

However, for the sake of argument.

I. Plaintiffs Individual and Class Standing Is Affirmed.

Plaintiff aver and request that this court take judicial notice that the Defendant has not advanced any argument in this action that addresses or refutes the injury arising from the plaintiff's unique individual standing as a DC voter and presidential elector that separates him from any other voter or presidential elector in the United States. See Plaintiffs Opposition to Defendant's Motion to Dismiss (POM) at 7-8. Furthermore, the Defendant has failed to plea any argument at all that refutes the Plaintiff's class standing as set forth in this Civil Action. See Complaint at 6-7, "Class Action Allegations" ; See TRO at 6-7, "Plaintiff's TRO protects the Class of Minority Polled Electors from Certain Injury".

A. Defendant Concocts A False Injury For Plaintiff.

Defendant concocts a false injury as a claim made by the plaintiff in this action, then proceeds to argue against his own concoction.

In the introduction to the MSJ, the plaintiff warns that:

"The continuous denial of the Mal-apportionment Penalty of 2U.S.C. §6 for the mal-apportionment of presidential electors" may have an undesirable consequence. This denial of the *actual injury* declared in the MSJ "will present a real possibility for public disorder and justifiable loss of confidence in the United States purported democracy in the aftermath of the 2008 Presidential election". See MJS at 2.

Inexplicably, the Defendant ignores the *actual injury* and excerpts the plaintiff's warning , i.e. "a real possibility for public disorder and justifiable loss of confidence in the United States purported democracy", and presents this consequence arising from the injury as the core injury alleged by the plaintiff. Thus the Defendant's entire DRM arguments are devoted to defeating an absurdity of its own creation. See DRM at 1-2.

Absent an action to enforce the "*right to vote provision*" of *Amend. XIV§2* we may confidently presume that:

"The 'winner-take-all' award of presidential electors that represent the majority choice of the white population in 'unbounded Southern states' (with its historic legacy of de jure black disfranchisement) with the de facto disfranchisement of any apportionment of presidential electors based on the majority choice of its black population not grounded in any federal or state stature." See MSJ at 2

will occur with certainty on January 6th, 2009 with the Defendant presiding over the discriminatory tabulation of these 'unbounded Southern states' presidential electors and constitutes injuries in fact. See MSJ at 4-5.

Furthermore, The Defendant predicated on its own *concocted injury* asserts "Further, were this Court to give credence to Plaintiffs claim, resulting in a judicially cognizable injury, that claim of injury would be shared by all citizens. " See DRM at 2. Also See Plaintiff's POM at 10.

This may be true in regards to the Defendants *concocted injury*, but it is different in kind and scope from the the *actual injury* claimed in this Civil Action, which is explicitly defined and limited in its scope to the detrimental effects arising from a bias tabulation of minority polled presidential electors from *unbounded Southern states* subject to the abridgment of voting rights pursuant to the United States Constitution (*Amend. XIV§2*) and statutory Code (*2USC§6*).

B. Plaintiff is in Class of Presidential Electors.

Defendant claims that the "Plaintiff does not assert that he is a 'presidential elector'." See DRM at 2.

The Plaintiff has specifically stated his status as a 'presidential elector' in several pleadings in this Civil Action: See Complaint at p2#2, p6 #15&16; TRO at 2 ; POM at 3, 6-7.

Indeed the Defendant actually edits its sentence extract that in full belies the Defendant's

assertion. Here is the full unedited sentence as it appears in the "Plaintiffs Opposition at 3":

"[A] civil action to protect the voting rights of presidential electors and the voters they represent with the consequential debasement of the Plaintiff's voting rights as a presidential elector."

II. Plaintiff Meets the Legal Standard for Summary Judgment

The Defendant cites : Rule 56 of the FRCP; Fed. R. Civ. P. 56(c).; Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Diamond v Atwood 43 F. 3d 1538, 1540 (D.C. Cir. 1995).; Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247 (1986).; Alexis v. District of Columbia, 44 F. Supp. 331, 337 (D.D.C. 1999); which delineates various criteria for judicial consideration of granting summary judgment, without any specificity as to how they disfavor the Plaintiffs MSJ. See DRM at 2-3.

The Plaintiff embraces the same authorities as the Defendant and claims that all the case law criteria in this regard has been met by the plaintiff as stipulated in the MJS. See MJS **"There are no genuine issues of material fact"** at 4-5. and MJS **"Plaintiff is entitled to judgment as a matter of law"** at 5. All of which is uncontested in the Defendant's Reply (DRM) which only addresses the Introduction to the Plaintiff's MSJ.

A. Defendant Asserts Plaintiff's Civil Action Claims No Legal Violation.

The Defendant posits a facially inexplicable assertion, declaring that:

"Nowhere, in any of his filings, does Plaintiff allege that Defendant is (or will be) violating any constitutional provision, statute, regulation, or case law. See generally Plaintiff's Motion for Temporary Restraining Order, Plaintiff's Opposition to Defendant's Motion to Dismiss ("Plaintiff's Opposition"), and Motion for Summary Judgment. While Plaintiff cites to cases that hold that voting is a 'fundamental political right,' he does not specifically assert that Defendant is violating this right."

[?] ... In redundant pleadings in the Plaintiff's filings the Plaintiff has alleged in varied forms of

argument that the *Defendant's certain bias presentation for tabulation in the Hall of the House of Representatives, January 6, 2009, of majority polled presidential electors from unbounded southern states ungrounded in either state or federal law , constitutes a discriminatory abridgement of the voting rights of minority polled presidential electors based on race and/or party affiliation in violation of the mal-apportionment penalty clause pursuant to the United States Constitution (Amend. XIV§2) and statutory Code (2USC§6). See* : Complaint at p2#1, p3#7, p5#12 #14; TRO at 2,8; POM at 3-4, 9; MSJ at 4-5.

B. Plaintiff Asserts Violation of the Constitution's "Mal-apportionment Penalty" Clause.

With less than deft misdirection the Defendant declares for the Plaintiff a Constitutional violation the Plaintiff has never made, then argues that the Plaintiff has failed to allege the violation. The Defendant declares that the plaintiff is claiming that "selecting the 'majority polled presidential electors' of *Unbounded Southern States* violates 'political equality.'" The Defendant then asserts that the "Plaintiff is not alleging in the instant case that Defendant has violated the Equal Protection Clause".

Every pleading by the Plaintiff in this civil action has pointedly augured that this Case of Controversy arises out of the violation of the "*Mal-apportionment Penalty Clause*" for the abridgment of a citizens "right to vote" under the Second Section of the Fourteen Amendment not the "Equal Protection Clause" of the first section of the Fourteen Amendment.

It took nearly a century to enforce Section 1, the *equal protection provision* of the 14th Amendment. One Century and Two Score years have now passed sense the adoption of the 14th Amendment, another century should not pass before enforcement of Section 2, the "*right to vote provision*".

III. Conclusion

Plaintiff aver and request that this court take judicial notice that the Defendant has failed to advance any argument that *disputes* "**There are no genuine issues of material fact**", See MSJ at 4-5, or refutes the claim that the "**Plaintiff is entitled to judgment as a matter of law**", See MSJ at 5. The Defendant's arguments are directed to the introduction to the Plaintiff's MSJ and addresses an injury never claimed and a violation never made by the Plaintiff, See entire DRM .

For the foregoing reasons and in consideration of the entire record herein, the Court should grant the Plaintiff's Motion For Oral Argument For Summary Judgment.

Respectfully submitted,

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October 16th, 2008

CERTIFICATE OF SERVICE

I hereby certify that on October 16th, 2008, a copy of "PLAINTIFF'S RESPONSE IN SUPPORT OF IT'S MOTION TO PRESENT ORAL ARGUMENTS FOR SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANT'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS." was filed with the Court and served via first class mail on the following:

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