

UNITED STATES COURT  
OF APPEALS -D.C. CIRCUIT

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U.S.,ex rel, Robert C. Laity, pro se,  
-Petitioner

Case: 20-7109; 1:20-cv-02511-EGS

PETITION FOR REHEARING EN BANC

v.

Dated: February 12, 2021

Purported Vice-President of the  
United States Kamala Devi Harris,  
-Defendant

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The petitioner hereby petitions this court for **REHEARING EN BANC** of the panel decision dated February 5, 2021 in the above-captioned matter pursuant to F.R.App.P.rule 35 (b). The panel decision conflicts with a decision of the United States Supreme Court or of this court and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or The proceeding involves one or more questions of exceptional importance.

The panel ruled that “the merits of the parties positions are so clear as to warrant summary affirmance”, affirmed the district court opinion that petitioner “does not possess standing” to proceed as a relator in the above captioned case which was filed as an “Information in the nature of quo warranto at common law” and “that “Dismissal with prejudice is warranted because no facts consistent with the pleadings could cure this defect”. Petitioner would most likely prevail on the merits of this case should the facts and the law that require a vice-president or

president of the United States be a natural born citizen of the United States is adjudicated. Petitioner has been shut out on an assertion of lack of standing. Dismissal with prejudice is not warranted. Dismissing a case with prejudice is properly reserved for cases that clearly demonstrate such things as contumacious behavior by a party, failure to follow procedure, failure to prosecute or other similar acts. Contrary to the panel's suggestion that this case is frivolous , it is not. I have filed a reply to this court regarding that allegation made in the panel order. This matter is far from frivolous and could not be more serious. The result of the failure of the court to remedy the matter would lend itself to dire ramifications for the United States. To undermine our highest offices by usurping them, especially during time of war, amounts to espionage against the United States and Treason. I have demonstrated that since 2008 there has been a pattern of usurpations of our Presidency and Vice-Presidency as well as bi-partisan attempts to usurp the Presidency. This is an untenable invasion upon the sovereignty of the United States Government. An American is duty bound by their citizenship to act to preserve the integrity of our highest offices and to defend the republic. The plaintiff is "opposing conduct made illegal by law". Impersonation of a Public Official (what someone who usurps a public office does) is expressly made illegal under the D.C. Code at Sec. 22-1404. The act of a usurper to take a salary from the U.S. Government to which he/she is not entitled is fraud under

the False Claims Act. The FCA grants standing to those who bring such fraud to the attention of the Government. in *Qui Tam*. The defendant has been sworn in to an office to which she is constitutionally barred from occupying. Article II and the 12<sup>th</sup> Amendment bars non “Natural Born Citizen” from being President and/or Vice-President. “Identifiable violations of [federal] law are appropriate for federal adjudication”- *Allen 468 US 759-760 as cited in Luzan.* There is no “separation of powers” encroachment by the courts into the areas of authority and powers enumerated to the Executive or to the Legislature when they exercise an area in which Congress specifically gives the court Jurisdiction, such as the power to issue a Writ of Quo Warranto to a public official in the District of Columbia pursuant to Chapter 35 of the D.C. Code. The D.C. Federal Judiciary has the sole authority to address Quo Warranto issues such as usurpation of a public office against any public official in the District and more specifically by the Defendant Kamala Devi Harris. Purported President Biden won’t address it. The defendant has a right not to incriminate herself. Congress cannot constitutionally impeach her. She isn’t legally in the office from which removal would be the object. The sole remedy is for this court to issue a Writ of Quo Warranto. The Onus is on the defendant to prove by what warrant does she hold office. The numerous authorities outlined in the Amicus Brief proffered below, by attorneys for the U.S. Allegiance Institute as well as the appellant brief provides ample proof that Kamala Devi Harris is not

lawfully and constitutionally in office. To prove standing one must indicate a concrete and particularized injury in fact. A causal nexus between the action taken by defendant and the injury and that a favorable decision of the court will redress the injury. The Plaintiff has suffered absolute Injuries, violations of Civil Rights, infringement of Civil Rights, Civil Injuries, threatened and actual infringements of the legally protected interest of Liberty, threats of incarceration because I am a Trump supporter, threats of being placed on a domestic terrorist list, increased scrutiny by the intelligence community and other illegal harassment, statements that Trump supporters need to be de-programmed and various other statements made by the defendant herself against those who support Trump have caused me concrete, particularized and demonstrable injuries in fact. The usurpation of the vice-presidency by the defendant has opened the floodgates to a tyrannical regime. Purported President Biden was the subject of (2) lawsuits by me against Barack Obama in 2014 and 2018. Barack Obama is also not a Natural Born Citizen. The USAG has standing and authority to sue usurpers who hold any public office in D.C. "In the public interest". The court has the discretionary authority by law to permit a relator to file an "Information in the form of quo warranto at common law" after an exercise of sound discretion". A valid reason justifies governmental interference with the defendant holding the challenged office" The issuance of a writ of quo warranto is warranted in the name of the

government against Kamala Devi Harris, who does not meet the long standing and established criteria of being a Natural Born Citizen, as defined by the U.S.

Supreme Court in several opinions: “one born in the United States to parents who are both U.S. Citizens themselves” -Minor v. Happersett, U.S.

Supreme Court (1874) (unanimous). Other cases on this issue are contained in the U.S. Allegiance Institute amicus brief of record. The petitioner sent two separate requests for permission to file this “Information in the Nature of quo warranto” to two separate U.S. Attorneys General. Both U.S.A.G. Barr and acting U.S.A.G. Rosen didn’t respond. I understand that it would be a sensitive issue, after all for a USAG to prosecute his purported superior. That is not however a valid reason for not defending the integrity of the United States government.

Congress has also failed to address what I have shown, on the record, to be a pattern of unlawful usurpations and attempts to usurp our nation’s highest offices since 2008. Prior to 2008, the sole usurper in our nation’s history was Chester Arthur. He too was not a natural born citizen of the United States as required by both Art. II and the 12<sup>th</sup> Amendment of the Constitution.

That leaves the courts as the last firewall. The Executive and the Congress have not addressed this very serious invasion against the sovereignty of the U.S. in the last (13) years. It seems apparent that they simply do not care that our highest offices have been compromised by ultra vires usurpers. Obama and Biden usurped

their offices by fraud, during time of war in 2008 and 2012. Attempts to follow suit and usurp the presidency again were made by several others of both Parties since 2008, in 2012 and in 2016. Indeed, Ted Cruz, who is not a natural born citizen said that “If Obama can do it so can I”. President Trump did meet Article II criteria.

“The proper venue to address usurpation of the Presidency is U.S. District court in D.C.”- U.S. Magistrate Leslie Foschio, Information of Robert Laity, U.S. District of N.Y. (2012). On this judicial instruction local charges against Barack Obama were then filed by the Plaintiff with the U.S. Attorney in D.C. circa (2012).

See: Chapter 35, Subchapter 1, Sec. 16-3501, D.C. Code “Quo Warranto”.

“Proper venue for usurpation of the Presidency is D.C.” -Drake v.Obama, 664 F.3d, 774, 784, (9<sup>th</sup> Circuit Court of Appeals).

The plaintiff is a “quasi-plaintiff”. The U.S. Attorney General is on the parties list and could have stepped in at any time in prosecuting this case. He has not. The lack of response after the plaintiff sent written requests twice and to two U.S.

Attorney Generals, Barr and Rosen and the failure of the U.S. Attorney General to prosecute the case amounts to a refusal of the U.S.A.G. to act. The court is empowered by the D.C. Code at Chapter 35, Sec. 16-3503 to issue the requested Writ of Quo warranto upon such a refusal by the U.S.A.G. I reiterate my request for leave to pursue this matter “in behalf of the United States”.

In 1778 Congress declared it to be “the duty of all persons in the service of the

United States as well as all others the inhabitant thereof” to inform congress or proper authorities of “misconduct, frauds, or misdemeanors committed by any officers in the service of these States which may come to their knowledge”-

Whistleblowers Protection Act of 1778. Furthermore, that the “Reasonable expense of defending the said suit be defrayed by the U.S. -In Re: Richard Marvin and Samuel Shaw, (1778).

This court has suggested that my filing of this case was “frivolous” and has threatened sanctions. See my reply to this courts Order to Show Cause dated February 8, 2021. It would have been misprision if I had not filed this suit. I filed this suit on a good faith belief that the defendant is constitutionally barred from being President and/or Vice-President of the United States.

The defendant is being sued in her official capacity as de-facto vice-president. Defendant’s attorney fees and costs should be appropriately paid by the United States pursuant to F.R. App. P. 39.

The plaintiff has a particularized 14<sup>th</sup> Amendment “Liberty” interest in ensuring that the President of the United States and the Vice-President of the United States be a bona-fide, constitutionally eligible occupant of said public office pursuant to Article II and the 12<sup>th</sup> Amendment. The plaintiff is himself threatened actually with loss of liberty. Since 2008 when Barack Obama usurped the Presidency by

fraud and again in 2012 the plaintiff has experienced a steady, palpable and evolving diminishment of his civil rights. In the election between Barack Obama and John McCain there was bi-partisan fraud. Neither Obama or McCain are/were Article II Natural Born Citizens of the United States. The election of 2016 gave a welcome pause to the relentless onslaught of deprivations perpetrated on the plaintiff by Obama and Biden. It has now started again.

There are also “consent of the governed” issues involved when there is an ineligible individual in our highest offices. In the United States we are governed by “consent”. A usurper can not rightly claim that he/she governs by consent of the governed if he/she is not legally in office. There is no inferred or actual consent by the plaintiff or by his representatives in Congress that can be deemed legally given to an imposter in the Presidency or vice-presidency or in any other usurped office. By not acting to remove a usurper from office one gives tacit consent to be governed by a fraud. One cannot lawfully give such consent. For, if given it would be “repugnant to the constitution...null and void”- Marbury v. Madison, USS Ct, (1803). There are also national security issues. Indeed, it was our nation’s very first U.S. Supreme Court Chief Justice John Jay who, for reasons of national security, “hinted” to George Washington that the office of Commander in Chief not devolve upon anyone other than a “Natural Born Citizen”., one born in the United States to parents who are both citizens themselves”- Minor v. Happersett,



U.S. Supreme Court, (1874). A usurper serves under color of law and ultra vires.

Contra legem facit qui id facit quod lex prohibet. Requiring the plaintiff to be governed by a usurper is a 14<sup>th</sup> Amendment “Liberty” interest violation. It is the sworn duty of the U.S. government to protect the “Life, Liberty and Property” interests of its citizens. The invasion of a legally protected statutory right or interest is sufficient injury in fact to confer Standing under the 14<sup>th</sup> Amendment. “Intangible injuries such as violations of constitutional rights such as freedom of speech...amount to ‘concrete’ injuries...history and the judgement of Congress can inform a court’s conclusion about whether a particular plaintiff has standing”-

Spokeo Inc. v. Robins, 578 US,330. Plaintiff has a concrete and particularized legally protected liberty interest in his enjoyment of the rights afforded to him by the U.S. Constitution, unfettered by threats of oppressive and tyrannical acts by the government. It is public knowledge that the government under Joseph Biden and the Defendant Kamala Devi Harris have placed the appellant in significant risk of harm by its historical assertions and suggestions that involve “Placing supporters of President Trump on a terrorist list”, singling out Trump supporters for social ostracization, that Trump supporters be placed on no-fly lists and watch lists, suggestions that Trump supporters be rounded up and placed in custody, increased scrutiny and prosecuting of Trump supporters for expressing criticism of the Biden/Harris administration, censoring and blacklisting Trump supporters, inter

alia. By these actions of the Biden/Harris administration the plaintiff has a reasonable belief that there is an ongoing illegal concerted effort to deprive anyone who supports President Trump of their civil rights. **The plaintiff is a Trump supporter.** Indeed, the U.S. Military under Joseph Biden's command is attempting to weed out Trump supporters in the ranks as if they were a danger to the nation.

My personal legally protected interest in living free and enjoying the blessings of "[my]Life, [my] **liberty** and [My individual] pursuit of happiness" has been severely invaded and infringed upon. The fact that these deprivations are being non-consensually thrust upon me by Joseph Biden, whom I allege is complicit with Barack Obama's usurpation by fraud in 2008 and 2012 and the defendant, who is not a natural born citizen of the U.S. compound these deprivations of my legally protected rights. Both Harris and Biden are constitutionally barred from holding "any office under the United States" by virtue of their unlawful frauds against the United States. The plaintiff has met his burden of proof that he has standing to sue in this case. The Panel's affirmation in favor of defendant should be reversed.

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