

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASA GORDON

Plaintiff,

JOSEPH R. BIDEN, Vice President of
the United States,

Defendant.

Civil Action 08-01294 (HHK)

PLAINTIFF'S RESPONSE TO DEFENDANT'S OPPOSITION TO
PLAINTIFF'S MOTION FOR RELIEF OF JUDGMENT OR ORDER

The Defendant's Opposition (filed May 22, 2009) to the Plaintiff's Motion For Relief (Filed May 11, 2009) asserts that the "Plaintiffs motion should be denied because it does not meet the extremely narrow grounds for reconsideration under Rule 60(b)." See page 3.

1. The Plaintiff's Motion Meets the Standards under Rule 60(b)(1) .

The Plaintiff submits that the court's mistaken focus on the plaintiff's derivative equal protection claims to the omission of analysis of the Plaintiffs primary claim for relief under the Mal-Apportionment Penalty (MAP) clause of **Amend. XIV§2** and **2USC§6** constitutes a sufficient inadvertent oversight in the discretion of the court to warrant relief to the plaintiff under the standards specified ("mistake, inadvertence, surprise, or excusable neglect") pursuant to Rule 60(b)(1).

2. The Extraordinary Circumstances Reserved for Rule 60(b)(6) is Warranted

The Defendant's Opposition cites various authorities that hold in effect that Rule 60(b)(6) should be used "sparingly and should be applied only in extraordinary circumstances" and asserts that "Plaintiff has not identified circumstances warranting extraordinary relief from judgment under Rule 60(b)(6)." See page 4.

Admittedly, what is extraordinary is in the eye of the beholder, but it is hard to believe that by any objective standard the circumstances cited in the conclusion to the Plaintiffs motion for relief of judgment or order dated May 11, 2009, entered as Docket No. 25, page 4 fails to identify such circumstances, i.e. :

"This action is hardly moot. Indeed, this Civil Action was filed to render *moot* a Constitutional *mandate* that would be triggered to reduce state representatives from unbounded Southern States for de facto disfranchisement subject to the mal-apportionment penalty clause in the absence of a court order to effect proportional apportionment of presidential electors. The court's ruling as it now stands has mistakenly *un-mooted* that Constitutional injury to now be in effect and ongoing. "

and

"As noted in these proceedings this Plaintiff, unlike any other American citizen, has no congressional representative to whom he may appeal, the Plaintiff stands alone to petition the US Court as the only forum of government that can provide this role for the plaintiff."

Just how extraordinary these circumstances are, may be assessed by the extraordinary response evoked when the issue in this civil action was presented by the Plaintiff before the Congressional Hearings on Ohio Voting Irregularities, Dec. 8th, 2004. The Hon. John Conyers Jr., Chairman of The House Committee on the Judiciary declared:

"This is the most amazing proposition that has ever been brought forward by a non-lawyer and it will, and if it is accurate it could change the whole outcome of the voting process in the United States, and we will take that under consideration , we, we eagerly embrace your suggestion."

The Court is not moved in this instance for reconsideration to correct legal *errors* over pleaded issues the court has considered, the Court is being moved for relief from legal *omissions* in the court's judgment or order in regards to the underlining cause of action.

Accordingly, Plaintiff respectfully requests that Plaintiffs motion for relief is granted.

Respectfully submitted,

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June 2nd, 2009

CERTIFICATE OF SERVICE

I hereby certify that on June 2nd, 2009, a copy of "PLAINTIFF'S RESPONSE TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR RELIEF OF JUDGMENT OR ORDER" was filed with the Court and served via first class mail on the following:

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June 2nd, 2009