

## A Restless Night

On February 3 Judge Michael M. Malihi ruled against the plaintiffs in the Georgia ballot challenge and stated that "...Obama is eligible as a candidate for the presidential primary election [in Georgia]." Although Malihi agreed with the Supreme Court in *Minor v. Happersett* that a person born on U.S. soil to two U.S. citizen parents is a natural born citizen, he argued that the Court did not state that no one else could *not* be considered a natural born citizen.

According to Malihi's ruling, a ham sandwich can apparently be considered a natural born citizen simply because the Supreme Court, in *Minor v. Happersett*, did not specifically state that it could not. Malihi has essentially given Mahmoud Ahmadinejad, Hugo Chavez, or Vladimir Putin the go-ahead to run for president of the United States with his extreme interpretation of *Minor v. Happersett*.

Malihi also cites the 14th Amendment and *United States v. Wong Kim Ark*—neither of which has anything to do with the term natural born citizen and both of which deal only with generic citizenship. Malihi's decision surprises many in the "birther" movement who were under a strong impression that the judge would rule in favor of the plaintiffs. Malihi's ruling means either that those impressions were incorrect, or someone "got to him."

The Georgia decision can certainly be appealed—if the plaintiffs have the financial wherewithal to do so—but there is no guarantee that the Supreme Court would even agree to hear the case if an appeals court rules against them. The Supreme Court has previously refused to hear *Kerchner v. Obama*, which suggests that most, if not all, of the Justices have absolutely no desire to touch the issue—despite the fact that a case of such constitutional and history-making significance is the type which judges dream of considering.

Malihi's ruling brazenly contradicts the code of statutory construction, which attorney Leo Donofrio has pointed out "...is learned by every student in law school, and every practicing attorney has confronted... Every judge is required to apply the rule equally to all statutes, and the Constitution. There is no wiggle room at all. The rule states that when a court examines two clauses, unless Congress has made it clear that one clause repeals the other, the court must observe a separate legal effect for each. More specifically, regardless of the chronology of enactment, the general clause can never govern the specific." That is, Malihi *cannot* claim that the 14th Amendment governs Article II, Section 1, Clause 5. The former states that birth on U.S. soil makes one a *citizen*, while the latter requires that only a *natural born citizen* can be president—and *Minor v. Happersett* declares that a natural born citizen is one born on U.S. soil to two U.S. citizen parents. Malihi's ruling that the general statement contained in the 14th Amendment overrides the other two specific statements is not only improper, it should be recognized as fatally flawed by first-year law students.

The turnaround by Judge Malihi may remind some of *Barnett v. Obama*, in which Judge David O. Carter, a retired U.S. Marine, initially agreed to hear the case and said he would *not* dismiss it for lack of standing. Carter refused to grant an initial motion for dismissal from Obama's attorneys. A January 26, 2010 trial date was scheduled, but Carter stated that he was "uncomfortable with the [Constitutional] requirements for eligibility" for the presidency. On October 29, 2009 Carter then suddenly dismissed the case for lack of standing and lack of jurisdiction. Carter wrote, "Any removal of [Obama] from the presidency must be accomplished through the Constitution's mechanisms for the removal of a President, either through impeachment or the succession process set forth in the Twenty-Fifth Amendment." (Carter's statement was incorrect; the issue is not whether a judge has the power to *remove* a president, the issue is whether Obama *is* the President. There is no provision in the U.S. Constitution for the removal of a fraud or imposter because the situation was not anticipated by the men who drafted that document.)

Judge Carter took the easiest way out and dismissed the case for lack of standing and jurisdiction. Carter may have felt—or been told—that he had little choice; a ruling against Obama could have placed the lives of himself and family members in jeopardy and prompted nationwide riots. In fact, Carter wrote, "The potential upheaval to this country that would result from a branch other than Congress ruling on the removal of the President weighs heavily in this case as well."

It is worth noting that shortly before Carter's decision to dismiss *Barnett v. Obama* a new law clerk was added to his staff: Siddharth Vijaykumar Velamoor. Velamoor had clerked for the Coie Perkins law firm, home of Robert C. Bauer—who just happened to be the lead attorney representing Obama. Bauer, the husband of former White House communications director Anita Dunn, later became White House Counsel. Velamoor attended Mercer Island High School, as did Obama's mother, Stanley Ann Dunham. Velamoor attended Columbia Law School; Obama attended Columbia. Velamoor's family is from Hyderabad, India—one of Obama's stops during his 1981 visit to Pakistan. Some believe that Carter did not ask for his new law clerk but was forced to accept Velamoor, whose main job was perhaps intimidation—to be a constant reminder that Carter should not rock the boat. Whether Judges Carter and Malihi were subject to outside influence or pressure is not known, but it would certainly not be surprising if that were someday revealed.

One week ago the Internet was abuzz with the stories that Obama and his Georgia attorney, Michael Jablonski, had refused to appear at the January 26 hearing and had thumbed their noses both at Judge Malihi and the entire judicial system. The mainstream media essentially ignored the story, as did Obama—who went about his usual duties of campaigning for reelection, fundraising, and pretending that he had actually helped the U.S. economy over the last three years.

Those who saw a glimmer of hope that the core issue of Obama's ineligibility to serve as president was finally going to be addressed have now been dealt a large dose of reality.

The initial reaction to Judge Malihi's decision was, to many, "How can he so brazenly ignore the law and the U.S. Constitution?" But as reality seeps in, that reaction will give way to acceptance of the fact that the Constitution has been ignored in great measure for well over one hundred years. It has been abused in ways in which the Founding Fathers certainly never intended and could never have imagined. Those who are in power simply do not care about the Constitution. Regrettably, "The law is on our side," has meant less and less over the passing decades.

Many in the "Occupy Wall Street" movement are wrong about the *solution* to the nation's problems—they want more government. But they are generally correct about the *cause* of the problems: a small group of powerful people in government, on Wall Street, and at the Federal Reserve who exercise enormous control over the rest of us. Whether the exact ratio is one percent versus 99 percent is irrelevant. It is not a government of the people, by the people, and for the people. It is a military-industrial-Wall Street-media complex that may be less ruthless but is no less powerful than was the regime of the Soviet dictator, Joseph Stalin.

Obama is not in the White House because "the people" wanted him there. He is in the White House because the voters were persuaded by the media to want him there. The presidential campaigns of Michelle Bachmann, Herman Cain, Rick Perry (and probably Newt Gingrich) did not self-destruct; they were mined by a bipartisan establishment enemy. The voters did not choose John McCain in 2008. He was chosen for them. The voters are not choosing Mitt Romney in 2012. He is being chosen for them. The fix is in, the deck is rigged, the cards are stacked—use whichever metaphor you prefer. The victor in Obama versus Romney will be whoever the "powers that be" select. In either case, when the November 2016 election rolls around the national debt will be higher, federal spending will be greater, the dollar will be worth less, the wealthy will still be wealthy, the poor will still depend on the government, and more members of the middle class will have joined the ranks of the poor.

Perhaps Judge Michael M. Malihi slept well last night, but I did not...

*Don Fredrick*

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Don Fredrick is the author of *Colony 14*, a novel about the fight for liberty, *What You Don't Know About Economics Can Hurt You*, an economic primer that is assigned reading in some high schools, and *The Obama Timeline*, the most complete gathering of facts about the current temporary occupant of our Oval Office. (Part I of the *Timeline* is in paperback. Part II is updated on a daily basis and is a "free read" at [www.colony14.net](http://www.colony14.net). Parts I and II combined contain over 4,000 pages and include more than 28,000 online references. If it is about Obama and was reported, chances are it can be found in the *Timeline*. Don requests that readers do their best to help remove Obama from office,

because he has *no* desire to continue *The Obama Timeline* beyond January 20, 2013.)