NEW YORK STATE
COURT OF APPEALS

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Robert C. Laity, Pro se,
-Appellant

STATEMENT IN SUPPORT
OF MOTION

v.

Index #: 524197

State of New York, Rafael, "Ted" Cruz.,Marco Rubio and Piyash "Bobby" Jindal -Respondents

Dated: August 18, 2017

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## SERVICE OF JUDGEMENT

On August 14th, 2017, I received, by regular mail, from the Clerk of the Court of the New York State Supreme Court, Appellate Division, 3rd Department, the memorandum and order, dated August 10, 2017, which I am seeking leave to appeal from.

## METHOD OF MOTION

I did not move for leave to appeal to this court at the Appellate Division, but came directly here.

## QUESTIONS PRESENTED

The predominant question presented is whether or not the State of New York Board of Elections is in compliance with the requirements and mandates outlined in the United States Constitution at Article II, Sec. 1, Clause 5 and the 12th Amendment with regard to requiring that a President and/or Vice-President be a "Natural Born Citizen" as opposed to someone who is "Born a Citizen". Three of the respondents are not "Natural Born Citizens". Rafael Cruz, Marco Rubio and Piyash Jindal.

## JUSTIFICATION FOR GRANTING MOTION

This case involves a Constitutional Question of Law. It illustrates an overt conflict regarding the application of Federal law by the State of New York. This very same issue of conflict between what the State applies and what the Constitution actually requires them to apply was brought before this court in Laity v NY, Obama, Motion # 2013-1002, NY Slip Op. 91636. See also Laity v. NY, US Supreme Court, Docket # 13-875. This matter has evaded review for the (9) years since I first broached it to the NY State Board of Elections. As early as the year 2008,the New York State Board of Elections has overtly misrepresented the established US Constitution requirement found in Article II, Sec. 1, Clause 5 and the 12th Amendment that a President and Vice-President both be a "Natural Born Citizen". They have, in print and on their website, illegally substituted the words "born a Citizen" for the actual words used in the US Constitution that a President be a "Natural Born Citizen". The courts below were provided with a screen shot of this patently inaccurate misrepresentation of the Art. II mandate. That misrepresentation is in derogation of the US Constitution. NY state has no legal authority to alter the requirement unilaterally outside of the provisions of Article V, USConst. The Courts below erred in not addressing the ongoing violation of law. They erred in not directing the State of NY to cease and desist it's misapplication of Constitutional requirements which allow constitutionally barred individuals access to the ballot when they are not eligible. This in derogation of NY State law and is ripe and judiciable to this day.

On this issue, the Appellate division affirmed the courts below "to the extent that petitioner challenges future presidential elections on the ground that the State allegedly 'misrepresents' the constitutional requirements for the office of president by allowing candidates to appear on the ballot whom petitioner considers ineligible" Calls it "premature" and says it "may not come to pass". The appellant does not challenge future [& past] presidential elections on a mere allegation

that the State misrepresents the constitutional requirements for the office of President". I have proven that NY State does, indeed, misrepresent those requirements, in derogation of federal law and NY State Law. It is not solely the petitioner that "considers ineligible" those candidates who are not "Natural Born Citizen[s]". It is the US Constitution that does so. The specious and spurious statement by the Appellate Division that harm "may not come to pass" belies the fact that the 2008,2012 and 2016 Presidential elections had constitutionally barred individuals running for President and Vice-President. Indeed, one of them, Barack Obama was actually "elected". Barack Obama usurped the Presidency by fraud, during time of war. That makes Obama our nation's second usurper. Chester Arthur, also not a "Natural Born Citizen" was our nation's first usurper.

In closing, the United States Supreme Court established the legal definition of a "Natural Born Citizen" in Minor v Happersett, 88 US, 162 (1875) as "One born in the United States to Parents who are both US Citizens themselves" They reaffirmed that definition in several other cases including, The Venus, Wong Kim Ark, Dupont and they let it stand undisturbed in Laity v NY, USSCt.

Neither Obama,McCain,Cruz,Rubio,or Jindal meet that criteria for one reason or another.,yet NY State has allowed, is allowing and continues to allow ineligible candidates to be placed on the ballot. They will continue to do so unless NY State is enjoined from doing so. This Court, at the least, should instruct the NY Board of Elections to change the wording they use under the criteria for eligibility to be President from "Born a Citizen" to the required "Natural Born Citizen". The term "Born a Citizen" is not tantamount to the term "Natural Born Citizen".

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