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 - 317-269-2000
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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CAUSE NO. 49D01-1203-MI-012046

ORLY TAITZ, KARL SWIHART,)
EDWARD KESLER, BOB KERN,)
and FRANK WEYL)

Petitioners,)

v.)

INDIANA ELECTION COMMISSION,)
and INDIANA SECRETARY OF)
STATE,)

Respondents.)

APPEARANCE BY ATTORNEYS

1. The party on whose behalf this form is being filed is:
Initiating _____ Responding X Intervening __; and the undersigned attorney
and all attorneys listed on this form now appear in this case for the following parties:

Name of Party: **Indiana Election Commission**
Indiana Secretary of State
Address of party: Indiana Government Center South
200 West Washington Street, Room 201
Indianapolis, IN 46204

2. Attorney information for service as required by Trial Rule 5(B)(2):

Name: **Jefferson Garn** Attorney No.: 29921-49
Address: OFFICE OF INDIANA ATTORNEY GENERAL
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Telephone: (317) 232-6292
Fax: (317) 232-7979
E-Mail: jefferson.garn@atg.in.gov

3. This is a MI Case Type under Administrative Rule 8(B)(3).

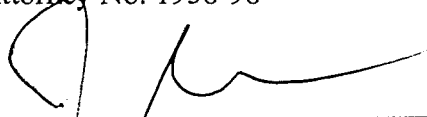
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8. NA
9. There are related cases: Yes _____ No X .
10. Additional information required by Local Rule: _____ N/A _____ .
11. There are other party members: Yes ____ No X .
12. This form has been served on all other parties and Certificate of Service is attached:
Yes X No _____ .

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

By:



Jefferson Garn
Deputy Attorney General
Attorney No. 29921-49

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing *Appearance By Attorneys* has been duly served upon all parties and/or counsel of record listed below, by United States mail, first-class postage prepaid, on this 10th day of April, 2012:

Information has not been provided to the Court or undersigned counsel regarding a mailing address for the following Petitioners: Edward Kesler, Frank Weyl and Bob Kern.

Orly Taitz
29839 Santa Margarita Pkwy, Ste 100
Rancho Santa Margarita, CA 92688

Karl Swihart
460 Austin Drive
Avon, IN 46123



Jefferson Garn
Deputy Attorney General

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IN THE SUPERIOR COURT
MARION COUNTY

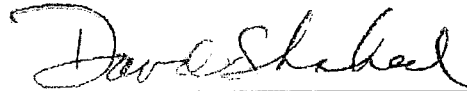
) CASE #49D0103MI012046

DR. ORLY TAITZ, ESQ)
KARL SWIHART)
EDWARD KESLER)
FRANK WEYL)
BOB KERN)
V)
ELECTIONS COMMISSION)
SECRETARY OF STATE OF INDIANA)

FILED
APR 10 2012
Elizabeth A. White
CLERK OF THE MARION COUNTY COURT (145)

Order

**MOTION TO RECUSE JUDGE SHAHEED UNDER RULE 79 OF INDIANA
RULES OF TRIAL PROCEDURE IS GRANTED**



/S/ Judge David Shaheed

DISTRIBUTION:

Karl Swihart, pro se
460 Austin Drive
Avon, IN 46123

Orly Taitz, pro se
29839 Santa Margarita Pkwy., #100
Margarita, CA 92688

Indiana Elections Commission
302 W. Washington Street, Rm. E-204
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CAUSE NO. 49D01-1203-MI-012046

ORLY TAITZ, KARL SWIHART,)
EDWARD KESLER, BOB KERN,)
and FRANK WEYL)

Petitioners,)

v.)

INDIANA ELECTION COMMISSION,)
and INDIANA SECRETARY OF)
STATE,)

Respondents.)

FILED
94 APR 10 2012
Elizabeth A. White
CLERK OF THE MARION CIRCUIT COURT

MOTION TO DISMISS PETITIONERS' "MOTION TO RECUSE JUDGE SHAHEED UNDER RULE 79 OF INDIANA RULES OF TRIAL PROCEDURE"

Respondents Indiana Election Commission and the Indiana Secretary of State hereby move to dismiss Petitioners' "Motion to Recuse Judge Shaheed Under Rule 79 of Indiana Rules of Trial Procedure." In support of their Motion to Dismiss, Respondents show the Court as follows:

1. Petitioners filed a "Petition for Emergency Injunctive Relief/Petition for Declaratory Relief" on March 23, 2012. They appear to be challenging the Indiana Election Commission's decision to unanimously deny the challenge to President Barack Obama as the presidential candidate for the Democratic Party.

2. Petitioners' filing is, in effect, an attempt to overturn an administrative decision. Thus, it is governed by the Administrative Orders and Procedures Act ("AOPA"), Indiana Code § 4-21.5 *et seq.*, which establishes the *exclusive* means for judicial review of an agency action. *See* Ind. Code § 4-21.5-5-1.

FILED APR 10 2012

3. On April 9, 2012, Petitioners filed a “Motion to Recuse Judge Shaheed Under Rule 79 of Indiana Rules of Trial Procedure.”

4. Petitioners appear to move for recusal under Indiana Trial Rule 79(c). Apparently, Petitioners allege that recusal is necessary because a person within the third degree of relationship to the judge is known by the judge to have an interest that could be substantially affected by the proceeding.

5. Petitioners’ motion is improper because they have failed to establish that any person related to the judge could be substantially affected by the proceeding. Petitioners allege that one of the petitioners, Bob Kern, is a Democratic candidate for U.S. Congress running against a relative of Judge Shaheed. Pet. Motion p. 5.

6. Pursuant to AOPA, standing for a judicial review is limited to a person to whom the agency action is specifically directed, a person who was a party to the agency proceedings that led to the agency action, a person eligible for standing under a law applicable to the agency action, or a person otherwise aggrieved or adversely affected by the agency action. Ind. Code § 4-21.5-5-3(a).

7. Petitioners claim that Mr. Kern “submitted an elections fraud complaint against Presidential candidate Barack Obama,” so it appears that Petitioners claim standing for Mr. Kern based on his being party to the agency proceedings.¹ Pet. For Emergency Injunctive Relief/Pet for Declaratory Relief ¶ 5. Notably, however, Mr. Kern is not included as one of those who submitted the Election Commission challenge for which they now seek judicial review. *Id.* ¶ 2. Thus, based on Petitioners’ own filing, Mr. Kern does not have standing to challenge the Election Commission’s decision; much less seek recusal of Judge Shaheed.

¹ While it is conceivable that Petitioners claim standing for Mr. Kern based on his being a person aggrieved or adversely affected by the decision, Petitioners have made no showing pursuant to Indiana Code § 4-21.5-5-3(b) that Mr. Kern met the requirements for standing as an aggrieved non-party.

8. Thus, as Petitioners have failed to establish that Mr. Kern was a party to the action below and, consequently, whether he is a proper petitioner for judicial review, Petitioners have failed to demonstrate that a proper party would have any conflict with a relative of Judge Shaheed, much less the extenuated conflict concocted by the Petitioners in their motion to recuse.

9. Furthermore, even if this Court were to recuse himself, Petitioners' fail to understand the proper procedure for selecting a special judge pursuant to the Indiana trial rules.

10. Marion County LR 49-79.1 Rule 227 establishes the proper procedure for selecting a new judge in the event of a recusal under Indiana Trial Rule 79(C). The rule does not contemplate the selection of a judge from a contiguous county, Morgan County or otherwise.

11. Additionally, if this court were to construe the Petitioners' motion as an initial request for a change of judge under Indiana Trial Rule 76(B) and Marion County LR49-TR79 Rule 223, there are again established procedures for selecting a new judge, which would include selecting a panel pursuant to Indiana Trial Rule 79(F).

12. Respondents would note that the Petitioners have exhibited a cavalier attitude toward the judiciary of Indiana in general and this Court in particular through multiple defects in their motion for recusal and their "Petition for Emergency Injunctive Relief/Petition for Declaratory Relief." Petitioners have failed to comply with, among other things, the Administrative Rules and Procedures Act. Consequently, Respondents will be filing a motion to dismiss shortly which will detail the multiple, incurable defects.

13. Further, Petitioners' have exhibited disdain and contempt for the Indiana judiciary and this Court in particular through numerous comments publicly posted on one Petitioners' website, which includes posting of this Court's chambers phone number with a statement that


“We should be able to call the clerk up to get answers. The clerk said it would take a couple of days for a decision-(nothing like stalling tactics!!).” See Ex. 1. Further, the same Petitioner’s website also included postings calling into question the integrity of the judicial process in Indiana. See Ex. 2. Such contempt reveals the true motive for Petitioners desire for recusal.

WHEREFORE, Respondents respectfully request that this Court dismiss or deny Petitioners’ “Motion to Recuse Judge Shaheed Under Rule 79 of Indiana Rules of Trial Procedure.” In the alternative, Respondents respectfully request that the Court construe the Petitioners’ motion as an initial request for a change of judge pursuant to Marion County LR-TR79 Rule 223, and select a new judge pursuant to Indiana Trial Rule 79(F).

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

By:



Jefferson S. Garn
Deputy Attorney General
Attorney No. 29921-49

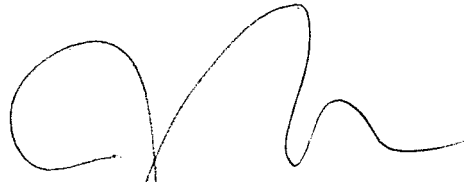
CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing *Motion to Dismiss Petitioners' "Motion to Recuse Judge Shaheed Under Rule 79 of Indiana Rules of Trial Procedure"* has been duly served upon all parties and/or counsel of record listed below, by United States mail, first-class postage prepaid, on this 15th day of April, 2012:

Information has not been provided to the Court or undersigned counsel regarding a mailing address for the following Petitioners: Edward Kesler, Frank Weyl and Bob Kern.

Orly Taitz
29839 Santa Margarita Pkwy, Ste 100
Rancho Santa Margarita, CA 92688

Karl Swihart
460 Austin Drive
Avon, IN 46123



Jefferson Garn
Deputy Attorney General





OFFICE OF INDIANA ATTORNEY GENERAL
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Telephone: (317) 232-6292
Facsimile: (317) 232-7979
E-mail: jefferson.garn@atg.in.gov

Dr. Taitz, Esq. has no means of checking the veracity of all the claims and allegations in the articles.

Update in Indiana

Posted on | April 9, 2012 | [No Comments](#)

Orly, Bob and I turned in the order to room W-407-(Judge Shaheed's office) today. We asked for expedition as this is an elections case and clerk placed it on the top of the stack for the judge to look at. We also asked for a website to go to so we can track the docket #. It is: civicnet.net however, there is a payment involved for information that should be free. The phone number for Judge Shaheed's office is: 317-327-4200. We should be able to call the clerk up to get answers. The clerk said it would take a couple of days for a decision-(nothing like stalling tactics!!) Karl

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Dr. Orly Taitz, Esquire

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29839 Santa Margarita
Pkwy, Ste 100
Rancho Santa Margarita,
CA 92688.

Contact Dr. Taitz at
orly.taitz@gmail.com or
dr_taitz@yahoo.com.
In case of emergency, call
949-683-5411.

*"It is not the critic who
counts; not the man who
points out how the strong
man stumbles, or where the*

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EXHIBIT

2

doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat." -- Theodore Roosevelt, April 23, 1910

When the people fear their government, there is tyranny.

When the government fears the people, there is liberty.

-- Thomas Jefferson

During times of universal deceit, telling the truth becomes a revolutionary act. -- George Orwell

First they ignore you, then they ridicule you, then they fight you, then you win. -- Mahatma Gandhi

The articles posted represent only the opinion of the writers, do not necessarily represent the opinion of Dr. Taitz. Esq. Dr. Taitz, Esq. has no means of checking the veracity of all the claims and allegations in the articles.

A prominent Muslim judge was assigned to my case in IN. Do you think it is a coincidence?

Posted on | March 30, 2012 | [7 Comments](#)

US is a predominantly Christian country. There are probably a couple of Muslim judges in the whole country. The second time in a row a Muslim judge is being assigned to my case.

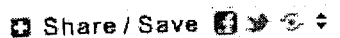




This time it is judge David Shaheed in Indiana, who is listed by the “Muslim Observer” as a prominent Muslim judge.

But wait, there is more! He is also related to Andre Carson, prominent Muslim US Representative, who is challenged by one of the plaintiffs on the case, Bob Kern.

Funny that Democratic party through their attorney wants to question me about any financial help I am getting. I am wondering about any financial help Obama and the Democratic party get to achieve this “random” distribution, so that two Muslim judges: Malihi and Shaheed are assigned to my cases in GA and IN. Do you think there was some help in getting this result?

From all of the stress and sleepless nights I had some health problems. So, on account of my brother’s fortieth birthday my husband and I decided to take a few days off and spend some time with my brother and my sister in law and my adorable nieces and my parents. I will resume submitting pleadings shortly.

After I respond in MS, I will deal with this “unbiased, impartial” matter in IN.

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Category: Uncategorized

Comments

7 Responses to “A prominent Muslim judge was assigned to my case in IN. Do you think it is a coincidence?”

0. Larry
March 31st, 2012 @ 12:45 am

TheReligionofPeace.com
Guide to Understanding Islam

What does the
Religion of Peace
Teach About...

Lying (Taqiyya and Kitman)

Question:
Are Muslims permitted to lie?

Summary Answer:
Muslim scholars teach that Muslims should generally be truthful to each other, unless the purpose of lying is to “smooth over differences.”

There are two forms of lying to non-believers that are permitted under certain circumstances, taqiyya and kitman. These circumstances are typically those that advance the cause Islam – in some cases by gaining the trust of non-believers in order to draw out their vulnerability and defeat them.

Do you think you have a chance, with the "Muslim and Chief"

0. steve
March 31st, 2012 @ 3:41 am

What are the odds of you getting two MUSLIM judges in a row? You would have had a better chance to win that mega-millions last night. Of course it's a blatant, arrogant message from the top straight to you. This message is to show you their supposed power and intimidation to 'scare' you into some sort of crying, hysterical girl-fit, but unfortunately they STILL have you gravely underestimated- their arrogance is their own downfall and your fuel. Double-down, they'll fall hard.

0. Bloodless Coup
March 31st, 2012 @ 5:25 am

Hey Orly, maybe if you simply refused to show up for court like Obama did in GA, the Muslim Judge will rule in your favor. (just kidding)

0. 2discern
March 31st, 2012 @ 5:34 am

Wow! A contradiction in values, belief, and theology. How does one giving testimony affirm truth on the Holy Bible in a court room where the judge despises it? The progressives continually pursue the removal of Biblical reference in the judicial system.

0. B. Z. Bub
March 31st, 2012 @ 9:20 am

Malihi was some surprise package huh? Shaheed may prove to be an even more arrogant agent of injustice within America's biblically based legal system. If evidence and the law are illegally ignored again, does that mean the fix is in and that Obama really is a Muslim with a few aces up his sleeve? Hmmm, it could be doc.

0. Ed O.
March 31st, 2012 @ 6:58 pm

Orly, look at it from this point of view. When all the corruption comes out and hits the fan, you can bet your life that Judge Mahili can be impeached, so if this new Muslim judge rules somewhat like Mahili did, you'll be able to have TWO Muslims impeached. Someone may be doing you a favor.

0. orly taitz
March 31st, 2012 @ 8:08 pm

my goal is to remove from Obama from office for fraud, it is not impeach Muslim judges

Leave a Reply

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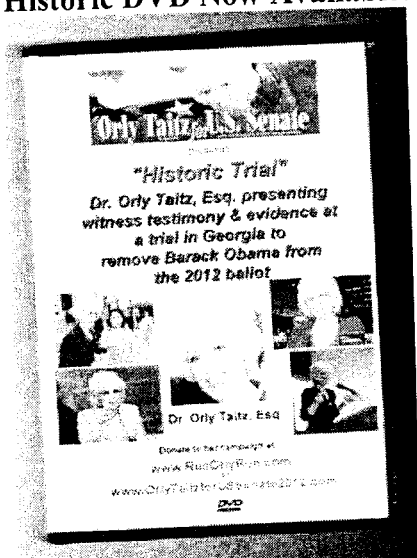
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Pay by credit card on the website RunOrlyRun.com or by check to: Orly Taitz for US Senate 2012, 29839 Santa Margarita ste 100, RSM, CA 92688.

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RESTORE OLD GLORY, VOTE FOR ORLY. --- Betty

CITIZENS! YOU CAN CHALLENGE OBAMA'S ELIGIBILITY. Obama does not meet the requirements to be on the ballot, and he has submitted false documents in support of his eligibility. Call your state secretary of state on how you may file a challenge.

Addresses of State Election Agencies.

Phone numbers of the Secretaries of States.

Call your state governor to complain about this violation of the U.S. Constitution. Phone numbers of the State Governors.

Dr. Orly Taitz runs for U.S. Senate 2012

CAMPAIGN FLYER for Orly Taitz as U.S. Senator from CA in 2012.

How to contact public Integrity unit

See The PDF File Here

US Department of Justice has a special unit in their Criminal Division called the PUBLIC INTEGRITY SECTION

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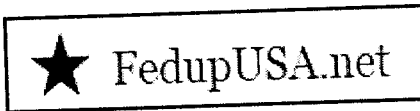
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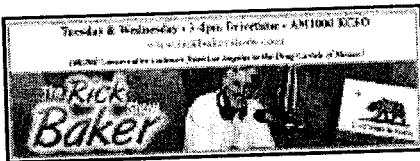
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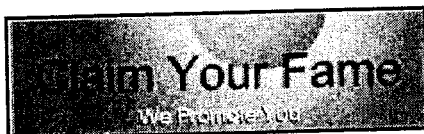


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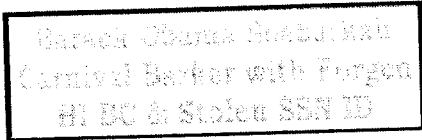
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Ste 100
Rancho Sta Margarita, CA 92688
orly.taitz@gmail.com
(949) 766-7687

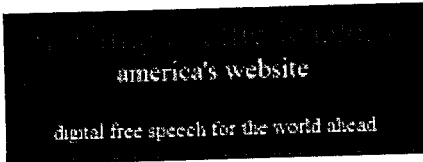
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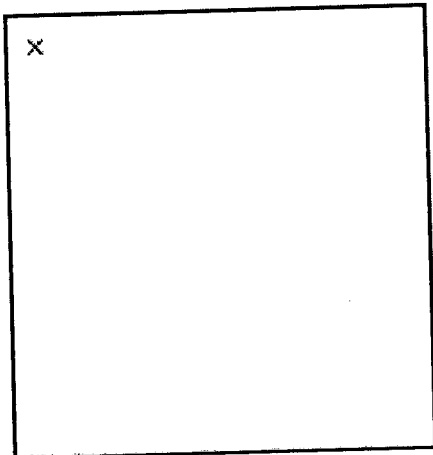
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