications specified for the United States Office of the President, which is, he must be a "natural born" citizen. Mr. Obama has failed to demonstrate that he is a "natural born" citizen. There are other legal challenges before the Federal Courts regarding aspects of lost or dual citizenship. That challenge in an of itself further demonstrates plaintiff's argument that reasonable doubt exists as to the veracity of the electoral process that would allow such fundamental questions to exist at this late hour preceding the election.

2.3. The Texas State office of Secretary of State is responsible for the veracity of the Texas State election process from verifying ahead of time the qualification of the voters, the ballots themselves, the candidates and the final counting and certification of results. That office is intended to be non-biased and to provide the critical sense of fairness and correctness necessary for the people to have faith in the fundamental underpinnings of the democratic basis for our republic.

2.4. There is a reasonable and common expectation by the people that to qualify for the ballot that the individuals so listed meet the minimum qualifications as outlined in the Constitution and that proof of those minimum qualifications has been received by the officials executing the election process. Heretofore, only a signed statement from the candidate attesting to meeting those qualifications was requested and received by the Office of the Secretary of State with no verification demanded. This practice, it should be noted, represents a much lower standard than that demanded of one when requesting even a driver's license. Since the office of Secretary of state has at its' core the mission of certifying and establishing the veracity of the election process, this complaint seeks a directive to the Texas State Office of Secretary of State to receive appropriate verifiable documentation and certify any individual's qualification for Office whose basic credentials for that Office have been challenged by formal request to the Office of Secretary of State from a citizen of the State of Texas.

2.5. In the case of individuals seeking the Office of President of the United States, the US Constitution prescribes a system of electors where citizens of the respective state have a state controlled election wherein electors representing the interest of the named individual on the state ballot are so elected to represent the interests of the respective state at the electoral college. Thus, we do not have a federal ballot controlled by the federal government; we have a Texas state ballot where we elect electors who in turn represent the named individual on the ballot. That is one more reason that the Texas Secretary of State has prevue over the certification of not just the counts of the ballots so cast, but also the veracity of the contents of the ballot.

2.6. This complaint of failure to carry out a key task in our election system could be satisfied should verification of candidate qualifications be received from original or certified documents from primary sources or from a verifiable report generated from government agencies such as the Federal Elections Commission. It is the Texas State, Secretary of State's duty to certify the veracity of documents or reports so received.

2.7. To avert likely civil unrest and a constitutional crisis which would certainly accrue after the election through laborious legal challenges and impeachment process, this complaint seeks to resolve such complaints prior to the election. It was incumbent on the candidates to present such documentation, but to date Mr. Obama has failed to do so.

2.8. This complaint seeks specifically to verify through the office of the Texas Secretary of State that Mr. Obama is a "natural born" citizen.

2.9. At this point, Mr. Obama has not allowed independent or official access to his birth records and supporting hospital records. Mr. Obama's citizenship status has and is being challenged in the federal courts which challenge will cast doubt on the veracity of the electoral system regardless of outcome if not resolved prior to the election. The Texas State, Secretary of State Office is specifically charged with certifying and guaranteeing the veracity of official documents and overseeing the elections to wit the people's confidence in the fundamental aspect of democracy is maintained. To date, in this regard, Defendant has not carried out that fundamental duty.

2.10. The Federal Elections Commission FEC is generally tasked with providing oversight and verifications of federal candidates. To date the FEC has not produced either certification or verifiable documentation regarding the candidate's basic qualifications for office. Lacking that certification from the FEC, this complaint requests the Defendant to formally request of Hawaii

State Health Department officials to produce forthwith a certified copy of Mr. Obama's "Vault" [original long version] Birth Certificate.

2.11. This complaint requests that Defendant formally requests primary backup materials if they exist of hospital records that would lend veracity to a Hawaii live birth declaration. A court order of discovery is requested to assist that investigation directed to the respective hospital if so identified on a live birth certificate.

2.12. Should Mr. Obama be discovered, whether by virtue of malfeasance, or negligence, or ignorance on his part to not have a valid certified US birth certificate or to otherwise due to have been revealed by such examination of original records to be ineligible for the Office of President of the United States of America and thereby his nomination be declared void by the appropriate authorities acting under the law, Plaintiff as well as other Americans will suffer irreparable harm including but not limited to:

2.12.1. Functional, or actual, disenfranchisement of large numbers of citizens, being members of the Democratic Party, who would have been deprived of the ability to choose a qualified nominee of their liking;

2.12.2. Irreparable harm to the structure and integrity of the Democratic Party and the Democratic National Committee. In turn, this too would lead to disenfranchisement.

2.12.3. If the candidate Mr. Obama were to secure the election and later be discovered ineligible, the resulting constitutional and national security crisis that would ensue would generate a severe and genuine likelihood of civil disturbance by virtue of reaction to said disenfranchisement and upset.

2.13. It was well expected that after all the public concern that has been raised over the preceding months now that Mr. Obama would have released for public or official scrutiny the relevant documentation to back up his claim of qualification as a "natural born citizen." His reaction to public concern and his recent actions in Federal District Court 9/24/2008 demonstrate that Mr. Obama has no intentions of releasing said documentation for review or cannot because they do not exist. The late hour of this request was dictated by the delaying tactics of the candidate Mr. Obama, and the non-responsiveness to Plaintiff's repeated requests to the Office of Texas State - Secretary of State.

3. **JURISDICTION AND VENUE**

3.1. As we do not have federal ballot per se, Texas State, through the office of the Texas State, Secretary of State creates its own ballot and supervises the same, electing electors to represent our choice for the Office of President. This case arises under the Texas Constitution and the laws of the United States and presents a state question within this Court's jurisdiction.

ELECTION CODE, TITLE 9. CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE
GENERALLY SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE, Sec. 141.001.
ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE. (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must: (1) be a United States.

TITLE 11. PRESIDENTIAL ELECTIONS, CHAPTER 192. PRESIDENTIAL ELECTORS AND CANDIDATES, SUBCHAPTER B. PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES, Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if: (1) the nominees possess the qualifications for those offices prescribed by federal law;

Sec. 192.033. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT. (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the names of the candidates for president and vice-president who are entitled to have their names placed on the ballot.

(b) Not later than the 62nd day before presidential election day, the secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county. (c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Subchapter C.

ARTICLE 4. EXECUTIVE DEPARTMENT, Sec. 20. COMMISSIONS. All commissions shall be in the name and by the authority of the State of Texas, sealed with the State Seal, signed by the Governor and attested by the Secretary of State.

ARTICLE 4. EXECUTIVE DEPARTMENT, Sec. 3. RETURNS OF ELECTION; DECLARATION OF ELECTION; TIE VOTES; CONTESTS. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up, and transmitted by the returning officers prescribed by law, to the seat of Government, directed to the Secretary of State, who shall deliver the same to the Speaker of the House of Representatives, as soon as the Speaker shall be chosen, and the said Speaker shall, during the first week of the session of the Legislature, open and publish them in the presence of both Houses of the Legislature. The person, voted for at said election, having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the Speaker, under sanction of the Legislature, to be elected to said office. But, if two or more persons shall have the highest and an equal number of votes for either of said offices, one of them shall be immediately chosen to such office by joint vote of both Houses of the Legislature. Contested elections for either of said offices, shall be determined by both Houses of the Legislature in joint session.

192.062. PRESIDENTIAL OR VICE-PRESIDENTIAL PARTY NOMINEE. (a) The secretary of state shall certify in writing for placement on the ballot the name of a political party's replacement nominee for president or vice-president of the United States if: (1) the original nominee withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day; and (2) the party's state chair delivers certification of the replacement nominee's name, signed by the state chair, to the secretary of state not later than 5 p.m. of the 70th day before presidential election day. (b) If the state chair's certification of a replacement nominee is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state. (c) The name of a nominee who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement nominee placed on the ballot if a replacement nominee is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible nominee's name shall be placed on the ballot. (d) A vote for a withdrawn, deceased, or ineligible nominee whose name appears on the ballot shall be counted as a vote for the nominating political party's presidential elector candidates.

GOVERNMENT CODE, TITLE 6. PUBLIC OFFICERS AND EMPLOYEES, SUBTITLE B.
STATE OFFICERS AND EMPLOYEES, CHAPTER 659.

4. PARTIES

4.1. Plaintiff, Jody A. Brockhausen [hereinafter "Plaintiff"], is an adult individual with a home address of 4523 Heritage Well Lane, Round Rock, TX 78665. Citizen USA.

4.2. Defendant, Esperanza Andrade, a/k/a Hope Andrade is an adult individual with an office address of P.O. Box 13550, Austin, TX 78711-3550 Texas State, Secretary of State.

5. FACTUAL ALLEGATIONS THAT DEMONSTRATE THE NEED TO PROOF THE CANDIDATE'S MINIMUM CONSTITUTIONAL QUALIFICATION.

5.1. These allegations and statements are not intended to be proof of the status of Mr. Obama's citizenship or lack thereof. That will be determined in the venue of the US District court. The listing of the allegations detailed below are included to demonstrate the reasonable assertion of the need for the Texas State, Secretary of State to reestablish public confidence in the veracity of the electoral process and the obvious need for precertification as to a candidate's meeting the minimum constitutional requirements.

5.2. By the U.S. Constitution, in order to run for office of the President, one must be a "natural born citizen" and one may not hold dual citizenship or multiple citizenships with foreign countries. U.S. Constitution, Article II, Section 1.

5.3. There are questions as to where Obama was actually born; in the United States or abroad but subsequently registered in Hawaii. There are further questions regarding Obama's United States citizenship, if he ever held such, being expatriated and his failure to regain his citizenship by taking the oath of allegiance once he turned eighteen (18) years of age. There are additional questions regarding Obama's multi-citizenships with foreign countries, which he may still maintain. To date, Obama has refused to prove he is qualified under the U.S. Constitution and his eligibility to run as President of the United States despite requests and recent opportunities to do so in Federal Court.

5.4. The "certificate" that Mr. Obama has posted on his official WEB site is a "Certification of Live Birth," and not a "Birth Certificate" from Hawaii. There is no indication on even this certificate as to specifically where the birth took place. (Exhibit 1)

5.5. Researchers have claimed to have been unable to locate any birthing records in island hospitals for Barack Obama's mother. Mr. Obama has offered none for review.

5.6. Three forensic document experts have published extensive reports claiming that there is evidence of tampering on even the Obama WEB site displayed certificate. (Exhibit 2)

5.7. Numerous Freedom of Information Requests have been sent to Officials in Hawaii with no response from the public officials nor has Mr. Obama granted access for release of the information lending to the concern over the veracity of the attestation on the candidate's application for candidacy for the office of President of the United States.

5.8. The facts are undisputed by Obama that his mother, Stanley Ann Dunham, was a U.S. citizen however, his father, Barack Obama, Sr., was a citizen of Kenya. Obama's parents, according to divorce records, were married on or about February 2, 1961.

5.9. Obama claims he was born in Honolulu, Hawaii on August 4, 1961; however, has never given the name of the hospital he was born in; whereas there are reports that Obama's grandmother on his father's side, half brother and half sister claim Mr. Barack H. Obama was born in Kenya. Reports further reflect that Mr. Obama's mother went to Kenya during her pregnancy. Wayne Madsen, Journalist with Online Journal as a contributing writer and published an article on June 9, 2008 stating that a research team went to Mombassa, Kenya, and located a Certificate Registering the birth of Barack Obama, Jr. at a Kenya Maternity Hospital, to his father, a Kenyan citizen and his mother, a U.S. citizen. There are claims of records of a "registry of birth" for Obama, on or about August 8, 1961 in the public records office in Hawaii, but these have not been released for scrutiny. It is alleged in the Federal trial and is a matter of much general speculation that Mr. Obama's mother was prevented from boarding a flight from Kenya to Hawaii at her late stage of pregnancy, which apparently was a normal restriction to avoid births during a flight. It is likely that Stanley Ann Dunham (Obama) gave birth to Obama in Kenya, after which she flew to Hawaii and registered Obama's birth.

5.10. Regarding the alleged birth of Barack Hussein Obama in Honolulu, Hawaii, it is variously circulated that Obama's birth is reported as occurring at two (2) separate hospitals, Kapiolani Hospital and Queens Hospital. Obama has provided no proof of birth from either of these or any other US based facility. He has made no effort to address these public concerns.

5.11. There are no published or known hospital birthing records for Stanley Ann Dunham (Obama), Obama's mother. There are only claims of records of a "registry of birth" for Obama, on or about August 8, 1961 in the public records office in Hawaii.

5.12. There is even a Canadian Birth Certificate posted on the Internet in the name of Barack Hussein Obama, Jr.; however, the date of birth shows to be August 23, 1961.

5.13. At the time of Obama's birth in 1961, Kenya was a British Colony. Subsequently, under the Independence Constitution of Kenya, Mr. Barack H. Obama became a Kenyan citizen on December 12, 1963. There are no indications or reports that Mr. Obama ever renounced that dual citizenship conferred either by nature of birth or by virtue of his father's Kenyan citizenship. On Mr. Obama's Senate web site, Mr. Obama acknowledges his father holds Kenyan nationality but avoids addressing that he (Mr. Obama) also held/holds Kenyan nationality. (Exhibit 4)

5.14. If in fact Obama was born in Kenya, the laws on the books in the United States at the time of his birth stated if a child is born abroad and one parent was a U.S. Citizen, which would have been his mother, Stanley Ann Dunham, Obama's mother would have had to live ten (10) years in the United States, five (5) of which were after the age of fourteen (14). At the time of Obama's birth, his mother was only eighteen (18) years of age and therefore did not meet the residency requirements under the law to give her son (Obama) U.S. Citizenship much less the status of "natural born." The laws in effect at the time of Obama's birth prevented U.S. Citizenship at birth of children born abroad to a U.S. Citizen parent and a non-citizen parent, if the citizen parent was under the age of nineteen (19) at the time of the birth of the child. Obama's mother did not qualify under the law on the books to register Obama as a "natural born" citizen. Section 301(a)(7) of the Immigration and Nationality Act of June 27, 1952, 66 Stat. 163, 235, 8 U.S.c. §1401(b), Matter of S-F-and G-, 2 I & N Dec. 182 (B.I.A.) approved (Att'y Gen. 1944). Obama would have only been Naturalized and a Naturalized citizen is not qualified nor eligible to run for Office of the President. U.S. Constitution, Article II, Section Clause 4.

5.15. Furthermore, if Obama had been born in Kenya, his birth father Barack Obama, Sr. was a citizen of Kenya; therefore, Obama would have automatically become a citizen of Kenya.

5.16. The Nationality Act of 1940 provided for the loss of citizenship when the person became naturalized upon the naturalization of his or her parent having custody of such person. Obama's mother expatriated her U.S. Citizenship when she married Lolo Soetoro, a citizen of Indonesia and relocated herself and her son (Obama) to Indonesia.

5.17. Obama was enrolled by his parents in a public school, Fransiskus Assisi School in Jakarta, Indonesia. Plaintiff has available copies of the school registration where it clearly states Obama's name as Barry Soetoro and lists his citizenship as Indonesian, Obama's father is listed as Lolo Soetoro, Obama's date of birth and place of birth are listed as August 4,1961 in Honolulu and Obama's Religion is listed as Islam. This document was verified by television show Inside Edition, whose reporter, Matt Meagher took the actual footage of the school record.

(Exhibit 5)

5.18. In or about 1971, Obama's mother sent Obama back to Hawaii. Obama was ten (10) years of age upon his return to Hawaii.

5.19. Sometime after the return of Obama to Hawaii, Obama's mother, Stanley Ann Dunham returned to Hawaii and divorced her husband, Lolo Soetoro. At the time of divorce, Obama's mother, Stanley Ann Dunham could have regained her U.S. citizenship. In order to regain her citizenship, Obama's mother would have had to take the oath of allegiance required. Such oath of allegiance may be taken abroad before a diplomatic or consular of the United States, or in the United States before the Attorney General or the judge or clerk of a court. Such Oath of Allegiance would have been entered in the records of the appropriate embassy, legation, consulate, court or the Attorney General and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court or the Attorney General shall be delivered. The certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. 8U.S.c.§1435.

5.20. Obama's mother failed to take the oath in order to regain her U.S. Citizenship. Therefore, Obama would not have been able to regain his U.S. Citizenship until he turned eighteen (18) years and then only after he took the Oath of Allegiance before a diplomatic or consular officer of the United States, or in the U.S. before the Attorney General or the judge or clerk of court. Since the Oath of Allegiance would have been entered in the records of the appropriate embassy, legation, consulate, court or the Attorney General, then Obama should be able to produce in court a certified copy of the proceedings, including a copy of the oath administered. No such copy has been to date produced for public examination.

5.21. After many attempts of the public to obtain Obama's Certificate of Birth, a Hawaiian Certificate of Live Birth (COLB) was placed on Obama's campaign website. However, as posted

all over the internet, three (3) independent Document Forensic Experts performed extensive forensic testing on the Certificate of Live Birth as posted on Obama's campaign website. The Forensic Expert findings were that the posted Certificate of Live Birth (COLB) was a forgery. It was further discovered that the posted COLB had evidence of having been created from an altered/forged from a COLB issued to Maya Kasandra Soetoro, born in 1970. Maya Kasandra Soetoro is Obama's half-sister who was born in Indonesia and her birth was later registered in Hawaii. The altered and allegedly forged COLB is still on Obama's website located at <http://my.barackobama.com/page/invite/birthcert>. (Exhibit 2)

5.22. Even if Obama had and subsequently maintained his United States Citizenship, which citizenship he has failed before District Court to demonstrate, he may still carry citizenships in Kenya and/or Indonesia. These facts call into question what the constitution attempted to address regarding potentially divided loyalties with foreign countries. Thus, Mr. Obama carries multiple citizenships and would be ineligible to run for President of the United States. United States Constitution, Article II, Section 1.

6. Failure to grant injunctive relief will realize these detriments:

6.1. Failing to officially and publically vet the status of the citizenship claims of Mr. Obama will cast a pall of doubt on the election process and taint the election results themselves.

6.2. Failure to grant injunctive relief would allow a potentially corrupted, fraudulent nomination and election process to continue.

6.3. Failure to grant injunctive relief demanding the Texas State, Secretary of State certify the minimum qualifications of challenged candidates not only allows, but promotes an overwhelming degree of disrespect and creates such a lack of confidence in voters of the primary and electoral process itself, so that it would cement a prevailing belief that no potential candidate has to obey the laws of this country, respect our election process, follow the Constitution, or even suffer any consequence for lying and defrauding voters to get onto the ballot when they have no chance of serving if they fraudulently manage to get elected.

6.4. As stated above, Plaintiff as well as all American citizens will suffer irreparable harm if injunctive relief is not granted. Plaintiff does not have any other way of redress regarding these very significant and important issues.

6.5. Despite many complaints, the FEC has failed Plaintiff and the American citizens by their failure to date to perform due diligence and inquire into Mr. Obama's eligibility to run for Office of the President. Lacking such certification, it is incumbent on the Texas State, Secretary of State to certify or decertify as to the eligibility for office before the election based on the availability of clear documentation demonstrating that minimum qualifications for the respective office has been met by candidates.

7. WHEREFORE, Plaintiff respectfully prays that this Court:

7.1. Grant injunctive relief demanding that Defendant immediately acquire primary documents or certified copies from primary sources such as Health Department and hospital records or verifiable reports regarding same from the FEC.

7.2. Plaintiff requests Defendant to immediately demand such verifiable report from the FEC or demand a certified copy of Obama's Certificate of Live Birth and subpoena as needed for the release of hospital records if so claimed on said Live Birth Certificate to further prove he was born in Hawaii as Mr. Obama claims.

7.3. Direct Defendant to certify or decertify the challenged candidates prior to the election based on the availability of clear documentation.

7.4. Plaintiff requests the Texas State, Secretary of State to immediately demand a certified copy of Obama's Oath of Allegiance proving he regained his United States Citizenship.

7.5. If Defendant is unable to document a certified record of Obama's oath of allegiance and birth and hospital records, Defendant must decertify Mr. Obama as a valid candidate for the office of President of the United States Office of the President under the United States Constitution, Article II, Section I;

7.6. Award Plaintiff such costs and fees applicable by law; and further relief as the Court deems just and proper.

Respectfully submitted,

Jody A. Brockhausen
4523 Heritage Well Lane
512-284-7399

VERIFICATION

I, JODY A. BROCKHAUSEN, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Complaint for Injunctive Relief are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties law relating to unsworn falsification to authorities.