

**PETITION FOR A WRIT OF CERTIORARI**

**CITATION TO OPINIONS BELOW**

The Memorandum and Order of the United States District Court, Eastern District of Pennsylvania, *Berg v. Obama, et al*, 08-cv-4083 (2008), is attached to the Appendix as **Exhibit “A”**.

**JURISDICTION**

The United States District Court, Eastern District of Pennsylvania entered its Order on October 24, 2008. This Court’s jurisdiction is invoked pursuant to 28 U.S.C. §2101(e), Mr. Berg having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution.

Jurisdiction of the United States Supreme Court pursuant to is invoked under Supreme Court Rules 10 and 11 (hereinafter, “Rule 10” and Rule 11”). Rule 10 provides that “[a] review on writ of

certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only when there are special and important reasons therefore.” Jurisdiction of this Court is invoked under rule 10(c) which provides that review should be granted when the court below “has decided an important question of federal law which has not been, but should be settled by this Court...” Supreme Court Rule 10(c). Although the case is pending before the Third Circuit Court of Appeals and it has not entered any order or judgment, the Supreme Court may still grant certiorari under Rule 11 because this case “is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination of this Court.” Supreme Court Rule 11.

Jurisdiction of the United States Supreme Court is appropriate in this case because the matter involves a matter that is novel and is of extreme importance to the general public interest and the administration of justice. Jurisdiction may be invoked under the Supreme Court Rule 10, entitled Considerations Governing Review on Writ of Certiorari (hereinafter, "Rule 10"). This standard includes intervention to prevent a gross miscarriage of justice.

The Judicial Administration Standards have also recommended criteria for discretionary review. These are "that the matter involves a question that is novel or difficult, is the subject of conflicting authorities applicable within the jurisdiction, or is of importance in the general public interest or in the administration of justice." STANDARDS RELATING TO APPELLATE COURTS 3.10C (1977). Under the

latter standard this case, which involves a matter that is novel and is of extreme importance to the general public interest, the jurisdiction of the Supreme Court is invoked.

This Court has the inherent power to act upon a petition for certiorari and render a decision with extraordinary speed when the need for prompt action is urgent as the case involves extraordinary public significance. See *Weeks v. Angelone*, 527 U.S. 1060 (1999); *Bush v. Gore*, 531 U.S. 1046 (2000). This case involves extraordinary public significance and requires action urgently as the Presidential election is less than five (5) days away.

## **CONSTITUTIONAL AND STATUTORY**

### **PROVISIONS INVOLVED**

1. This case involves Article II, Section I, Clause 4 of the United States Constitution, which provides that, “*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. This case involves the Fourteenth Amendment to the United States Constitution, which provides, in relevant part, that “No state may deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.”

3. Article III, Section 2 of the United States Constitution provides that the federal judicial power is limited to “Cases . . . [and] Controversies.”

#### **STATEMENT OF THE CASE**

This case raises important, recurring questions relating to the presumptive scope of the

United States Constitution, Article III, Section 2  
Standing issues which pertain to questioning the  
qualifications and eligibility of a Presidential  
Candidate, pursuant to Article II, Section I, Clause 5  
of the United States Constitution, to serve as  
President of the United States.

Moreover, the case raises the issues of (1) who  
has the right to question the qualifications of a  
Presidential candidate, (2) who is delegated the  
responsibility of ensuring the Presidential candidates  
are in fact qualified, and (3) who has standing in our  
Court systems to raise these issues with the  
appropriate Courts.

This case involves national security,  
extraordinary public significance and requires action  
urgently as the Presidential election is less than five  
(5) days away.

Furthermore, top secret briefing of the Presidential candidates has already begun and if Obama is not a “natural born” citizen or citizen at all for that matter, his briefing is placing all American citizens and the United States of America in grave danger.

**A. Obama Was Born in Mombosa, Kenya and Therefore is not a “Natural Born” United States Citizen**

Upon investigation into the alleged birth of Obama in Honolulu, Hawaii, Obama’s birth is reported as occurring at two (2) separate hospitals, Kapiolani Hospital and Queens Hospital. The *Rainbow Edition News Letter*, published by the Education Laboratory School, produced in its November 2004 Edition an article from an interview with Obama and his half-sister, Maya Soetoro, in which the publication reports that Obama was born August 4, 1961 at Queens Medical Center in

Honolulu, Hawaii. Four years later, in a February 2008 interview with the Hawaiian newspaper *Star Bulletin*, Maya Soetoro states that her half-brother, Obama, was born August 4, 1961, this time in Kapiolani Medical Center for Women & Children.

Through extensive investigation, learned that Obama was born in Mombasa, Kenya. Obama's biological father was a Kenyan citizen and Obama's mother a U.S. citizen who was not old enough to register Obama's birth in Hawaii as a "natural born" United States Citizen. The laws on the books at the time of Obama's birth required the U.S. Citizen to have resided in the United States for ten (10) years, five (5) of which were after the age of fourteen (14). Obama's mother was only 18 when Obama was born in Kenya. Nationality Act of 1940, revised June 1952; *United States of America v. Cervantes-Nava*, 281 F.3d 501 (2002); *Drozd v. I.N.S.*, 155 F.3d 81, 85-88

(2d Cir.1998). The Birth of Obama in Kenya has been verified.

For above aforementioned reasons, Obama's mother could have only registered Obama's birth in the United States as a "naturalized" citizen. A "naturalized" United States citizen is not eligible to run for and/or hold the Office of the Presidency.

**B. Obama Became a "Natural" Citizen of Indonesia when his Indonesian Stepfather Legally Acknowledged Obama as his Son and/or Adopted Obama.**

In or about 1965, when Obama was approximately six (6) years old, his mother, Stanley Ann Dunham, married Lolo Soetoro, a citizen of Indonesia, and moved to Indonesia with Obama. A minor child follows the naturalization and citizenship status of their custodial parent. A further issue is presented that Obama's Indonesian stepfather, Lolo Soetoro, either (1) signed an

acknowledgement legally “acknowledging” Obama as his son or (2) adopted Obama, either of which changed any citizenship status of Obama to a “natural citizen” of Indonesia.

Obama admits in his book, *Dreams from my Father*, that after his mother’s marriage to Lolo Soetoro, Lolo Soetoro left Hawaii rather suddenly. Obama and his mother left for Indonesia a couple of months thereafter. Obama admits that, when he arrived in Indonesia, he had already been enrolled in Fransiskus Assisi School in Jakarta, Indonesia a public school. Lolo Soetoro could not have enrolled Obama in school unless Obama was a citizen of Indonesia and bore the surname of his Indonesian father, Lolo Soetoro. Petitioner has received copies of the school registration, in which it clearly states Obama’s name as “Barry Soetoro,” and lists his citizenship as Indonesian. Obama’s father is listed as Lolo Soetoro.

The registration of a child in the public schools in Jakarta, Indonesia was verified with the Government Records on file with the Governmental Agencies, to ensure the student is in fact an Indonesian citizen and the child is registered under their legal name. Indonesia was under strict rule and did not allow foreign students to attend their public schools.

Under Indonesian law, when a male acknowledges a child as his son, it deems the son — in this case Obama — to be an Indonesian State citizen. Constitution of Republic of Indonesia, Law No. 62 of 1958 Law No. 12 dated 1 Aug. 2006 concerning Citizenship of Republic of Indonesia; Law No. 9 dated 31 Mar. 1992 concerning Immigration Affairs and Indonesian Civil Code (Kitab Undang-undang Hukum Perdata) (KUHPer) (Burgerlijk Wetboek voor Indonesie).

Furthermore, under the Indonesian adoption law, once adopted by an Indonesian citizen, the adoption severs the child's relationship to the birth parents, and the adopted child is given the same status as a natural child. Indonesian Constitution, Article 2.

For these reasons, Obama, his parents and/or his guardian would have been required to file applications with the U. S. State Department and follow the legal procedures to become a naturalized citizen in the United States, when he returned from Indonesia. If Obama and/or his family failed to follow these procedures, then Obama is an illegal alien.

The Indonesian citizenship law was designed to prevent apatride (stateless) or bipatride (dual citizenship). Indonesian regulations recognize neither apatride nor bipatride citizenship.

In addition, since Indonesia did not allow dual citizenship, neither did the United States, and since Obama was a “natural” citizen of Indonesia, the United States would not step in or interfere with the laws of Indonesia. Hague Convention of 1930.

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

As a result of Obama’s Indonesia “natural” citizenship status, there is absolutely no way Obama could have ever regained U.S. “natural born” status, if he in fact ever held such. Obama could have only become naturalized if the proper paperwork was filed with the U.S. State Department, in which case, Obama would have received a Certification of Citizenship.

Petitioner is informed, believes and thereon alleges Obama was never naturalized in the United

States after his return. Obama was ten (10) years old when he returned to Hawaii to live with his grandparents. Obama's mother did not return with him, and therefore, unable to apply for citizenship of Obama in the United States. If citizenship of Obama had ever been applied for, Obama would have a Certification of Citizenship.

**C. Obama Traveled to Indonesia, Pakistan and India in 1981, when he was Twenty (20) Years Old on his Indonesian Passport**

Obama traveled to Indonesia, Pakistan and Southern India in 1981. The relations between Pakistan and India were extremely tense and Pakistan was in turmoil and under martial law. The country was filled with Afghan refugees; and Pakistan's Islamist-leaning Interservices Intelligence Agency (ISI) had begun to provide arms to the

Afghan mujahideen and to assist the process of recruiting radicalized Muslim men--jihadists--from around the world to fight against the Soviet Union. Pakistan was so dangerous that it was on the State Department's travel ban list for U.S. Citizens. Non-Muslim visitors were not welcome unless sponsored by their embassy for official business. A Muslim citizen of Indonesia traveling on an Indonesian passport would have success entering Indonesia, Pakistan and India. Therefore, it is believed Obama traveled on his Indonesian passport entering the Countries. Indonesian passports require renewal every five (5) years. At the time of Obama's travels to Indonesia, Pakistan and India, Obama was twenty (20) years old. If Obama would have been a U.S. citizen, which we doubt, 8 USC §1481(a)(2) provides loss of nationality by native born citizens upon "taking an oath or making an affirmation or other

formal declaration of allegiance to a foreign state...after having attained the age of eighteen years”, in violation of 8 U.S.C. §1401(a)(1).

In response to all the requests for Obama to produce proof of his citizenship, Obama allowed three different web sites, [www.dailykos.com](http://www.dailykos.com), [www.fightthesmears.com](http://www.fightthesmears.com) and [www.factcheck.org](http://www.factcheck.org) to post, on their web site an image of a Certification of Live Birth with Obama’s name on it, an image purported to be Obama’s birth certificate. The image placed on these web sites shows a Hawaiian document which is typically provided for children’s births in Hawaii as “natural born”, as well as births abroad which have been registered in Hawaii regardless of whether the citizenship status was “natural born” or “naturalized”. Thus, the image did not prove Obama’s citizenship status as a “natural born” United States Citizen. The images placed on

these three (3) web sites were later discovered to be altered and forged images.

The citizenship status of Defendant Obama is a critical issue, an issue which needs to be addressed and confirmed prior to any election of our United States President so as to uphold the eligibility requirements in Article II, Section I of the United States Constitution. If Defendant Obama's citizenship and his eligibility — or lack thereof — to serve as President of the United States is not confirmed prior to the Presidential election, and if Defendant Obama is elected and later found that he is not eligible to serve as the President of the United States, the consequences could provide long-term damage to America.

Moreover, if Defendant Obama is found not to be a “natural born” United States citizen and permitted to serve as President, it would allow

variances from our United States Constitution without due process of law. If this were to occur it would set precedence, and further variances from our United States Constitution would be allowed without due process of law; ultimately, all citizens of the United States would no longer enjoy the same protections secured by the United States Constitution.

It is imperative to immediately verify and confirm Defendant Obama's eligibility or lack thereof, to serve as President of the United States.

If Obama is found to be ineligible to serve as President of the United States, it is imperative to have his name removed from the ballot and remove his nomination urgently to afford the citizens of the United States to have a properly vetted and qualified Democratic candidate in which to cast their votes.

Citizens of the United States should never be left with questions regarding the eligibility or ineligibility of any Presidential candidate. If these issues are not dealt with urgently we are at grave risk of a Constitutional crisis in the United States of America.

### **HOW JUDGE SURRICK DECIDED THE ISSUES**

The District Court reviewed the Defendants, the DNC, Obama and the FEC's Motions to Dismiss and issued his Memorandum and Order granting the Defendants Motions to Dismiss based on standing. The Court found "[A] voter fails to present an injury-in-fact when the alleged harm is abstract and widely shared or is only derivative of a harm experienced by a candidate" quoting *Crist v. Comm'n on Presidential Debates*, 262 F.3d at 193, 194 (2d Cir. 2001); *Jones v. Bush*, 122 F.Supp. 2d 713 (N.D. Tex. 2000) at 717 (holding that harm experienced by "Petitioner[s] and

*all other American citizens*” was too “undifferentiated and general nature” to confer standing on voters). “The alleged harm to voters stemming from a presidential candidate’s failure to satisfy the eligibility requirement of the Natural Born Citizen Clause is not concrete or particularized enough to constitute an injury in fact sufficient to satisfy Article III standing. See *Hollander v. McCain*, 2008 U.S. Dist. LEXIS 56729 at \*12 (noting that such harm “would adversely affect only the generalized interest of all citizens in the constitutional governance”).

Moreover, Judge Surrick on P. 11, footnote 9 states “By contrast, Petitioner would have us derail the democratic process by invalidating a candidate for whom millions of people voted and who underwent excessive vetting during what was one of

the most hotly contested presidential primaries in living memory.”

This statement is completely inaccurate and assumes facts not in evidence. The entire purpose of filing suit is because Obama has not been vetted; his qualifications and eligibility have not been verified. Although, American citizens have been questioning Obama’s eligibility to serve as President of the United States, Obama and the DNC have failed and refused to prove and/or show his eligibility to serve as President of the United States. Petitioner as well as all citizens of the United States do not have a way to verify the qualifications and/or eligibility to run for and/or serve as the United States President, nor is there any United States Law or mention in the United States Constitution the process in which is to be conducted to ensure the qualifications and/or eligibility of Presidential candidates.

The Court's ruling failed to address the issues regarding the Request for Admissions deemed Admitted and Petitioner's Summary Judgment Motion.

**REASONS WHY CERTIORARI SHOULD  
BE GRANTED**

**A. The Memorandum and Order of Judge Surrick Reflects Widespread Uncertainty over the Meaning of Standing, which this Court Alone Can Dispel.**

The very essence of civil liberty, wrote Chief Justice John Marshall in *Marbury v. Madison*, 5 U.S. 137 (1803), certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. Against the backdrop of historical Supreme Court precedent beginning with *Marbury* and extending through *Sprint Communications Co. L.P. v. APCC Services Inc.*, \_\_ U.S. \_\_, 128 S.Ct. 2531 (2008), the better-

informed “test” for the injury-in-fact prong of the standing doctrine analysis more resembles a “sliding scale” of factors and variables operating as a function of the speculative nature and/or remoteness of the allegations. Baker v. Carr, 369 U.S. 186, 204 (1962); Sierra Club v. Morton, 405 U.S. 727, 734-35 (1972); Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992); Hunt v. Washington State Apple Advertising Comm’n, 432 U.S. 333, 343 (1977); Federal Election Comm’n v. Akins, 524 U.S. 11, 21 (1998); Sprint Communications Co. L.P. v. APCC Services Inc., \_\_\_ U.S. \_\_\_, 128 S.Ct. 2531 (2008); Friends of the Earth v. Laidlaw Environmental Services Inc., 528 U.S. 167, 184 (2000).

In Morton, this Court held that the environmentalist Petitioners had standing, as injury to “aesthetic and environmental well-being” was enough to adequately constitute personal “stake” and

injury in fact. 405 U.S. at 734. Subsequently, in *Hunt*, this Court held that despite a lack of personal “stake,” an association has standing to bring suit so long as the interests in question are relevant to the organization’s purpose and regardless of whether the claims asserted or relief requested involve the individual members of the organization. 432 U.S. at 343. Furthermore, in *Laidlaw*, a case stemming from noncompliance with the Clean Water Act, this Court noted the importance of a Petitioner’s demonstration of standing but followed up by stating that “it is wrong to maintain that citizen Petitioners facing ongoing violations never have standing to seek civil penalties.” 528 U.S. at 184. More recently, in *Akins*, this Court rendered a decision maintaining that individual voters’ inability to obtain alleged public information met the injury in fact requirement, as it helped to ensure that the Court

will adjudicate “a concrete, living contest between adversaries.” 524 U.S. at 21. Similarly and finally, in APCC, decided by this Court in June 2008, the conventional, “personal stake” approach promulgated in cases such as Lujan and Baker gave way to the idea that the “personal stake” requirement and the three requirements of standing — injury in fact, causation and redressibility — are “flip sides of the same coin” and are simply two different ways of ensuring that each case or controversy presents “that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination.” APCC, 128 S.Ct. at 2543.

The case at hand may lack the specificity of injury in fact required by Lujan, but the allegations from which the action arises are no more speculative or remote than the importance of environmental

aesthetics of Morton or the party disconnect evident in Hunt. The foundation of the claims presented by Mr. Berg, the will to avoid a certain constitutional crisis, certainly amount to a “personal stake,” but in the case that this Court may deem otherwise, the underlying claims absolutely present the adversarial contest under which standing was found in the recent decisions in Akins and APCC.

Without a doubt, the Respondents will note that the premise behind Akins was the failure to obtain information, and will attempt to distinguish APCC because it involves standing in the context of contracts, assignors and assignees. However, Mr. Berg has indeed sought information vital to the election process put forth in the U.S. Constitution, and this Court in APCC stated that, apart from historical precedent for permitting suits by assignees under assignments for collection, “[i]n any event, we

find that the assignees before us satisfy the Article III standing requirements articulated in more recent decisions of this Court.” Furthermore, this Court’s treatment of the standing doctrine in APCC should be enough to show that the reasoning exhibited by the district court judge, grounded in Lujan, misperceives the three prongs of standing as enunciated just four months ago by this Court.

Therefore, because of the reasons stated above, because of the “sliding scale” nature of a “test” for injury in fact, because the very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury, this Court should hold that Mr. Berg has standing to prosecute this action and reverse the decision from the district court which maintains otherwise.

**B. The Memorandum and Order from the District Court are Incorrect. The Promises made by Obama and the DNC Clearly Fall Under Promissory Estoppel**

Barack Obama and the DNC made promises to the Petitioner and to the American people, reasonably expecting — in fact, counting on the idea — that the promises would induce reliance, those promises induced the Petitioner to expend money and billable hours and the American public to donate more than \$600 million to Obama’s campaign, and injustice can only be avoided by adjudication in this Court.

A cause of action under promissory estoppel arises when a party relies to his detriment on the intentional or negligent representations of another party, so that in order to prevent the relying party from being harmed, the inducing party is estopped from showing that the facts are not as the relying

party understood them to be. Thomas v. E.B. Jermyn Lodge No. 2, 693 A.2d 974, 977 (Pa. Super. 1997) (citing Rinehimer v. Luzerne County Community College, 539 A.2d 1298, 1306 (Pa. Super.), app. denied, 555 A.2d 116 (1988)). Promissory estoppel is applied to enforce a promise which is not supported by a binding contract. Carlson v. Arnot-Ogden Mem'l. Hosp., 918 F.2d 411, 416 (3d Cir. 1990) (holding promissory estoppel is unwarranted in light of court's finding that parties formed an enforceable contract); Bosum Rho v. Vanguard OB/GYN Assocs., P.C., No.Civ.A.98-167, 1999 WL 228993, at \*6 (E.D.Pa. Apr. 15, 1999).

With regard to the doctrine of promissory estoppel, it is manifested, and not actual, intent which is paramount. The question is not what Obama and the DNC actually intended, as Judge Surrick claimed in his Memorandum, but rather

what the Petitioner and the American public, as promises, were justified in understanding that intent to be. There is no sound reason to suffer the harms in question because the U.S. District Court, Eastern District of Pennsylvania incorrectly dismissed the Promissory Estoppel claim. Judge Surrick claimed the DNC's promises were not actually promises but instead of statement of intentions. Judge Surrick went on further claiming, "The 'promises' that Petitioner identifies are statements of principle and intent in the political realm. They are not enforceable promises under contract law. Indeed, our political system could not function if every political message articulated by a campaign could be characterized as a legally binding contract enforceable by individual voters. Of course, voters are free to vote out of office those politicians seen to have breached campaign promises and Federal courts, however, are not and

cannot be in the business of enforcing political rhetoric.”

The DNC and Obama made promises in writing which were posted on their website to lure people to donate money based on their promises. The DNC named this document “Renewing America’s Promise,” which presents the 2008 Democratic National Platform. In this document, the DNC promises among other things “use technology to make government more transparent, accountable and inclusive,” “maintain and restore our Constitution to its proper place in our government and return our Nation to the best traditions, including their commitment to government by law” and “work fully to protect and enforce the fundamental Constitutional right of every American vote — to ensure that the Constitution’s promise is fully realized”.

Obama placed on his website and stated on national television his promise to open and honest Government and his promise to truthfully answer any questions asked of him.

As a result of his detrimental reliance on these promises, Petitioner donated money and billable hours to Democratic Presidential candidates as well as the Democratic National Committee.

The DNC did in fact break promises by promoting an illegal candidate to run for and serve, if elected, as President of the United States, clearly in violation of the United States Constitution and in violation of their promise to enforce the fundamental Constitutional rights of every American voter. Furthermore, Obama has not answered, in an honest manner, questions about his citizenship. Moreover, Obama has breached his promise to uphold our Constitution; Obama is a Constitutional lawyer and

teacher and is well aware he is ineligible to serve as the United States President. This is hardly an example of being open and honest, this is hardly an example of open and honest government, and it is neither the way to uphold our United States Constitution, nor the Oath of Office taken by Obama.

**C. The District Court Erred in Dismissing the Action for Lack of Jurisdiction and the Error was by no Means Harmless Beyond a Reasonable Doubt Because the Outcome Would have been Different Save for the Erroneous Dismissal.**

The district court erred in dismissing the action on grounds that it was not one within the jurisdiction of the court, as it directly involved the construction and application of the United States Constitution, and such an error cannot be deemed harmless beyond a reasonable doubt as the outcome of the case would likely have been different save for

the erroneous dismissal. *Chapman v. California*, 386 U.S. 18, 24 (1967); *Swafford v. Templeton*, 185 U.S. 487, 491 (1902). While *Chapman* involved a case which arose from jury nullification and Fifth Amendment issues, this Court nonetheless placed emphasis on the intention of the harmless-error standard to not treat as harmless constitutional errors which affected the “substantial rights” of a party, and held that before a constitutional error may be deemed harmless, the Court must be capable of discerning that it was harmless beyond a reasonable doubt, and the burden of proof falls on the non-prejudiced party to do so. 386 U.S. at 24. Furthermore, in *Swafford*, this Court held that an action brought in federal court cannot be dismissed for want of jurisdiction, no matter the perceived lack of merit of the averments within, when the very heart of the controversy arises from a guideline put

forth by America's founders and guaranteed by the constitution and, therefore, is very much a federal question. 105 U.S. at 493.

In this case, citing the criteria put forth by this Court in *Chapman*, the district court's error in dismissing Mr. Berg's action for lack of proper jurisdiction must not be considered harmless beyond a reasonable doubt as, without the improper dismissal, the outcome of the case would have likely been different. Furthermore, considering the guidelines put forth by this Court in *Swafford* and the mere fact that Mr. Berg's allegations arise from Article II, Section 1 of the United States Constitution, the action improperly dismissed by the district court runs to the very heart of the requirements and guidelines and ideas and ideals put forth by the framers of America's founding documents and is, therefore, very much a federal

question and well within the jurisdiction of the district court.

For the aforementioned reasons, the district court's error in dismissing Mr. Berg's action on grounds of lack of jurisdiction was by no means harmless beyond a reasonable doubt. Therefore, this Court should reverse the decision rendered by the United States District Court for the Eastern District of Pennsylvania and here the merits of the case.

**D. The District Court Erred in Holding  
Petitioner has not Suffered Injury in Fact  
and Will Continue to Suffer if an  
Ineligible Candidate is Elected and  
Allowed to Take the Office of the  
Presidency**

Petitioner has been damaged financially for all monies donated, billable hours spent supporting the Democratic candidates, taxes paid by Petitioner which went to the Secret Service for their protection

of Obama for the past twenty-one (21) months and for the financial costs and time expended of this litigation, when Defendants could have very easily investigated, verified and obtained proof of Obama's eligibility to serve as President of the United States, if in fact he is eligible.

Petitioner has suffered damage to his reputation and discrimination as a result of attempting to protect his rights and verify the eligibility of Obama to serve as President of the United States. Petitioner has been repeatedly called a racist and verbally assaulted for bringing forward this lawsuit against Obama. Petitioner is not a racist and is a paid Life Member of the NAACP.

Petitioner has attempted to obtain the verification and proof requested herein by way of requests, filing this action, Request for Admissions and Request for Production of Documents served

upon Defendants September 15, 2008, the DNC and Obama never answered the Request for Admissions and they are therefore deemed admitted, Federal Rules of Civil Procedure, rule 36 and by Subpoenas served upon agencies who could supply the documentation to prove Obama's citizenship status. To date, Petitioner has not received anything.

Petitioner's rights guaranteed under the Liberty clause of the Fourteenth (14<sup>th</sup>) Amendment of the United States Constitution have already been violated. It has been announced in the main stream media that Obama's "briefing" has already begun into our National Secrets, our Nations Top Secrets, which Obama is not privy too and in violation of our National Security, as Obama is not a legal citizen of the United States. This has placed Petitioner and other citizens of the United States in grave danger. Petitioner's Liberty as guaranteed will further be

violated if Obama is allowed to be voted into and assume the position of President of the United States; Petitioner will be further damaged and is in serious jeopardy.

Petitioner is forced to live with the consequences if an ineligible candidate is elected and allowed to serve as President of the United States. It will alter the United States Constitution without proper due process of law. It will set precedence and further violations of our United States Constitution will continue without due process of law and our rights secured by the United States Constitution will no longer protect citizens of the United States.

## CONCLUSION

For the above aforementioned reasons, the  
Petition for a Writ of Certiorari Before Judgment  
should be granted.

Dated: October 30, 2008

Respectfully submitted,

---

Philip J. Berg, Esquire  
Attorney in *Pro Se*  
555 Andorra Glen Court, Suite 12  
Lafayette Hill, PA 19444-2531  
(610) 825-3134