Dr. Orly Taitz ESQ

29839 Santa Margarita, ste 100

Rancho Santa Margarita, CA 92688

FOURTH APPELLATE DISTRICT

DIVISION THREE

Taitz	)	**G047746**
V	)	
Obama et al	)	

MOTION FOR RECONSIDERATION OF THE ORDER ON APPEAL

Appellant Taitz is seeking a reconsideration of the order on following grounds:

I. Appellant was deprived of her due process rights under the color of authority18 USC § 242 - Deprivation of **rights under color of law** | Title 18 ...

This court erred in its ruling, as the court noted lack of a transcript of the November 1,2012 hearing as a reason for not reversing order of $4,000 sanction.

Judge Marginis made a decision not to have either a court reporter or an audio tape at the proceedings when he accessed the Appellant, Federal whistleblower and civil rights attorney Taitz $4,000 for seeking release of college registration or application of Barack Obama in light of evidence of fraud and foreign citizenship of Obama.

The court ruled in its' decision that it cannot grant the appeal, at it does not have a transcript of the hearing in question, implying that Appellant is at fault for not providing the transcript.

In reality appellant contacted the court after the hearing and requested a transcript or an audio tape of the 11.01.2012 proceeding. She was told thatJudge Marginis decided not to have a court reporter or an audio recording of the proceeding.

Plaintiff did not provide the transcript not because she did not want to do it, but because the presiding judge decided not to have either a court reporter or an audio recording in his courtroom during the hearing in question.

Plaintiff never encountered a situation where there isn't either a court reporter or an audio recording.

For this reason alone decision by Judge Marginis to access the Appellant $4,000 has to be vacated . Judge Marginis engaged in violation of Due process rights of the Appellant under color of authority.

18 USC § 242 - Deprivation of **rights under color of law** | Title 18

a. the court made an error in assuming that court transcript is not provided due to unwillingness by taitz to provide it. In reality Judge Marginis deprived her with due process by bullying her with $4,000 sanctions without any records, as he made a decision not to have a court reporter or a tape recorder.

Taitz was entitled to her due process right under the 5th and 14th Amenbdmentd as well as her 1st amendment right for redress of grievances. Judge Marginis deprived Taitz of such right under the color of authority.

b. when Taitz requested that Judge Marginis stay these sanction pending her motion for reconsideration, he denied her request.

c. the hearing on November 1, 2012 was scheduled for one purpose only: Motion by Taitz, seeking release of Obama's college application for the purpose of providing verification to the public the fact that Obama used Indonesian citizenship after the age of majority and was not legitimate as a candidate for the U.S. President in the general election, which was scheduled to take place 6 days later. Custodian of records, Occidental college, was summoned to be at the hearing. summons were received two days earlier. Obama was served with the notice of the

hearing, however he chose not to respond, as he did not respond for four months to multiple instances of being served.

Attorneys for Occidental college appeared in court and refused to provide records claiming privacy. They also sought $4,000 of the attorneys fees they allegedly incurred.

Judge Marginis received the pleadings by the Occidental college prior to the hearing by fax. **Taitz, plaintiff, did not even see the pleadings until she appeared in court.**

At the hearing Taitz stated to Judge Marginis that the hearing was for release of records only. She did not have the pleadings seeking 44,000 prior to the hearing and did not have any opportunity and time to research the matter and provide a reply. She requested to give her time to respond.

Judge Marginis abused his judicial discretion and deprived Taitz of any and all due process, he refused to give her any time to research this request for $4,000 and provide a reply. He attacked her with $4,000 fee on the spot without giving any due process.

Fourth District Court of Appeal saw that November 1, 2012 hearing was an emergency ex-parte motion hearing seeking release of Obama's records.

Without any other documents, just based on the docket, 4th District court of Appeal saw that this was not a hearing for $4,000 sanctions, that minute order shows that there was no court reporter.

Based on the docket and the minute order alone 4th District Court of Appeal has a duty to reverse the sanction, as clearly no due process was awarded to Taitz. She was deprived of any right to have a hearing on sanctions: no sanction hearing was scheduled, no opportunity **to as much as read the request for sanctions**, no time to research and respond. If Judges Ikola, Fybel and Thompson do not reverse their order and do not reverse the sanction of $4,000, they will be complicit in egregious violation/deprivation of 5th and 14 th Amendment right of Due Process right under the color of authority of rights of Federal whistleblower and civil rights leader Orly Taitz. United States of America is not a Banana Republic. Even in Banana Republics of Africa the courts have either a tape recorder or court reporter and provide a transcript. It was not done here. Even in Banana Republics, when one is deprived of his or her property rights, she is given time to read the pleading, research, provide an answer and have a proper hearing on the issue of sanctions. If this abuse is not reversed, the Fourth District will encourage deprivation of civil rights and we will see more instances of emboldened judges of lower courts acting as little tyrants and depriving parties appearing in front of them of their due process rights.

Further such award of fees required a specific finding of either "bad Faith" on part of Taitz or oppression.

Judge Margins never found any bad faith or oppression and as such had no right to assess any fees against Taitz.

The court of Appeal did not find any "bad faith' or "oppression" as required by the statute and had absolutely no right to affirm the decision by judge Marginis.

The only thing that the Court of Appeal found, was claims by the Occidental college that the subpoena was defective as there were technical deficiencies in subpoena. Even if this is correct, this does not represent: bad faith" or "oppression" as required by the statute, as such the decision is a clear error of law.

II THE COURT OF APPEAL ERRED IN INTERPRETATION OF STATUTE 396 OF THE CALIFORNIA CODE OF civil procedure "(a) No appeal or petition filed in the superior court shall be dismissed solely because the appeal or petition was not filed in the proper state court. [¶] (b) If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal or the Supreme Court would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction upon terms as to costs or otherwise as may be just, and proceeded with as if regularly filed in the court having jurisdiction."

the court ruled that the petition could not have been transferred.

a. statute 396 specifically states that if the If the superior court lacks jurisdiction of an appeal or petition, and a court of appeal **OR THE SUPREME COURT** would have jurisdiction, the appeal or petition shall be transferred to the court having jurisdiction"

This court looked only at one aspect, one part of the statute, "if the court of appeals would have jurisdiction"

This court did not address the second part of the statute "or the Supreme court would have jurisdiction".

Here, a petition was filed in the Superior Court. Supreme court has jurisdiction coming out of this court and the Superior court in Sacramento, as such superior court had a duty to transfer the case.

Further, section 16421 refers only to election of President and Senators. It does not relate to any other election.

In its statement of facts the Fourth District stated "For relief Taitz sought declaratory and injunctive relief precluding the certification **of all votes in the 2012 primary election**, and in particular all votes for President Obama". So, based on the admission by the Fourth District itself, relief sought was not limited to the class of votes that are described in section 16421, as such even if the court

were to find that any further ruling would not include the class of votes described in 16421, the case still has to proceed.

Taitz provided the court with evidence showing that there are one and a half million invalid voter registrations, affidavits that legitimate voters were not allowed to vote. The court has a duty to reverse the decision, so that the lower court either issues a default judgment and post judgment discovery identifying invalid voters and ordering removal/purging of all invalid voter registration out of the voter rolls. Under *Roe v Wade* 410 U.S. 113 (1973) the Court can and should review on the merits a violation of right, which is capable of repetition, yet evading judicial review. Here, citizens of California are deprived of their constitutional suffrage rights, as their votes are nullified by one and a half million invalid votes. People, who controlled this mother load of bogus votes, control all elections in California, including all local elections, elections of judges and congressional and presidential elections. Not only Taitz was deprived of her due process rights during the hearing, but every citizen of California is deprived of his due process right to have a valid lawful election. Since elections statutes and challenges are conducted within a short window of opportunity, the court has to hear the issue of invalid voter registration, as an issue capable of repetition and evading review.

III. DECISION OF THIS COURT CONTAINS A PROPOSED ORDER, WHICH IS NOT SIGNED BY THE LOWER COURT JUDGE AND WHICH IS MALICIOUSLY FALSIFIED, THE SPECIFIC STATUTE WAS CUT OUT FROM THE ORDER IN ORDER TO HIDE THE FACT THAT CA STATUTE 1987.2 REQUIRES "BAD FAITH" AND "OPPRESSION", WHICH WAS NEVER FOUND BY EITHER THE LOWER COURT OR THIS COURT.

Further reason for which 10.31.2013 order of this court has to be set aside and reversed, is because it referenced a document, which is not a part of the record and it maliciously altered/falsified this document.

As stated, plaintiff could not provide the transcript because judge Marginis made a decision not to have a court reporter or a tape recorder in his court room. The only thing that was available and that she provided, was the minute order.

Appellant submitted the minute order to the Court of Appeals.

The Court of Appeals decided to quote a proposed notice of ruling which was submitted by the Occidental college, which was never adopted by judge Marginis and never signed by judge Marginis. Appellant suspects that Judge Marginis never signed this proposed notice of ruling because it was based on CA statute 1987.2, which require "bad faith" and "oppression" in order to assess fees against a party

and there was no bad faith or oppression on part of Taitz, she acted in good faith, as this is a matter of National security and the custodial of records received prior summons to appear and had to be at the hearing with or without subpoena.

Here is a part of the proposed order, which the Staff Attorney/ Law Clerk of the Court of Appeal conveniently chose to delete before submitting to Hon. Judges Ikola, Fybel and Thompson:

"Section 1987.1 - the provision which Plaintiff should be following - allows the Court to rule upon a motion to compel, and to quash service of the subpoena. Section 1987.2 allows the Court to award reasonable Expenses and fees to the prevailing party in making such a ruling. For the reasons set forth above, Occidental College respectfully requests that the Court deny Plaintiff s motion, quash the subpoena, and award sanctions in the amount of $4,000."

Code of Civil Procedure - Section 1987.1.

(a) If a subpoena requires the attendance of a witness or the production of books, documents, or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by any person described in subdivision (b), or upon the court's own motion **after giving counsel notice and an opportunity to be heard**, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.

(b) The following persons may make a motion pursuant to subdivision (a):

(1) A party.
(2) A witness.
(3) A consumer described in Section 1985.3.
(4) An employee described in Section 1985.6.
(5) A person whose personally identifying information, as defined in subdivision (b) of Section 1798.79.8 of the Civil Code, is sought in connection with an underlying action involving that person's exercise of free speech rights.

(c) Nothing in this section shall require any person to move to quash, modify, or condition any subpoena duces tecum of personal records of any consumer served under paragraph (1) of

subdivision (b) of Section 1985.3 or employment records of any employee served under paragraph (1) of subdivision (b) of Section 1985.6.

As one can plainly see, the court had to give Taitz a **NOTIC**E before quashing or modifying subpoena and a notice before assessing a fee. **The court never gave her a notice**. The court refused to give her any time to even read the motion and provide an opposition. This is an abuse and a clear violation of CCP 1987.

Further under 1987.2 subpoena had to be in bad faith or oppressive, which was not the case.

Further, considering the needs of National security the court had a duty not to quash subpoena, but to modify it, which the court did not do.

Moreover the Court of Appeals took out of this proposed notice of ruling the actual statute under which Occidental college sought $4,000 of fees.

This proposed notice was never signed by Judge Marginis. Judge Marginis never found any "bad faith" or "oppression" in what Taitz did. Taitz had no obligation to include in the appeal a proposed notice, which was never signed by the judge.

This court cannot rule based on a document, which is not a part of the appeal, which was never adopted by the lower court judge, never signed. Further, this

court had no right to alter that notice and remove from it the actual statute under which the fees were requested. Such actions truly represent bad faith and oppression by the court.

Typically, decisions are prepared by a clerk and given to a judge for his signature. Clearly the clerk of the Fourth District court of Appeal, who included in the order of the Fourth District Court of Appeals a proposed notice of a ruling without notification that it is not a part of the record on appeal, without notice that it was never signed by the judge and by altering/ falsifying this notice and removing the actual statute, acted in bad faith.

Appellant Taitz demands to know the name of the clerk, who did this, who including in the order of the Fourth District and gave to Judges Ikola, Fybel and Thompson an order which included a reference to a document that is not a part of the record, which is altered/falsified and not signed by any judge. Appellant requests sanctions against this clerk/ staff attorney.

Fourth District Court of Appeals **has a duty to rule** on what is signed by the judge of the lower court. The only thing that was adopted and signed by the court was a minute order. Minute order did not provide any legal justification for $4,000 sanctions.

If the court were to look at this proposed notice from the Occidental college, which was not signed by the judge and was altered/cut, so as to remove the statute under which it was proposed, this court had to actually read the proposed notice and address the issue, whether actions by the plaintiff were in bad faith or oppressive.

Both in the petition itself, appeal and in the oral argument appellant Taitz provided the court with sworn affidavit of top law enforcement officials and experts showing that Obama asserted his identity and legitimacy to the U.S. Presidency by fraud and use of a stolen Connecticut Social Security number xxx-xx-4425, which Obama posted on line on Whitehouse.gov with his tax returns, and which failed both E-/verify and SSNVS and use of fabricated forgeries instead of a valid birth certificate and valid selective Service Registration.

Taitz presented Judge Marginis with the proof of service of all the defendants.

Public interest concern outweighed all privacy considerations that Obama, based on the fact that the interest of the U.S. Presidency and in suspicion of Obama stealing the U.s. Presidency yet again with fabricated IDs, Judge Marginis had a duty to act and issue an order to release the redacted application or at the very minimum to show cause to Obama why shouldn't the document in question be produced within 24 hours absent his failure to appear in court and respond.

while on the other hand Charles Marginis, another Superior Court of California Judge, decided not to release redacted college registration of Obama, where:

a. the information sought was already public, as Obama provided his alleged citizenship and birth information to the public

b. all of the sworn affidavits and official records in front of Judge Marginis showed that Obama is using a stolen Social Security number, fabricated birth certificate, fabricated Selective service registration, name not legally his, foreign citizenship and allegiance and about to steal the franchise of the U.S. President yet again.

Such actions clearly represents bias, bad faith, abuse of Judicial discretion and oppression on part of the Superior court of California, not on part of the Plaintiff/Appellant. If this is confirmed, it will show bias, abuse of judicial discretion, bad faith and oppression on part of the Court of Appeal as well.

IV. The court erred in interpretation of Statute . Elections Code section 16520

This court erred in its' interpretation of statute 16520.

Neither this court or lower court found that Taitz was late in filing her case. She filed it on July 9, 2012 within 5 days of the end of canvassing and was not late. Initial hearing in this case was scheduled within 5 days and was held with Judge Sanders. Statute 16520 only talks about the initial hearing. It does not state that

case and a different panel heard the rest of the cases on the same day. It appears that Judge O'Leary was in a tight spot as this decision contradicts her prior finding.

Based on Taitz v Dunn there were no laches and the case has to be heard on the merits. It was filed timely, initial hearing was held timely, all parties were properly served and the case has to proceed.

V. THIS COURT MADE A RULING BASED ON A DATE MADE UP BY THE LOWER COURT JUDGE, WITHOUT ANY EVIDENCE THAT THIS DATE IS CORRECT

On page 17 of the order this court rights: "The trial court found the Secretary of the State declared the results of the election on July 13, 2012".

This sentence alone makes one doubt that this court read one single word of the Appelant's opening brief.

Appellant Taitz explained in detail that Judge Marginis made up a date.

While he was rude and attacked appellant Taitz, saying "what you find in the Internet, is not evidence", even though evidence found by Taitz did not come from the Internet, Judge Marginis, himself, went on the internet, found some site, which is not even accessible, and made up a date of July 13, 2012.

Clearly the Court of Appeal did not bother to read the Appeallant's opening brief and stated that the trial court found the Secretary of State declared the results of the election on July 13, 2012.

Again, this is supposed to be the court of law. We are not a Banana Republic. Superior court judge cannot make up dates in order to help establishment candidates avoid legal challenges. The court has to make findings based on

verifiable evidence, not based on some link, which he found somewhere on the Internet, and which is not even valid, it is not existent. This is not evidence, This is an abuse of discretion by the Superior Court judge.

So all of the extensive calculation of dates in the order by this court is based on nothing, with no evidence to support the initial premise claimed by the lower court judge.

CONCLUSION

Based on all of the above this court has to reconsider its 10.31.2013 order and has to vacate the order by the lower court and have a different lower court judge hear this case.

Respectfully submitted,

/s/ Dr. Orly Taitz, ESQ

11.10.2013

Certificate of service

I, Lila Dubert. attest that all parties to the above mentioned case were served by first class mail on 11.12. 2013

Signed Lila Dubert