

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ASA GORDON, DC Presidential
Elector, DC Statehood Green Party
Electoral College Task Force, Executive
Director Douglass Institute of Government,
Appellant,

v.

JOSEPH R. BIDEN, Jr., Vice President of the
United States, President of the Senate of
the United States of America,
Appellee.

No. 09-5142
(C.A. No. 08-cv-1294-HHK)

**APPELLANT'S STATEMENT OF ISSUES TO BE RAISED,
CERTIFICATE AS TO PARTIES RULINGS AND RELATED CASES
AND STATEMENT REGARDING DEFERRED APPENDIX**

Pursuant to this Court's **April 24, 2009** Order and Circuit Rule 28(a)(1), Petitioner/
Appellant Asa Gordon, *Pro Se* hereby states:

I. STATEMENT OF ISSUES TO BE RAISED

1. Whether the District Court's findings in the March 26, 2009 Order and Memorandum Opinion by the Honorable Henry H. Kennedy erred in granting Appellee/Defendant's Motion to Dismiss and denying as moot Appellant/Plaintiffs Motion for Temporary Restraining Order and Preliminary Injunction, Plaintiffs Motion to Present Oral Argument for Summary Judgment, and Plaintiff s Augmented Motion for Summary Judgment.

2. Whether the Court's Memorandum Opinion erred in a dispositive finding with a *mis-directed* emphasis confined to the Plaintiff's *derivative equal protection* pleadings pursuant to the first section of the Fourteenth Amendment to the exclusion of ruling on the Plaintiff's *primary* claim of injury pursuant to the *Mal-Appportionment Penalty* clause of the second section of the Fourteenth Amendment.

3. Whether the Court's Memorandum Opinion misconstrued the primary constitutional injury pleaded by the plaintiff before the court and therein inadvertently facilitated and enabled the very injury to the second section of the Fourteenth Amendment's "right to vote" provision the plaintiff's civil action sought to stay.

4. Whether the Order and Memorandum Opinion by the Honorable Henry H. Kennedy mistakenly overlooked the *primary* underpinning Constitutional provision pleaded in the civil action by the plaintiff and thereby inadvertently erred in its dispositive finding that "Because Gordon's alleged injury is not 'fairly traceable' to the Vice President's actions, which in fact are purely ministerial, but rather is attributable to the actions of third-party states and state officials, he fails to satisfy the causation element of standing. Therefore, he is unable to prosecute this action."

II. CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES

(A) Parties and Amici:

The Appellant is Asa Gordon who was the Plaintiff in the District Court. The Appellee is Joseph R. Biden, Jr., Vice President of the United States of America and President of the Senate of the United States of America, who was the Defendant in the District Court. There is no amicus curiae.

(B) Rulings Under Review

At issue in this appeal is the March 26, 2009 Order and Memorandum Opinion by the Honorable Henry H. Kennedy granting Defendant's Motion to Dismiss and denying as moot Plaintiffs Motion for Temporary Restraining Order and Preliminary Injunction, Plaintiffs Motion to Present Oral Argument for Summary Judgment, and Plaintiff s Augmented Motion for Summary Judgment.

(C) Related Cases

This case has not previously been before this Court and there are currently no pending related cases.

III. Statement Regarding Deferred Appendix

Appellant intends to use a deferred appendix, as provided for by FRAP 30(c).

Other Attachments

Docketing Statement Form, Entry of Appearance Form, Transcript Status Report, and a copy of the Underlying Decision from Which Appeal is the subject of this petition are attached.

Respectfully submitted,

Asa Gordon, PRO SE
1667 Webster Street, N.E.
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(202) 635-7926

May 22nd, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of May, 2009, I caused copies of the foregoing **Appellant's Statement of Issues To Be Raised, Certificate as to Parties, Rulings, and Related Cases**, and **Statement Regarding Deferred Appendix**, along with copies of the **Docketing Statement Form, Entry of Appearance Form, and Transcript Status Report** to be served by first class mail on the following::

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