

OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

DAVID P. WELDEN :
 :
 Plaintiff :
 :
 v. : Docket Number: OSAH-SECSTATE-CE-
 : 1215137-60-MALIHI
 BARACK OBAMA :
 :
 Defendant :

PLAINTIFF WELDEN’S MOTION FOR A SEPARATE HEARING

Pursuant to this Court’s Consolidation Order of December 20, 2011, Plaintiff Welden respectfully submits this motion for a separate hearing. Grounds for this motion, as set forth more fully below, are that Plaintiff Welden asserts different facts and law than the other Plaintiffs in the consolidated cases, that Plaintiff Welden’s argument is much simpler than that of the Plaintiffs in the consolidated cases, and that Plaintiff Welden’s case will be prejudiced by the ordered consolidated hearing.

Plaintiff Welden also respectfully requests that a hearing be set for this case at the Court’s earliest available date.

Memorandum

A. Greatly Reduced Time

Plaintiff Welden intends to call one witness, himself. He intends to testify regarding two facts. Total time for Plaintiff Welden’s examination and cross examination is estimated to be less than ten minutes.¹

¹ Plaintiff Welden’s proposed pre-trial order does reflect an estimate of “one to two hours” for the entire hearing. That estimate was prepared before Mr. Welden retained counsel. Total time for Plaintiff’s presentation of evidence is corrected to that reflected in this motion. Time for argument is obviously not included in Plaintiff Welden’s ten-minute estimate.

In contrast Plaintiffs Farrar et al. estimate 10 hours for examination of witnesses alone. *See* Farrar et al. Prop. Pre-Trial Or.

This huge difference in time for hearing reflects the substantive differences in the cases being presented. These differences are discussed below. However, the difference in time by itself should be sufficient grounds for granting Plaintiff Welden a separate hearing. Without a separate hearing Plaintiff Welden's short presentation of evidence will be buried under an avalanche of evidence that is completely irrelevant to Plaintiff Welden's simple legal argument.

B. Different Facts

Plaintiff Welden has already stipulated that the Defendant was born in Hawaii, that the Defendant is a U.S. Citizen, and that the Defendant was Constitutionally-qualified to serve as a U.S. Senator. *See* Welden Opp. Mtn. Dismiss at 8-9. The other Plaintiffs in the consolidated cases contest all these facts. *See* Farrar et al. 1st Amd. Compl.; Farrar et al. Prop. Pre-Trial Or. Plaintiff Welden makes no assertion regarding the Defendant's passports, or social security number, or any other fact related to the Defendant, with the one exception of the fact that the Defendant's father was not a U.S. citizen. The other Plaintiffs contest the authenticity of the Defendant's social security number and intend to make arguments about the Defendant's passports.²

² Plaintiff Welden does not disparage the arguments of the other Plaintiffs in any way. He simply points out that the facts and evidence asserted by the other Plaintiffs are completely irrelevant to Plaintiff Welden's assertions and legal arguments.

C. Different Legal Theories

Plaintiff Welden's legal theory relies upon one substantive fact, which has been repeatedly and publically admitted by the Defendant, and one definition from the Supreme Court. See *Minor v. Happersett*, 88 U.S. 162, 167 (1875). The other Plaintiffs intend to assert multiple legal theories including fraud, identify theft, and others.

Again, if Plaintiff Welden's brief and simple complaint is heard in the same proceeding as the other Plaintiffs' testimony and arguments, it will be buried like a needle in a haystack of mind-numbing legal wrangling.

D. Prejudice to Plaintiff Welden

Due to the negative public perception of certain arguments Plaintiff Welden made the conscious decision to avoid several of the matters being raised by the other Plaintiffs. Plaintiff Welden made this decision specifically for the purpose of highlighting a simple and dispositive argument. Forcing Plaintiff Welden to present this simple matter at the same hearing as the other Plaintiff's ten-hour-plus presentation would completely destroy Plaintiff Welden's purpose in keeping his case simple.

This Court's order to consolidate was not too surprising because from an initial review of the matters presented, it appears to make sense. However, when taken in light of the facts set forth herein it is clear that Plaintiff Welden should be granted a separate hearing.

Plaintiff Welden is willing to appear before this Court at the Court's earliest convenience. He respectfully requests the earliest hearing date available.

Conclusion

For the reasons set forth herein, the Plaintiff respectfully requests that this Court grant Plaintiff Welden's motion for a separate hearing.



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CERTIFICATE OF SERVICE

Pursuant to the Order entered in this matter regarding electronic service, I certify that I have served the opposing party in this matter with a copy of Plaintiff Welden's Motion for a Separate Hearing by sending a copy via e-mail addressed to: Michael Jablonski, Michael.jablonski@comcast.net; Orly Taitz, orly.taitz@gmail.com; and mhatfield@wayxcable.com

This the 23rd day of December, 2011.



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