

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

MICHAEL C. VOELTZ,

Plaintiff,

CASE NO. 2012-CA-3857

v.

BARACK HUSSEIN OBAMA, et. al.,

Defendants.

---

**ORDER DISMISSING COMPLAINT**

**THIS CAUSE** comes before the Court upon The Secretary and Canvassing Commission's Motion to Dismiss, filed on December 10, 2012, and President Obama's Notice of Applicability of Title 3 U.S.C. § 5, filed on December 12, 2012. The Court having considered the motion and response from plaintiff finds the following:

Plaintiff brings this action under Florida Statute Section 102.168. He alleges that Barack Obama is constitutionally ineligible to be President of the United States.

This is the Plaintiff's third challenge to President Obama filed in the Circuit Court in and for Leon County, Florida. In *Voeltz I*, Case No. 2012-CA-467 this Court (The Honorable Terry Lewis presiding) dismissed Plaintiffs challenge to President Obama's candidacy asserting that the President was not a "natural-born citizen" within the meaning of the Constitution of the United States. That action was dismissed with prejudice on June 29, 2012, and is on appeal.

Thereafter, in *Voeltz II*, Case No. 2012-CA-2063, this Court (The Honorable John Cooper presiding) was presented with a complaint that sought to have this Court "to declare


*that Barack Hussein Obama is not eligible to serve as president of the United States".* Judge Cooper found that this Court lacked jurisdiction under Chapter 86 Florida Statutes to grant the declaratory relief sought by the Plaintiff. Judge Cooper's detailed 19 page order considering the matter found that "issues concerning President Obama's eligibility to be president of the United States have been committed under the Constitution to the presidential electors and the Congress and, as a consequence, this Court lacks subject matter jurisdiction to consider the issue." No appeal was taken from Judge Cooper's ruling.

We are now presented with *Voeltz III*. This Court notes that President Obama lives in the White House. He flies on Air Force One. He has appeared before Congress, delivered State of the Union addresses, and meets with Congressional leaders on a regular basis. He has appointed countless ambassadors to represent the interests of the United States throughout the world. President Obama's recent appointment of The Honorable Mark Walker, formerly a member of this Court, has been confirmed by the United States Senate. Judge Walker has been sworn in as a United States District Court Judge and currently works at the Federal Courthouse down the street. The Electoral College has recently done its work and elected Mr. Obama to be President once again. As this matter has come before the Court at this time of the year it seems only appropriate to paraphrase the ruling rendered by the fictional Judge Henry X. Harper from New York in open court in the classic holiday film Miracle on 34th St. "*Since the United States Government declares this man to be President, this Court will not dispute it. Case dismissed.*"

In conclusion, this Court finds that notwithstanding section 102.168, the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida does not have

jurisdiction to determine the issue of qualification for the Office of President of the United States, particularly at this late date in the process. In accordance with Florida Statute 103.061, the Florida electors to the Electoral College met and voted on December 17, 2012. Consistent with the Twelfth Amendment to United States Constitution, this Court cannot now alter the Electoral College process. Plaintiff's remedy, if there is any (and this Court does not suggest there is) lies with the Congress pursuant to Title 3 U.S.C. § 15. *See also Robinson v. Bowen*, 567 F. Supp. 2d 1144, 1147 (N.D. Cal. 2008) (concluding that issues regarding Presidential qualification are committed to the Congress). Because the Court finds that Plaintiff cannot amend his complaint to cure this jurisdictional issue, the complaint is **DISMISSED** with prejudice. All other pending motions are rendered moot. This Court retains jurisdiction to award fees and costs to the Defendants as appropriate

DONE AND ORDERED this 20<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
KEVIN J. CARROLL  
Circuit Judge

Copies furnished to:

Larry Klayman, Esq.  
Klayman Law Firm  
2020 Pennsylvania Avenue, NW, Suite 800  
Washington, DC 20006

Mark Herron, Esq.  
Joseph Brennan Donnley, Esq.  
Robert J. Telfer, III, Esq.  
Messer, Caparello & Self, P.A.  
Post Office Box 15579  
Tallahassee, Florida 32317

Stephen F. Rosenthal, Esq.  
Podhurst Orseck, P.A.  
25 West Flagler Street, Suite 800  
Miami, Florida 33130-1720

Richard B. Rosenthal  
The Law Offices of Richard B. Rosenthal, P.A.  
169 East Flagler Street, Suite 1422  
Miami, Florida 33131

James A. Peters, Esq.  
Office of the Attorney General  
PL-01, The Capital  
Tallahassee, Florida 32399

Daniel Nordy, Esq.  
Ashley E. Davis, Esq.  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399