

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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BEFORE THE HONORABLE MORRISON C. ENGLAND, JR., JUDGE

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JAMES GRINOLS, et al.,

Plaintiffs,

vs.

No. Civ. S-12-2997

ELECTORAL COLLEGE, et al.,

Defendants.

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REPORTER'S TRANSCRIPT

MOTION FOR TEMPORARY RESTRAINING ORDER

THURSDAY, JANUARY 3, 2013

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Reported by: KELLY O'HALLORAN, CSR #6660

APPEARANCES

For the Plaintiff:

DR. ORLY TAITZ, ESQ
29839 Santa Margarita Parkway, Suite 100
Rancho Santa Margarita, CA 92688

For the Federal Defendants:

BENJAMIN B. WAGNER
United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
BY: EDWARD A. OLSEN
Assistant U.S. Attorney

For the Defendant Edmund G. Brown, Jr., Governor of
California:

ATTORNEY GENERAL OF THE STATE OF CALIFORNIA
P.O. Box 944255
Sacramento, CA 94244
BY: GEORGE WATERS
Deputy Attorney General

1 SACRAMENTO, CALIFORNIA

2 THURSDAY, JANUARY 3, 2013, 2:00 P.M.

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4 THE CLERK: Calling civil case 12-02997; James
5 Grinols, et al v. Electoral College, et al. On for
6 plaintiffs' motion for temporary restraining order, your
7 Honor.

8 THE COURT: Thank you. Before we begin, I'm going to
9 issue a direct order that there are to be no cell phones on,
10 no recording devices, audio or visual, or any peripherals
11 that may be attached to any such device. If any such device
12 is turned on or if anyone is found to be using such a device
13 in violation of my direct order, you will be removed from the
14 courtroom immediately.

15 May I have your appearances, please.

16 MS. TAITZ: Yes, your Honor. I was told to sit.

17 THE COURT: Yes. That's fine.

18 MS. TAITZ: Orly Taitz representing the plaintiffs.

19 THE COURT: Thank you. And seated with you as well.

20 MS. TAITZ: Mr. Noonan, one of the plaintiffs.

21 THE COURT: Thank you.

22 MR. OLSEN: Good afternoon, your Honor. Edward Olsen
23 from the U.S. Attorney's Office on behalf of the federal
24 government.

25 MR. WATERS: Good afternoon, your Honor.

1 George Waters representing the defendant Edmund G. Brown,
2 Governor of California.

3 THE COURT: All right. Thank you.

4 This matter is on for a temporary restraining order.
5 I have some questions that I'm going to direct to the
6 plaintiffs since this is a request by plaintiffs. But I want
7 to make certain things clear on the record at this point and
8 give some context to why we're here this afternoon.

9 First of all, the plaintiffs have filed a complaint
10 seeking a temporary restraining order, declaratory and
11 injunctive relief, an emergency writ of mandate, as well as a
12 stay of the certification of votes. That was filed on
13 December 13, 2012. On December 20th, there was a request for
14 a temporary restraining order preventing Congress from
15 counting California's 55 electoral votes as votes for
16 President Obama's reelection. In sum, the plaintiffs wish to
17 prevent President Obama from being re-sworn as President
18 based upon the November election.

19 The one issue that we have to deal with initially is
20 that the votes were certified by the State of California
21 December 17, 2012. So the actual action that was filed on
22 December 20th, 2012, was late.

23 Is there any reason, first of all, why the action was
24 filed after the votes were certified?

25 MS. TAITZ: Your Honor, the action was filed on the

1 13th before certification. And I specifically -- I called
2 the court, I talked to one of your deputies asking if I can
3 have an ex parte hearing before the Electoral College
4 meeting. And there was a response. You were out of state.
5 There was a response by Judge Mueller where she denied
6 petition, and she stated that I will have until the 21st to
7 refile TRO. So pursuant to the order by Judge Mueller who
8 extended the original action, I filed it on the 20th. But if
9 you would see, the case was filed on the 13th before the
10 Electoral College meeting.

11 THE COURT: I understand. I simply wanted an
12 explanation on the record as to why there had been a filing
13 on the 13th as well as one on the 20th as well.

14 MS. TAITZ: It was pursuant to the order of
15 Judge Mueller.

16 THE COURT: All right. Thank you.

17 At this time there is a request for injunctive relief,
18 which I will go into in greater detail in just a moment. But
19 the emergency injunctive relief that is being sought by
20 plaintiffs uses a standard which is very similar to the
21 standard which is espoused by the Ninth Circuit Court of
22 Appeals, in that in order to receive any type of
23 extraordinary injunctive relief, the plaintiffs must prove
24 the following items:

25 (1) that they're likely to succeed on the merits; (2)

1 absent relief, plaintiffs will be irreparably injured; (3)
2 whether relief will substantially injure other parties
3 involved in the proceeding; and (4) whether relief is in the
4 public's interest.

5 Now, I want to make clear that there has been a
6 complaint filed, as we've just heard. This hearing today is
7 not about the merits of the complaint that has been filed.
8 This hearing is simply about the emergency injunctive relief
9 that has been requested from this Court to take place
10 tomorrow, which would be January 4th, 2012, and stop several
11 items, them being, first of all, the presentation of the
12 electoral votes by Vice President Biden and the counting of
13 those votes and certification by the United States Senate and
14 House of Representatives. So this is a narrow issue on
15 whether that should be enjoined at some point in time.

16 As all parties understand, the fact that a case may
17 have injunctive relief granted does not mean that there is
18 necessarily going to be success on the underlying case. And
19 also the fact that injunctive relief is not granted does not
20 mean that there is not going to be success on the underlying
21 case.

22 This particular hearing is being held by this Court in
23 an abundance of caution. First of all, Federal Rule of Civil
24 Procedure 78 as well as this Eastern District's Local
25 Rule 230 make it extremely clear that this Court has

1 discretion to determine whether to hold oral argument or not.
2 This Court could have determined this motion and request for
3 injunctive relief on the briefs and not held any oral
4 argument whatsoever. In addition, because this Court is in
5 complete control of its calendar and schedule, the Court is
6 also well within its guidelines to set time limits regarding
7 the argument and whether or not witnesses will be permitted
8 to be called at this particular hearing.

9 With all that being said, at this point in time there
10 are a number of questions that this Court has with respect to
11 this complaint, the allegations contained in the complaint,
12 the service of the complaint, allegedly, and a number of
13 other issues. I'm going to ask specific questions of the
14 plaintiffs' counsel in this case. And once I've received the
15 responses, I will allow opposing counsel to respond if you
16 wish. And also, I will give, as I've said in my previous
17 order, each side a maximum of 20 minutes in which to
18 summarize your case. You're not required to use 20 minutes.
19 For the plaintiffs, you'll be permitted to withhold whatever
20 period of time you'd like for rebuttal. If you don't wish to
21 withhold any time, that is up to you. You will be your own
22 timekeeper. The Court will not keep time. But you will have
23 that 20 minutes for the final argument.

24 Are there any questions regarding the procedures?

25 MS. TAITZ: Your Honor, I have one question I wanted

1 to clarify. In the TRO motion, I not only requested a stay
2 of certification of votes for Mr. Obama, I also was seeking
3 to stay the taking of oath by Mr. Obama on January the 20th
4 which is coming very soon. And due to the judicial economy
5 and due to the fact that we have witnesses that are here, one
6 of them came from out of state, I specifically included as
7 one of the parts of my TRO motion, not only request to stay
8 the certification of votes, also request to stay the
9 administration of oath, of taking of oath by Mr. Obama, due
10 to the fact that based on law enforcement information and an
11 expert, he's using all forged IDs. And when you summarized
12 the case, you did not mention that relief that is requested.
13 If I might state, I do have also one other point that I
14 wanted to bring.

15 THE COURT: First of all, stop right there. Your
16 request to -- or your information that you're also requesting
17 to stay the oath is understood. And this was simply an
18 overview of the case as it's been filed.

19 MS. TAITZ: I wanted to clarify. And one other point
20 that needs to be clarified. We have Mr. Waters representing
21 the Governor. We have here Mr. Olsen representing federal
22 defendants. However, as I have written in my motion to
23 strike, Mr. Obama was sued as an individual, as a candidate.
24 He was not sued as a federal employee. He was not sued as
25 the President. And because the U.S. Attorney's Office is

1 representing the federal defendants, they're not representing
2 Mr. Obama. And there was no representation, there was no
3 opposition from Mr. Obama. And even if you were to look at
4 what Mr. Olsen provided in his brief in his opposition, it
5 all relates to actions of the U.S. Congress.

6 So I wanted to clarify this on the onset of the case,
7 and I wanted to check how are we proceeding, whether your
8 Honor will grant a motion to strike due to the fact that --

9 THE COURT: The motion is denied. First of all, you
10 haven't -- well, we'll get into the issue of service and the
11 fact that there are courtesy representations here by counsel,
12 and that's been made clear in their opposition.

13 Counsel, do you wish to make any comments with respect
14 to that claim?

15 MR. OLSEN: No, your Honor. It's the plaintiffs'
16 responsibility obviously to identify in what capacity she's
17 suing a defendant. It's not clear from the petition. To the
18 extent she's suing the President in his official capacity,
19 our office represents the President. To the extent that
20 she's suing the President in an individual capacity, our
21 office would probably not represent the President in that
22 role. But she hasn't served the President.

23 THE COURT: Well, that's the point. Under Federal
24 Rule 4, there's been no service. The only service that
25 there's actually -- it's not even service. It has been a

1 Federal Express of the documents filed by the plaintiffs to
2 the U.S. Attorney's Office here in the Eastern District;
3 correct?

4 MR. OLSEN: That's correct, your Honor.

5 THE COURT: And it's been abundantly clear that
6 Federal Express is not registered or certified mail.

7 MS. TAITZ: Your Honor, aside from Federal Express, I
8 also served all of the federal defendants by a professional
9 process server. It's Same Day Service. And you should be
10 receiving proof of service from them as well. And I have
11 written in my reply opposition that, indeed, a professional
12 server in Washington, D.C. has served the defendants through
13 personal service.

14 THE COURT: But you have just said I "should receive."
15 There's nothing before this Court right now that shows that.
16 Nothing. Correct?

17 MS. TAITZ: Um --

18 THE COURT: So you have known about this hearing for
19 at least a week and a half to two weeks, and there's nothing
20 before the Court that shows that there's been any type of
21 service other than what's been shown previously. Therefore,
22 no service has been shown to this Court.

23 MS. TAITZ: Your Honor, I'm an officer of the Court.
24 I'm not going to be lying. I'm not going to be making up
25 something that is not true. I have proof that I have

1 purchased, I have paid over \$500 to the Same Day Process
2 Service that was supposed to serve. They served all of the
3 defendants by professional service. In some instances
4 because of the Christmas holidays, it's taking longer. But I
5 swear under penalty of perjury that I did pay this money. I
6 retained a professional process server, and the defendants
7 were indeed served. And the proof of service should be
8 received shortly.

9 THE COURT: Counsel, as an attorney, you should be
10 aware that your representations, while I'm not denying
11 anything else, are not effective. That's the whole reason
12 for having third-party service. Your declaration under
13 penalty of perjury here in open court means nothing.

14 MS. TAITZ: Your Honor, I'm not a plaintiff. I'm an
15 attorney. As long as I'm not a party, my swearing under
16 penalty of perjury is sufficient. If I would have been -- if
17 I would be filing this case pro se, then it wouldn't be
18 sufficient. However, since I'm not a party, I am allowed to
19 provide proof of service.

20 THE COURT: No, you're not. The request is denied.
21 Counsel, do you wish to respond for the record in any
22 way?

23 MR. OLSEN: No, your Honor. As far as I'm aware,
24 there's been no proofs of service filed that any of the
25 defendants have been sued, either in an official or an

1 individual capacity.

2 THE COURT: And am I correct that when you did file
3 your opposition, you did reserve?

4 MR. OLSEN: I did, your Honor.

5 THE COURT: And by reservation, I mean that by filing
6 the opposition, you were not allowing jurisdiction to be
7 conferred on anyone at that time. This was simply an
8 opposition.

9 MR. OLSEN: That's correct, your Honor.

10 MR. WATERS: The same is true of the Governor, your
11 Honor.

12 THE COURT: Thank you. All right. Let's go right
13 into the questions that I have, Counsel.

14 How does this Court have jurisdiction to hear this
15 case?

16 MS. TAITZ: This is a case, it's a federal question.
17 It's a question of federal law, and U.S. federal court has
18 jurisdiction to hear all cases arising from the U.S.
19 Constitution.

20 THE COURT: Where is the case in controversy under
21 Article III?

22 MS. TAITZ: The case in controversy, we have one of
23 the plaintiffs who is a resident of the state of California.
24 We have the Governor who is a resident of the state of
25 California. We have the Secretary of State who is a

1 defendant who is a resident of the state of California. And
2 as such, this Court does have jurisdiction.

3 THE COURT: But what is the case in controversy?

4 MS. TAITZ: We have -- your Honor, the petition has
5 two parts. One is to enjoin the certification of electoral
6 votes for Mr. Obama due to evidence of forgery in his IDs and
7 due to his use of his name that is not legally his. His
8 legal name according to --

9 THE COURT: Counsel.

10 MS. TAITZ: Yes.

11 THE COURT: Before we get into this too far, there has
12 been no evidence presented to any of this. First of all, the
13 Constitution does not require that evidence of citizenship,
14 driver's license, draft card or anything be required to be
15 shown to anyone prior to running for the office of President;
16 isn't that correct?

17 MS. TAITZ: Well, it's also not --

18 THE COURT: Is that correct or not correct?

19 MS. TAITZ: Your Honor, it's correct.

20 THE COURT: Okay. If that's correct, then any other
21 identification that you're claiming to have which is not
22 would seem to be, first of all, irrelevant and, second of
23 all, the State of Hawaii has already certified all of this to
24 be not true.

25 MS. TAITZ: Absolutely not. Absolutely not. The

1 State of Hawaii has been stonewalling. It refused to show
2 the original birth certificate for Mr. Obama. The only thing
3 that was shown was a copy which was found to be a forgery
4 based on findings of -- based on --

5 THE COURT: By whom? Who is this person or persons
6 that have had findings of forgery?

7 MS. TAITZ: Absolutely. Sheriff Joseph Arpaio.

8 THE COURT: Wait. Stop. What expert opinion or
9 experience does he have?

10 MS. TAITZ: Fifty years of experience as a sheriff.

11 THE COURT: One thing that the federal courts must do
12 is that they must act as gatekeepers for people who are
13 claiming to be experts. That's the Daubert case, which is a
14 very well-known case. And people can't simply say I am an
15 expert in a particular area because they want to be an
16 expert. They have to be tested by others who may look to
17 them and say this is, in fact, a tried-and-true method. You
18 have experience. You have expertise. And to simply say that
19 a person has 50 years of experience doing a particular job
20 does not make that person an expert.

21 So the problem that I'm seeing here and the question
22 that I've gone to is what is the case in controversy? There
23 isn't one that you can show or that you've been able to show
24 in the prior 13 cases that have been filed in almost the same
25 way.

1 MS. TAITZ: Your Honor, the U.S. Constitution does not
2 require a president to have a heartbeat, a pulse, or brain
3 activity. However, there is common sense that says that in
4 order to be a U.S. President, one should have a pulse and one
5 should have some brain activity. It's just common sense.

6 By the same token, yes, the U.S. Constitution does not
7 require one to have a birth certificate that is not a
8 forgery. One is not required to have a Selective Service
9 certificate which is not a forgery. However, in order to
10 work in the Executive Branch of the government, one has to
11 have a valid Selective Service certificate.

12 And you have in front of you a sworn affidavit from
13 the chief investigator for the Coast Guard, somebody who was
14 an investigator for 20 years for Homeland Security,
15 Department of Homeland Security, who attested that his
16 Selective Service certificate is a forgery. It's an altered
17 document. For that reason alone, Mr. Obama cannot work in
18 the Executive Branch at all, not a president, not a janitor,
19 in the Office of the President.

20 Moreover, you have in front of you the records, the
21 passport records, for Mr. Obama's mother where he is listed
22 under the last name Soebarkah. Who are we gonna swear in as
23 the President? Somebody whose legal name is Barack Soebarkah
24 or somebody who has suddenly decided he wants to go by the
25 name Obama? Not everything is written in the Constitution;

1 however, it is common sense.

2 Moreover, Mr. Obama has posted his tax returns online
3 where he forgot to flatten the file, and it shows his full
4 Social Security number, which according to E-Verify and SSNVS
5 was never issued to Barack Obama. It's common sense that
6 somebody who has valid papers, a natural born citizen, would
7 have a valid Social Security number.

8 THE COURT: That's fine. Common sense, case in
9 controversy.

10 Counsel, any response?

11 MR. OLSEN: They haven't demonstrated a direct
12 particularized injury to any of the plaintiffs. The Ninth
13 Circuit does recognize competitive standing. But the three
14 presidential candidates that are listed as president aren't
15 genuinely competitors to the President. Mr. Noonan wasn't
16 even his party's nominee for the presidency. The plaintiff
17 Thomas Gregory MacLeran doesn't even allege what party he was
18 affiliated with. His website, which is [www.opovv](http://www.opovv.com), which
19 apparently stands for -- excuse me, your Honor -- One
20 Pissed-Off Vietnam Veteran, doesn't provide any indication of
21 what party he's affiliated with, whether he was a nominee,
22 whether he was on the ballot in any state. The plaintiff
23 Keith Judd is a federal prisoner. None of those plaintiffs
24 allege they were even on the ballot in a single state and
25 can't contend in a reasonable fashion that they're

1 competitors.

2 The case that plaintiffs rely on, this *Fulani v.*
3 *Hogset* decision by the Seventh Circuit from 1990, is
4 distinguishable because the plaintiffs in that case were on
5 the ballot in all 50 states and made a plausible argument
6 that they were legitimate competitors with the defendants and
7 that they were directly harmed by the Secretary of State of
8 Indiana's decision to allow the Democratic and Republican
9 candidates on the ballot.

10 The plaintiffs who are listed in the petition as
11 electors don't identify what state they are electors for.
12 They don't identify the names of the nominees that they're
13 allegedly electors for. Any harm that they allege is
14 derivative of the candidates that they're supporting. So
15 even though they've identified themselves as electors, that
16 doesn't give them competitive standing either. So there's no
17 direct and particularized injury to any of the plaintiffs,
18 and therefore they've failed to establish standing.

19 MS. TAITZ: Might I explain?

20 THE COURT: No. Counsel, do you have anything
21 further?

22 MR. WATERS: No. The Governor has only addressed the
23 mootness issue, your Honor. I have nothing to add.

24 THE COURT: All right. Thank you.

25 MS. TAITZ: Your Honor, I was a counsel for a Barack

1 Obama case in 2009. The case was heard. It was Keyes v.
2 Obama. The case was heard in the Central District of
3 California and later on in the Ninth Circuit. And as a
4 matter of fact, both the Central District and the Ninth
5 Circuit have ruled that even though Mr. Keyes was not on each
6 and every ballot in each and every state, he was a minor
7 candidate, he had standing, which was in line with Fulani v.
8 Hogset that shows that minor candidates do have standing.

9 Moreover, Mr. Grinols is a Republican elector. Why do
10 we even have electors? Why not replace them with a robot?
11 Why do we have electors who are human beings, who are
12 thinking, who can see treason that is being committed in high
13 positions of power and trying to stop it?

14 THE COURT: I'm sorry. Treason?

15 MS. TAITZ: Yes, your Honor. It is treason when we
16 have somebody who is a high-ranking official in Hawaii who is
17 submitting a flagrantly forged document. I have here all the
18 evidence from my expert who is sitting right here, and they
19 are certifying flagrant forgery. When the Commissioner of
20 Social Security is, as a matter of fact, is in default right
21 now in a similar case that is in the state of Mississippi.
22 That case was not denied. It still goes on.

23 THE COURT: It's a far cry from forgery to treason.

24 MS. TAITZ: However, he has in front of him evidence
25 that a citizen of Indonesia, according to Mr. Obama's school

1 records, he's a citizen of Indonesia. His last name there is
2 Soetoro. In another place, it's Soebarkah. Allowing a
3 citizen of another country to usurp the position of the U.S.
4 President using flagrantly forged IDs, using the Social
5 Security number that was never assigned to him, last name was
6 not his, that's treason against the Constitution. That's
7 very serious.

8 And what is the function of an elector? He's not a
9 robot. He is there, Mr. Grinols is representing Mr. Romney
10 who was second, very close second.

11 THE COURT: What part of second don't you understand?

12 MS. TAITZ: Well, if the first one is not eligible,
13 the second becomes the first. I understand, your Honor. I'm
14 trying to understand how a court would state that there is no
15 standing for somebody who came close second and is saying the
16 one who came first committed forgery and fraud.

17 THE COURT: Even if all 55 electoral votes from
18 California were not counted, there would still be over
19 270 votes.

20 MS. TAITZ: And that is why we're suing not only
21 the -- that's why we're suing the whole Electoral College.
22 Your Honor, if you look at the pleadings, it's the whole
23 Electoral College. It is also we are suing the U.S.
24 Congress, and we are suing Mr. Obama in his ability to take
25 an oath of office.

1 Why would you, your Honor, allow somebody who has
2 forged IDs, who has a stolen Social Security number, and a
3 name that's not legally his to take an oath of office of a
4 U.S. President? Why are you refusing to look at the
5 evidence?

6 THE COURT: Why do you keep filing these lawsuits when
7 they keep getting rejected repeatedly?

8 MS. TAITZ: Because just like you, not one judge has
9 seen any evidence, has seen any original documents. Have you
10 seen the original birth certificate? No. Do you have an
11 answer why E-Verify and SSNVS is stating that Mr. Obama is
12 using a Social Security number that was never assigned to
13 him?

14 How can you, with clear conscience, allow somebody to
15 take an oath of office as a U.S. President without getting an
16 answer why is he using a Social Security number that was
17 never assigned to him according to E-Verify? Why would you
18 allow somebody who in his mother's passport records is under
19 a different last name to take oath of office?

20 Did you look at those cases, your Honor? Do you know
21 that all of the cases that we have brought in four years
22 until this election were denied not because one single judge
23 has ruled that Mr. Obama is eligible. Not one single judge
24 has ruled that he has any valid documents. No. All of the
25 cases until this election were dismissed as the judges were

1 saying as he was already elected, the window of opportunity
2 closed. It's too late now. But you can bring it during the
3 election period.

4 We brought it during the election period during the
5 primary. What did we get? Was it heard on the merits? No.
6 The judges denied the case stating it's too early to bring
7 this case in the state of Georgia and in the state of
8 Florida. The judges who ruled for Barack Obama was my case.
9 Another case, Voeltz, which was brought by another voter,
10 Michael Voeltz. The courts have ruled that they are
11 dismissing the cases not because Barack Obama is eligible, he
12 has one single valid piece of paper, but because it's too
13 early. He was not nominated yet.

14 THE COURT: Now it's too late.

15 MS. TAITZ: No, it's not too late.

16 THE COURT: Don't overtalk me. Now, here's the
17 situation. The election's been held. The electors of
18 California have voted. The votes have been sent to
19 Washington, D.C. They are going to open them tomorrow with
20 the Vice President. And for the Judicial Branch of
21 government to get involved with the political Legislative
22 Branch of government is totally inappropriate at this point
23 in time because, number two, you have not shown that there's
24 jurisdiction to even bring this case in the first place. So
25 you've got two major issues.

1 And, more importantly, this is a motion for a
2 temporary restraining order. Temporary restraining orders
3 are designed to maintain the status quo. That's what the
4 purpose is. To do anything other than to allow the electors
5 to count the ballots would upset the status quo.

6 President Obama has been the President for four years
7 now. And to take the election of 2012 and turn it upside
8 down at this point in time would not maintain the status quo.
9 So you have a completely upside down, late argument and
10 theory that you're proceeding under at this point in time,
11 let alone the fact that you have no jurisdiction over anyone
12 that you've brought suit against.

13 MS. TAITZ: Your Honor, may I respond?

14 THE COURT: Briefly.

15 MS. TAITZ: First of all, I do have standing, and
16 there is a change in status quo because today Mr. Obama, I'm
17 not suing him as the President. What happened in 2008
18 happened in 2008, and we did not have all the evidence then.
19 I'm suing him as a candidate. And until the U.S. Congress is
20 certifying, is counting the votes, adding the votes,
21 providing objection or not providing objection, he is not a
22 President-elect. Today he's a candidate, and I'm trying to
23 preserve the status quo of him being a candidate for
24 President, not President-elect. That's one. Two -- this is
25 one benchmark.

1 The second benchmark is going to happen on January the
2 20th. There will be another change of status quo from
3 President-elect. He will change his position, his standing,
4 his status from President-elect. He will become the
5 President. And what I'm asking --

6 THE COURT: No. Right now, he is the President.

7 MS. TAITZ: Based on what?

8 THE COURT: He is currently the President. Had there
9 been an election where Mr. Romney had won, he would be the
10 President-elect. He didn't win, and so, therefore, President
11 Obama's term continues.

12 MS. TAITZ: Your Honor.

13 THE COURT: Your argument, it doesn't make any sense
14 whatsoever.

15 MS. TAITZ: Your Honor, it makes sense in relation to
16 the 2012 election. If you look at the --

17 THE COURT: Let me ask you a question. Who is
18 residing at 1600 Pennsylvania Avenue at this time?

19 MS. TAITZ: Somebody who won election 2008.

20 THE COURT: No. Who is residing there? President
21 Obama. Therefore, he's the President. He is not the
22 President-elect as you would like to characterize that.

23 MS. TAITZ: Okay. Let me frame it differently. On
24 January the 20th, if he were not to be certified by Congress,
25 he would be a private individual. On the other hand, if he

1 is sworn in, why do we even have a confirmation? Why do we
2 have a swearing in? If he's President and he continues being
3 President, your Honor, why do we have him taking an oath of
4 office?

5 The reason he is taking an oath of office is in order
6 to become the President for four more years. And I'm saying,
7 and the courts were saying, well, we could not bring the case
8 back in 2009 because he was already elected. Wait until the
9 new election. Then we were told by the courts in the primary
10 that it's too early until he's nominated by the Convention.
11 He is not even a candidate. We were told he's not a
12 president. He's not even a candidate for president until he
13 was nominated by the presidential election in September. So
14 we waited longer.

15 And now you want to tell me that you're going back and
16 suddenly he -- so why was it stopped? Why were we told that
17 he is not even a candidate for presidency?

18 This statement goes against what judge after judge
19 stated for this whole year. Your Honor, that's why we have
20 those benchmarks. That's why we have this system of checks
21 and balances.

22 THE COURT: That's why we have the Speech or Debate
23 Clause as well. That this Court will not challenge those
24 decisions that are allocated to Congress. It is for Congress
25 to make that decision.

1 Counsel, do you have anything that you'd like to
2 respond to at this time?

3 MR. OLSEN: It's hard to respond because I'm not sure
4 I heard any legal arguments being made. It seemed like
5 conclusions and platitudes. So I'm not sure how helpful it
6 would be. I think the position of the government is laid out
7 in its opposition to the TRO.

8 If the Court has any questions, I'd be happy to
9 address them.

10 THE COURT: No. I believe that up to this point, and
11 I have allowed this to proceed up to this point out of a
12 concern that this matter be heard fully, which is what the
13 Court's obligation is. As I've stated previously, there
14 really was no absolute requirement that this matter be heard
15 in oral argument. I have nothing else. I think I've asked
16 the questions regarding jurisdiction, regarding standing,
17 regarding the Speech or Debate Clause, status quo. And I
18 should look at this, if there's a likelihood of success on
19 the merits of the case for the restraining order, it is very
20 unlikely that there is a success on the merits at this time.
21 If nothing else, one need only look at the other 13 to 14
22 cases in which this type of action has been brought to find
23 that it's highly unlikely.

24 It's also easy enough to see -- and I'm going to give
25 you your 20 minutes to respond, but the Court's also read all

1 of the articles that have been written about this that were
2 submitted, has reviewed the DVD tape that you sent to the
3 Court as tapes yesterday, read a number of other articles
4 about the cases, read the cases themselves that you've been
5 in, knowing full well that you've been sanctioned over
6 \$20,000 by one federal district court, that sanction being
7 upheld by the circuit court as well, for bringing these types
8 of actions.

9 So I think I'm well aware of this case, and I'm well
10 aware of the reasons and basis for it. And I will let you
11 have your 20 minutes, and I will start once you begin
12 talking, and you can reserve if you'd like.

13 MS. TAITZ: Okay. Your Honor, I would like to start
14 by saying that there were multiple cases that were brought by
15 Thurgood Marshall in court after court after court, and judge
16 after judge after judge denied equal rights. And you know
17 what? If he would have been intimidated by judges telling
18 him, well, you know, another judge next door dismissed your
19 case. You have no value. We have segregation. There is no
20 value in your case. If he would have been intimidated by
21 that, well, you know, this case -- this country would still
22 have segregation.

23 Do you know that Susan B. Anthony not only was
24 sanctioned, she was found guilty? She was thrown in prison
25 for asking for equal rights for women. Was she intimidated

1 by that? Was she intimidated by one judge who was corrupt
2 and who sanctioned her because he thought that it is
3 frivolous to seek equal rights for women? She did not get
4 intimidated. She continued because she did the right thing.

5 What we're doing here is the right thing. It's
6 stopping treason, stopping a violation of equal protection,
7 Fourteenth Amendment equal protection. We are looking for
8 one honest judge who will look at the case on the merits, who
9 will issue an order to compel production of documents. You
10 were talking about the State of Hawaii. The State of Hawaii
11 has never provided any documents.

12 In terms of standing, electors have particularized
13 standing. If you look at what the defendants provided, they
14 have provided mostly cases that were brought by regular
15 voters. Electors are different. They have particularized
16 standing. They are nominated by the party. They were
17 elected by the party. They were certified. There is a small
18 group of them, 538 electors. Mr. Grinols is somebody who is
19 part of this very small group, and he does have standing as
20 part of this group to vote in election. He was denied this
21 right because of fraud, because of forgery, because of
22 massive corruption that we're seeing among top officials in
23 our government.

24 At this point, I would like to call a witness, a
25 former intelligence officer of the U.S. Military, Ms. Pamela

1 Barnett.

2 THE COURT: Denied.

3 MS. TAITZ: May I ask for what reason?

4 THE COURT: Because I told you that I am in control,
5 and I gave you 20 minutes of argument. That's it. There
6 will be no witnesses called.

7 Go ahead.

8 MS. TAITZ: Your Honor, I have here one more witness.
9 As a matter of fact, in the order that was given, I
10 specifically inquired of your deputy if you will allow
11 witnesses to testify. And I received a written answer that I
12 will have 20 minutes for both oral argument and witness
13 testimony. I have paid quite a lot. I'm doing this pro
14 bono. It's a pro bono civil rights case. And I paid for a
15 witness to fly from the state of Florida knowing that I got
16 written confirmation from your deputy that witnesses will be
17 allowed as long as it is within 20 minutes. So I'm asking
18 your Honor to allow me. I have here a witness, Mr. Paul
19 Irely, who flew all the way from the state of Florida. Money
20 was spent for him to appear and testify.

21 THE COURT: What is your offer of proof?

22 MS. TAITZ: He's here. He worked for the National
23 Security Agency. He has 57 years of experience. He is here
24 to prove beyond any doubt, any shadow of the doubt, that the
25 birth certificate used by Mr. Obama is a clear forgery.

1 MR. OLSEN: Your Honor, if I could briefly be heard on
2 that.

3 THE COURT: Yes.

4 MR. OLSEN: The Court's order couldn't be clearer. It
5 says nothing of the sort. It says -- this is the order the
6 Court issued yesterday -- each side will be limited to 20
7 minutes of oral argument.

8 MS. TAITZ: Your Honor.

9 THE COURT: That is exactly why I issued the order
10 last evening, to make certain that there would be no
11 misunderstandings or confusion about my order. It's oral
12 argument. Your request is denied.

13 Furthermore, even if I were to go with an offer of
14 proof, you're saying this person is an expert. I have no
15 idea who this person is, don't know anything about them, and
16 they would have to be tested and subject to cross-examination
17 and voir dire by opposing counsel. And that might be
18 appropriate at a trial. This is for a hearing on a temporary
19 restraining order. Twenty minutes. You can use your time
20 talking about the witness or you can move on. It's up to
21 you.

22 MS. TAITZ: Your Honor, your deputy, Stephanie
23 Deutsch, has sent an email to me and Mr. Olsen --

24 THE COURT: I issued an order last night. Can I have
25 the docket number, Madam Clerk, on that?

1 THE CLERK: Yes, your Honor.

2 MS. TAITZ: Your Honor, it was issued after your
3 deputy stated that witnesses will be allowed.

4 THE COURT: Who is in charge of the courtroom? I am
5 in charge. I'm the judge of this court. I determine how
6 things are going to be run in this court. And I issued an
7 order last evening indicating that there would be 20 minutes
8 of oral argument.

9 MS. TAITZ: Your Honor, before you issued this order,
10 she wrote an email to me and Mr. Olsen stating: I'm going to
11 check with the judge to see if witnesses will be allowed. I
12 specifically asked. And she responded, her email stated that
13 you will get 20 minutes for oral argument and witnesses. A
14 total of 20 minutes.

15 This man flew all the way from Florida. And as a
16 matter of fact, Mr. Olsen himself sent an email to me after
17 we received the email from your deputy stating who are your
18 witnesses? Please advise me the names of your witnesses.

19 THE COURT: I will quote from document number 47 filed
20 on January 2nd, 2013, in this case. "At the hearing on the
21 request for temporary restraining order in the
22 above-captioned case on January 3, 2012, at 2:00 p.m. in
23 courtroom 7, each side will be limited to 20 minutes of oral
24 argument in compliance of Federal Rule of Civil Procedure 78,
25 Local Rule 230, and all relevant case law. It is so

1 ordered." Dated January 2, 2013, and signed by me. That is
2 the order that the Court will follow.

3 MS. TAITZ: Your Honor, by the time you issued this
4 order at 5:05, the witness was already in flight from Florida
5 relying on the fact that your deputy, Stephanie Deutsch, sent
6 an email stating that witnesses will be allowed. And we were
7 relying on the information we received by your deputy.

8 MR. OLSEN: Your Honor, if I could briefly be heard on
9 that. I was cc'd on that email. I don't have it in front of
10 me, but I don't think a reasonable person could read that
11 email suggesting that the Court was authorizing the
12 appearance of witnesses.

13 MS. TAITZ: Ms. Deutsch can read to you the email that
14 she sent.

15 THE COURT: I've read the email. I know what the
16 email says.

17 MS. TAITZ: It says -- it says testimony and
18 witnesses. As a matter of fact, I posted this email online,
19 and all of these people showed up because they saw the email
20 that came from your courtroom, from your deputy. And as a
21 matter of fact, I put the whole list of emails. One where I
22 asked will you allow witnesses? She said I need to check
23 with the Court. She said thank you. And she said I cannot
24 speak because I lost my voice. I checked with the Court.
25 You will have 20 minutes for oral argument and witnesses.

1 And I relied on what was given to me by your deputy
2 after she consulted with you.

3 Your Honor, and I understand that maybe it will be
4 important for trial. However, this testimony will show
5 beyond a shadow of a doubt that we have a hundred percent
6 probability of winning this case because Mr. Obama does not
7 have a valid birth certificate. He has a flagrant forgery.
8 This man worked with typesetting for 57 years. Moreover, his
9 testimony was also admitted in another court in a similar
10 case in the state of Indiana where, after three hours of
11 argument, Judge Reid allowed his testimony on the record. He
12 has experience of 57 years.

13 And it's very simple. Mr. Obama's birth certificate
14 was supposedly done with a typewriter. He brought here huge
15 posters to show to your Honor that when something is done
16 with a typewriter, all the letters have to be the same. In
17 Mr. Obama's birth certificate, one letter is this size,
18 another letter is this size. Completely different sizes.
19 Completely different fonts. You cannot have a birth
20 certificate that is made with a typewriter when all the
21 letters are of different sizes and fonts. It's a joke. It's
22 not even a good forgery. It's a sloppy forgery.

23 And he's here with those posters to show to the Court
24 where we have an open system, the public. We have here a
25 hundred people who want to know the truth, who expect

1 transparency from the court. They are fed up with five years
2 of courts sweeping under the rug evidence of forgery.

3 Ms. Barnett has here Mr. Obama's passport records that
4 show in his mother's passport record him listed under last
5 name Soebarkah, black and white. For that reason alone, even
6 if you don't look at anything else, he cannot be sworn in.
7 How can you swear in a person under a last name that is not
8 legally his?

9 Are we a country that has laws, that has a
10 constitution, or are we some kind of banana republic, that
11 anybody can come from anywhere, be it Kenya or Indonesia,
12 under a last name that is not legally his, with a stolen
13 Social Security number? Flagrant forgery.

14 Your Honor, you have received a statement from a chief
15 investigator who worked for the U.S. Coast Guard, chief
16 investigator of special unit for the U.S. Coast Guard, who
17 stated that Selective Service certificate is a clear forgery.

18 And everything that I have submitted to you, I posted
19 online so that those people, so the public, the country, can
20 see the evidence that is being presented and being swept
21 under the rug by judge after judge. Even if you feel --

22 THE COURT: Sit down.

23 MS. TAITZ: I'm sorry?

24 THE COURT: Someone stood up in the gallery. I said
25 "sit down."

1 MS. TAITZ: Oh, I'm sorry. I'm sorry.

2 So even if you believe that you cannot issue an order
3 to the U.S. Congress not to certify the votes for Mr. Obama,
4 you can issue declaratory relief. You can issue discovery so
5 that -- you can issue a motion to compel.

6 I brought here with me an order from another judge
7 from the state of Georgia. Mr. Obama, just like here, was
8 subpoenaed. Mr. Olsen believed that he is representing him,
9 but he received the summons. He received the complaint
10 several times. He received the subpoena three times; in the
11 state of Hawaii, in Washington, D.C., and in California. He
12 was supposed to appear. Didn't appear. In the state of
13 Georgia, he was represented by the attorney. I issued
14 subpoenas. The attorney filed a motion to compel. I have
15 here an order by the judge which -- I'm sorry -- Mr. Obama's
16 attorney filed a motion to quash subpoenas. The judge stated
17 that this motion is denied. Subpoenas were valid. Mr. Obama
18 was supposed to appear in court. He never showed up. Never
19 provided any evidence. And because it was an administrative
20 court of limited jurisdiction, we could not file a motion to
21 compel or notice interrogatories in other states, in the
22 state of Hawaii, to get necessary documents.

23 Your Honor, it is time, after five years of this whole
24 nation waiting, waiting for one judge to issue a motion to
25 compel to see the original documents that nobody in this

1 nation has ever seen. Nobody has seen the original birth
2 certificate. Nobody has seen the application for Social
3 Security number. Nobody has seen any of the documents for
4 Mr. Obama.

5 Your Honor, would you allow me to present, if you will
6 not allow the witness to testify, can I show at least the
7 exhibits that he prepared and brought from the state of
8 Florida?

9 THE COURT: Before you do that, I am looking at the
10 email. The email states: "Good morning again, and thank you
11 for your question. The Court will permit each side 20
12 minutes total to present their arguments, which includes any
13 and all witnesses." And that was signed by Stephanie
14 Deutsch.

15 In order to clarify that particular email, I issued
16 this order. This order says that there will be oral
17 argument. If you wish to present exhibits here as a part of
18 your oral argument, I will allow you to do that, but that's
19 within your 20 minutes of time.

20 MR. OLSEN: Your Honor, if I could briefly be heard on
21 that. Counsel provided no notice to the Court about what
22 witnesses she planned to present or what exhibits she planned
23 to include. There's been no resume in support of --

24 THE COURT: I will give it the weight to which I
25 believe it is entitled, Counsel.

1 MR. OLSEN: Thank you.

2 THE COURT: And that's why I'm still saying that there
3 are no witnesses because I specifically said "oral argument."
4 Now, I have no idea what's going to be presented, and I can
5 look at it, and I will give it the weight to which it's
6 entitled in this Court's opinion.

7 MS. TAITZ: Okay. Those are enlarged letters that
8 were prepared by the expert. If you are not willing to hear
9 him today, then I'm asking to continue this so that it can be
10 heard during further argument and at trial.

11 But this is enlarged letters from Mr. Obama's birth
12 certificate. And you can clearly see that the letters are
13 different. That what was happening, they used -- a forger
14 used letters and words from different documents that he cut
15 and pasted. Look at letter N. This one is much smaller.
16 This is much larger. Look at letter E. Here, completely
17 different letters, completely different font.

18 You don't even need to be an expert. Anybody can
19 enlarge letters and can see when you -- it's common sense
20 when you print something with a typewriter, it is impossible
21 to have completely different letters. For that reason alone,
22 we have a hundred percent probability of winning. This man
23 is using forged documents.

24 Further on, when you print something with a
25 typewriter, you would see all the letters on the same line.

1 It's not happening. You see how they're jumping. Completely
2 different.

3 Here you can see, again, the enlargement. This is
4 what Mr. Obama presented to the public. Do you see this
5 white halo around the letters? And that's what you see in
6 Mr. Obama's birth certificate. When you use a birth
7 certificate and you put it on green safety paper, it's
8 impossible to have this white halo around the words. The
9 only way to get it is by computer manipulation. It's called
10 unsharp mask. You have computer manipulation, and that's how
11 you get this. This is what you would get if you have
12 background and letters. This is what you get when you have a
13 forgery that is a computer manipulation. White halo around
14 each and every letter.

15 Moreover, you don't even need to be an expert. You
16 don't need to be an expert to see it. It's something that
17 can be seen with the naked eye by anybody.

18 The number on known birth certificates. This is a
19 birth certificate for one Susan Nordyke. You can see that
20 her birth certificate was issued by the registrar after
21 Mr. Obama's, and the number is lower. And we're seeing total
22 inconsistency of numbers. The birth certificates, when
23 they're issued, you have numbers one after another in
24 sequence. This one is completely out of sequence. Also, the
25 name of the registrar. This woman was born in that hospital,

1 and that's a completely different name of the registrar.

2 I have provided an affidavit of Sheriff Arpaio which
3 provides evidence that they have conducted a year of criminal
4 investigation and found that the documents are altered, the
5 birth certificate, Selective Service certificate, and Social
6 Security number, and they're continuing their criminal
7 investigation.

8 Moreover, this case is brought in the state of
9 California not only because of Mr. Obama's forged IDs and a
10 stolen Social Security number. This case is brought in the
11 state of California because I have provided you with evidence
12 of one-and-a-half million invalid voter registrations. I ran
13 for office in the state of California. I ran for the U.S.
14 Senate. And I received, and I can attest to it --

15 THE COURT: You have 30 seconds.

16 MS. TAITZ: I have received the CDs of the voter
17 information from Debra Bowen, Secretary of State herself. I
18 have provided you with sworn affidavits showing that there
19 are approximately one-and-a-half million invalid voter
20 registrations. Aside from Mr. Obama's invalid documents,
21 this is something that ties this case to the state of
22 California.

23 THE COURT: Your time's up.

24 MR. OLSEN: Your Honor, Ms. Taitz is trying to present
25 expert testimony. As the Court is well aware, under Daubert

1 and Federal Rule of Evidence 702, the inquiry is whether it's
2 relevant and reliable. There's been no showing that these
3 exhibits are reliable. I don't even know what those exhibits
4 are, who prepared them, using what technology.

5 To the extent they were prepared by Paul Irej, who I
6 think is mentioned in one of the exhibits in the petition,
7 he's not a certified forensic examiner. Ms. Taitz has made
8 no effort to explain to the Court or to me what his
9 qualifications are, what his background is, what his
10 education is, what training he's received, and what document
11 he's looking at. He obviously isn't looking at the certified
12 birth certificate because that has not been released to the
13 public, other than the copy that the President voluntarily
14 put on the White House website for the public to see, which
15 we all hoped would put this frivolous issue to rest, and
16 obviously it hasn't.

17 So the government would ask the Court to strike that
18 testimony by the attorney.

19 MS. TAITZ: May I respond?

20 THE COURT: No. Go ahead.

21 MR. OLSEN: That's about all I have, your Honor.

22 Even if this is all true, you know, in their wildest
23 hopes, they still haven't presented any evidence that the
24 President is not a natural born citizen. Even if they are
25 able to establish somewhere in some forum that that birth

1 certificate is forged, they don't have any evidence to
2 support their assertion that he's not a natural born citizen.

3 And as your Honor properly started off the hearing by
4 saying, there's no requirement in the Constitution or any
5 federal statute that the President demonstrate to the
6 satisfaction of Ms. Taitz or any of the plaintiffs that he is
7 a natural born citizen.

8 MR. WATERS: And, your Honor, I again have nothing to
9 add here. The only activity done by the Executive Department
10 of the State of California was done the same way it's done in
11 all elections. It ended as of December 15th, and this case
12 is moot as to the state defendants.

13 THE COURT: Well, as I have repeatedly said here, the
14 fact that this case has even been allowed to get as far as it
15 has to a hearing today is, I think, this Court's attempt to,
16 as Ms. Taitz stated during the course of her closing
17 argument, to show that this Court would look to the arguments
18 that were presented and not be a, quote, corrupt judge and
19 try to find someday a, quote, honest judge. And I've allowed
20 this to be heard openly and publicly. And for the reasons
21 that I've stated previously, that there is a lack of
22 jurisdiction, being a lack of service of any of the
23 documents, that there is lack of standing to bring this
24 action, there is no requirement that there be any type of
25 identification shown at any time for any person to be the

1 President of the United States, as required by the United
2 States Constitution, because the only credible information
3 that this Court has received and has been released was from
4 the Director of the Hawaii Health Department who has
5 certified and attested to the authenticity of the certified
6 copies of the original certificate of live birth which was
7 published approximately a year and a half ago. That is
8 credible testimony.

9 The testimony with respect to the charts that have
10 been presented, again, there is no indication that the person
11 has any expertise in a particular area, other than they have
12 worked for a long period of time in a particular profession.
13 That goes for the person that created these charts. That
14 also goes for Sheriff Arpaio who has had a long career in law
15 enforcement and apparently has somehow taken it upon himself
16 to find some investigation which this Court is not sure what
17 the purpose of it is for.

18 There is absolutely no way that this case will survive
19 the challenges that it faces when looking at a temporary
20 restraining order at this time.

21 I have set forth the standard previously in short
22 form. I will provide a written order that will provide the
23 specific bases for this Court's denial of the temporary
24 restraining order. But in light of the fact that the
25 Congress of the United States and the Vice President of the

1 United States will be working to certify the electoral votes
2 in less than one day, I think it will behoove all parties
3 that they understand that this Court is denying the request
4 for a temporary restraining order in an oral fashion at this
5 time, but it will be supplemented by the written denial of
6 the temporary restraining order. The written denial of the
7 temporary restraining order shall be controlling as to all
8 facets of this Court's opinion.

9 That will be the order of the Court.

10 There are no other matters on calendar at this time.
11 The Court is adjourned.

12 MR. OLSEN: Thank you, your Honor.

13 (Proceedings concluded at 3:08 p.m.)
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1 I certify that the foregoing is a correct transcript
2 from the record of proceedings in the above-entitled matter.
3

4
5 /s/ Kelly O'Halloran

6 KELLY O'HALLORAN, CSR #6660
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