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BORN IN THE USA?

Officer's defense team demanding Obama docs

'I can't think of a single reason why the judge would take the government's position'

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By Bob Unruh
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Lt. Col. Terrence Lakin and G. Gordon Liddy

The key defense attorney for an Army officer being put on trial for refusing orders he views as suspect because of the possibility Barack Obama is not eligible to be commander-in-chief is demanding documentation from the president.

On the G. Gordon Liddy radio show today, Paul Rolf Jensen said the request for "discovery" in the Lt. Col. Terrence Lakin case – the access by the defense to documentation in the government's possession that could help its case – is being submitted.

Jensen had been asked whether there is a legal basis for denying a defendant on trial on criminal charges legitimate access to documentation that would prove his case.

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"We are today officially requesting that discovery," Jensen said. "If the government refuses to give it to us, then we will, a week from today, file a motion to compel discovery.

"I can't think of a single reason why the judge would take the government's position," he said.

(Story continues below)

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The controversy stems from the Constitution, Article 2, Section 1, which states, "No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President."

A number of challenges and lawsuits have been based on the constitutional requirement, some alleging Obama does not qualify because he was not born in Hawaii in 1961 as he claims. Others say he fails to qualify because he was a dual citizen of the U.S. and the United Kingdom when he was born, and the framers of the Constitution specifically excluded dual citizens from eligibility.



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Complicating the issue is the fact that besides Obama's actual birth documentation, [he has concealed documentation](#) including his kindergarten records, Punahou school records, Occidental College records, Columbia University records, Columbia thesis, Harvard Law School records, Harvard Law Review articles, scholarly articles from the University of Chicago, passport, medical records, files from his years as an Illinois state senator, Illinois State Bar Association records, baptism records and his adoption records.

Lakin declined to follow deployment orders after he tried through military channels to affirm the validity of orders under Obama's command and was rebuffed. He had been scheduled to deploy to Afghanistan again.

Lakin is not the first officer to raise questions. Others have included [Army doctor Capt. Connie Rhodes](#) and [Army reservist Maj. Stefan Cook](#). But Lakin is the first active-duty officer to raise the question.

In at least one of the earlier disputes, the Army simply canceled the orders rather than allow the argument to come to a head.

The issue of discovery in such a dispute is critical. The multitude of civil cases that have been brought over the Obama eligibility dispute all have failed to reach that process because of federal judges who have ruled on issues generally involving "standing." The judges have concluded that damages from an ineligible president suffered by the plaintiffs would not be more for them than any other member of the public, so there is not a specific damage or danger.

Jensen has explained that the Lakin case is different, since his client is being processed on criminal charges over the issue – a status that puts him in imminent danger of specific and personal "damages."

The courts already have shown a weakness on the subject of Obama's records. The discovery-of-evidence issue previously was raised in court by attorney John Hemenway, who was threatened by a federal judge with sanctions for bringing a court challenge to Obama's presidency.

Hemenway is serving in emeritus status with the [SafeguardOurConstitution website](#), which is generating support for Lakin. Hemenway brought a previous court challenge, now on appeal, on behalf of a retired military officer, Gregory S. Hollister, who questioned Obama's eligibility.

[The Hollister case ultimately was dismissed](#) by Judge James Robertson, who notably ruled during the 2008 election campaign that the federal legal dispute had been "twittered" and, therefore, resolved.

Robertson sarcastically wrote: "The plaintiff says that he is a retired Air Force colonel who continues to owe fealty to his commander in chief (because he might possibly be recalled to duty) and who is tortured by uncertainty as to whether he would have to obey orders from Barack Obama because it has not been proven – to the colonel's satisfaction – that Mr. Obama is a native-born American citizen, qualified under the Constitution to be president.

"The issue of the president's citizenship was raised, vetted, blogged, texted, twittered and otherwise massaged by America's vigilant citizenry during Mr. Obama's two-year campaign for the presidency, but this plaintiff wants it resolved by a court," Robertson wrote.

[Then the judge suggested sanctions against Hemenway for bringing the case.](#) Hemenway responded that the process then would provide him with a right to a discovery hearing to see documentation regarding the judge's statements – not supported by any evidence introduced into the case – that Obama was properly "vetted."

Hemenway warned at the time, "If the court persists in pressing Rule 11 procedures against Hemenway, then Hemenway should be allowed all of the discovery pertinent to the procedures as court precedents have permitted in the past.

"The court has referred to a number of facts outside of the record of this particular case and, therefore, the undersigned is particularly entitled to a hearing to get the truth of those matters into the record. This may require the court to authorize some discovery," Hemenway said.

The court ultimately backed off its threat of sanctions.

[In a separate case](#), the 3rd U.S. Circuit Court of Appeals threatened sanctions against attorney Mario Apuzzo. The court quickly backed off, however, when Apuzzo noted that under the rules of court procedure, being subjected to sanctions and penalties would give him the right to discovery in the case, possibly including Obama's birth certificate.

The Constitution requires a president to be a "natural born citizen," and, while the term is not defined in the Constitution, many legal analysts believe at the time it was written it meant a person born in the U.S. of two U.S. citizen parents. Critics say Obama clearly does not qualify under that definition, since he has admitted in his book his father never was a U.S. citizen. Some legal challenges have argued he wasn't even born in Hawaii.

Tim Adams, a former senior elections clerk for Honolulu, has said there "definitely" are problems with Obama's Hawaii birth story.

"As of the time I was in Hawaii working in the elections office we had many people who were asking about the eligibility of Senator Obama to be president. I was told at the time there is no long-form birth record, which would have been the case if President Obama was born in [a] hospital in



Lt. Col. Terrence Lakin

Honolulu. There is no such form in Hawaii," he said.

In today's Liddy interview, Jensen said the government could invoke the "presumption of regularity" in defending Obama's status, but that would be considered a rebuttable presumption in court.

"In order to rebut that presumption, we [would] seek evidence [through discovery] that the president is constitutionally ineligible," he said.

Lakin confirmed during the same interview that he's received "overwhelming support" from many of his peers. But he was counseled by his lawyer not to discuss specifics because of the pending court martial, scheduled for October.

Jensen said it's clear that if the president had the birth documentation that reveals his status as a "natural born citizen," he already would have presented it.

"The president has been invited repeatedly to release his Hawaiian birth certificate. He hasn't done so. Lt. Col. Lakin wrote to the president before refusing orders. If the president were going to do that he would have done so already. [His decision] leads me to suspect he doesn't have [it]," said Jensen.

Lakin said the issue is the U.S. Constitution, and whether it is still controlling in the U.S. or not.

Jensen also addressed the issue of the threats being issued against his client by at least one senior Army officer.

According to the American Patriot Foundation, the threat came while Lakin was appearing for an arraignment just a week ago.

The foundation reported, "The afternoon before the hearing, LTC Steven Brodsky told LTC Lakin's counsel that Lakin must report hours before the hearing to his duty post at Walter Reed Army Medical Center in order for him to be 'transported under escort' to make sure he showed up at the arraignment 'to avoid embarrassing his unit.'"

The report continued by explaining that Brodsky is a judge advocate and his job is prosecution. "He has no role – or at least should have no role – in deciding the manner in which Lakin relates to his commanders, or vice versa," the foundation report said.

But, it continued, "Outside the courtroom, Brodsky went far beyond interference with Lakin's commanders. While Lakin was waiting near the courtroom, Brodsky and Col. Melanie Craig (Lakin's 'escort') stood around the corner in the main hallway and in voices easily audible to LTC Lakin, spoke about the need to prevent Lakin after the hearing from speaking to the media, 'signing autographs or kissing babies.' Brodsky then said to Craig 'just Taser him and throw him in the van,'" the report said.

WND contacted Brodsky, who refused to say anything, instead referring the inquiry to a public information officer. That officer declined to respond to WND's calls and e-mails asking for comment.

In the foundation report, Lakin said, "LTC Brodsky meant for me to hear those words, no question. When COL Craig returned to where I was, she said to me 'you probably heard all that, didn't you?' I replied it would have been hard not to. After the hearing, my lawyers asked COL Craig for permission for me to speak to the press, since both CNN and NBC had sent camera crews, but she rudely refused, and she ordered me back into her vehicle to be transported back to Walter Reed."

However, probably a more accurate Army opinion of Lakin was described in his commander's assessment just prior to Lakin's refusal to deploy over the issue of Obama's eligibility.

Col. Dale Block wrote, "Dr. Lakin is an extremely talented, highly knowledgeable senior Army clinician...he can always be counted on to provide me with expert advice...LTC Lakin is clearly one of the top clinicians in the Northern Regional Medical Command. He has superb clinical skills, rapport with patients and staff...Terry is the best choice for tough assignments. ...Already on the promotion list to Colonel, he should be groomed for positions of greater responsibility."

The foundation suggested that those concerned about the situation should contact Maj. Gen. Carla Hawley-Bowland, and not the judge in the case, since Hawley-Bowland commands Lakin's superiors.

The foundation also suggested reaching Hawley-Bowland by telephone at 202-782-1104.

Lakin had posted a YouTube video challenging the Army to charge him over the issue. The 18-year Army veteran, decorated multiple times, could get up to four years of hard labor in prison and be dismissed from the military.

"The records Lakin seeks have been the subject of intense interest ever since the closing days of the 2008 presidential campaign when a document appeared on the Internet purporting to be a certification that Hawaii's Dept. of Health had records showing he had been born in Honolulu," the foundation supporting Lakin's case confirmed.

"Since then, Dr. Chiyome Fukino, the head of that agency, has made public statements on the subject, but has refused all requests for copies of the actual records in the department's custody. Recently, a former Hawaii elections clerk has come forward saying that he was told that the department's records showed Obama was NOT born in Hawaii," the organization said.

"The United States Constitution requires that a person be a 'natural born citizen' to be elected to the

presidency. If Mr. Obama was not born in Honolulu as he has claimed, then he is unlikely to be a 'natural born citizen.' An examination of the records kept by the Hawaii Dept. of Health (is) an essential first step in ascertaining Mr. Obama's constitutional eligibility to hold the office to which he was elected in 2008," the foundation said.

The issue of the Hawaii records has been a volatile point in the argument. The state of Hawaii has gone so far as to approve a law that allows the state to ignore repeated requests for documentation about Obama's birth.

The state's governor, Linda Lingle, just months ago told a New York talk-show host that it was an "odd situation."

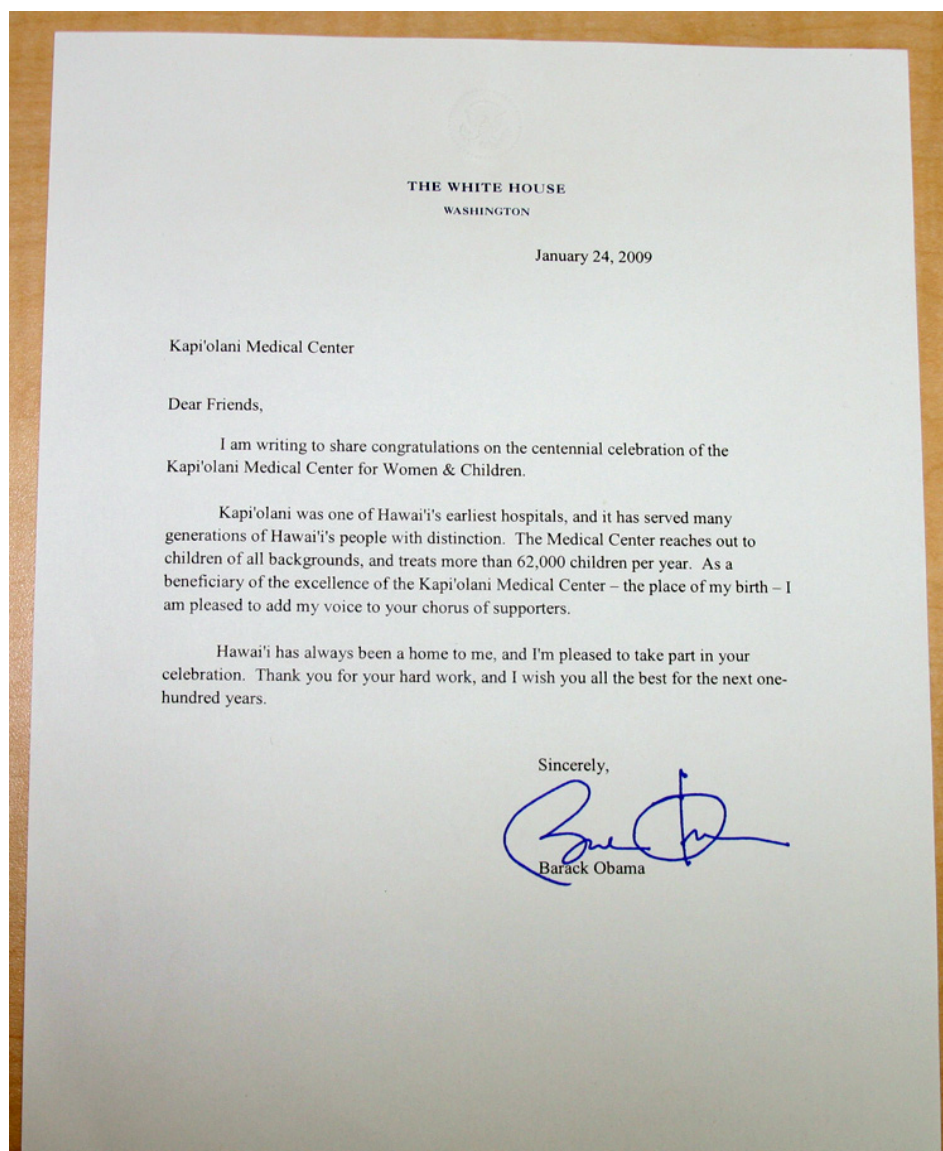
"This issue kept coming up so much in the campaign, and again I think it's one of those issues that is simply a distraction from the more critical issues that are facing the country," she said on the radio show. "So I had my health director, who is a physician by background, go personally view the birth certificate in the birth records of the Department of Health, and we issued a news release at that time saying that the president was, in fact, born at Kapi'olani Hospital in Honolulu, Hawaii. And that's just a fact and yet people continue to call up and e-mail and want to make it an issue, and I think it's again a horrible distraction for the country by those people who continue this."

However, no news release from the state of Hawaii identified the birth location as Kapi'olani. And Lingle's statement also was contradicted by Fukino, who reported, "No state official, including Governor Linda Lingle, has ever instructed that this vital record be handled in a manner different from any other vital record in the possession of the State of Hawaii."

Critics also note that while the Obama campaign posted a computer image of a "Certification of Live Birth" online during the 2008 election run-up, the procedures at the time allowed such certifications to be issued on the sworn statement of a relative for a child not born in the state.

The issue of Obama's birth "in Hawaii" also arose after he assumed the Oval Office when [a letter was revealed that purported to be from the president claiming Kapi'olani as the place of his birth.](#)

The letter, dated Jan. 24, 2009, was used by the hospital at a fundraiser but later concealed.



A photograph taken by the Kapi'olani Medical Center for WND shows a letter allegedly written by President Obama on embossed White House stationery in which he declares the Honolulu hospital to be "the place of my birth." The hospital, after publicizing the letter then refusing to confirm it even existed, is now vouching for its authenticity, but not its content. The White House has yet to verify any aspect of the letter.

"As a beneficiary of the excellence of the Kapi'olani Medical Center – the place of my birth – I am pleased to add my voice to your chorus of supporters," Obama purportedly wrote.

The letter was referenced by then-Rep. Neil Abercrombie, D-Hawaii, during the Jan. 24, 2009, hospital dinner. Kapi'olani has said officials "know" the letter is real, but hospital spokeswoman Keala Peters refused to corroborate the content.



As [WND reported](#), Lakin posted the video of his challenge to Obama to document his eligibility March 30.

In his latest video, Lakin said the issue of evidence is important:



Note: A [legal-defense fund](#) has been set up for Lt. Col. Terry Lakin.

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