

DKW
CV# incorrect

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
MAR 16 2017
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SUE BEITIA, CLERK

Victor Williams,
Appearing *Pro Se*

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UNITED STATES DISRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII,)
ISMAEL EISHIKH, *et al*)
)
Plaintiffs)
)
v.)
)
DONALD J. TRUMP, *et al*)
)
Defendants)

No. 17 cv 005(DKW/KJM)

**MOTION FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE*,
RAISING POLITICAL QUESTION NONJUSTICIABILITY,
FROM PROFESSOR VICTOR WILLIAMS OF
THE AMERICA FIRST LAWYERS ASSOCIATION,
IN SUPPORT OF PRESIDENT DONALD J. TRUMP**

Plaintiffs have consented to, and Defendants do not oppose, the attached Motion respectfully seeking leave of the Court to file this *amicus curiae* brief. Comes now Professor Victor Williams seeking leave of the Court to file an *amicus* brief (attached) in support of the Defendants respectfully asserting that this Court does not have subject matter jurisdiction in this matter as the case presents a nonjusticiable political question.

The proposed brief has unique information and perspective that can help the Court beyond the help that the lawyers for the parties have thus far provided. Prospective Amicus asks this Court to exercise its inherent authority to allow the filing.

**STATEMENT OF IDENTITY, INTEREST
AND AUTHORITY OF *AMICUS***

Plaintiffs have consented to, and Defendants do not oppose, the attached Motion respectfully seeking leave of the Court to file this *amicus curiae* brief. Appealing to the Court's broad discretion to allow such a filing, *Amicus* avers his significant interest in this case and suggests that the proffered brief will be of unique assistance to the Court. Professor Victor Williams is a Washington, D.C. attorney and law professor with over twenty years' experience -- formerly

affiliated as fulltime faculty with both the Catholic University of America's Columbus School of Law and the City University of New York's John Jay College of Criminal Justice. Professor Williams has particular knowledge and expertise regarding the text, history, and interpretation of Article II and Article III of the U.S. Constitution with many scholarly and popular publications. He earned his J.D. from the University of California-Hastings College of the Law. After completing an externship with both Ninth Circuit Judge Joseph Sneed and Eleventh Circuit Judge Gerald Bard Tjoflat and a two-year clerkship with Judge Brevard Hand of the Southern District of Alabama, Williams did advanced training in federal jurisdiction and international law (LL.M.) from Columbia University's School of Law and in economic analysis of the law (LL.M.) from George Mason University's Scalia School of Law.

In past, Professor Victor Williams has been granted leave to file *amicus* briefs in other lower courts as well as by the U.S. Supreme Court. Professor Williams has published scholarship and commentary that offered strong support for the constitutional discretion and prerogatives of the past four presidents (without regard to their party affiliation). Professor Williams zealously advocated for timely Senate confirmation of the judicial and executive nominees of both George W. Bush and Barack Obama. Although these past presidents often pursued

policy ends at odds with Professor Williams' personal policy preferences, he continued to defend their constitutional authority.

But now, Professor Williams' acknowledges that his ultimate policy preference to always "put America first" is clearly reflected in President Trump's agenda and early actions. Williams was an early primary supporter of candidate Donald Trump. In spring 2016, Williams launched a widely-reported legal action, after obtaining "competitor candidate standing" as a write-in candidate in several late primary states, to challenge the ballot eligibility of (naturally-born Canadian) Ted Cruz. (www.victorwilliamsforpresident.com). See e.g., *Debra Weiss, Law Prof a Write-In GOP Candidate to Challenge Ted Cruz Eligibility*, ABA JOURNAL, April 11, 2016, http://www.abajournal.com/news/article/law_prof_enters_gop_presidential_race_to_challenge_ted_cruzs_eligibility/ and Pete Williams, *Law Professor Challenges Cruz on Citizenship, Candidacy*, NBC NEWS, April 11, 2016, <http://www.nbcnews.com/news/us-news/law-professor-candidate-challenges-cruz-citizenship-n554046>.

After Senator Cruz withdrew from the GOP primary, Professor Williams also withdrew from the primary race, formerly endorsed Donald Trump, and founded Super PAC (GOP Lawyers) rallying Lawyers and Law Professors (www.goplawyers.com) to support Donald Trump in the general election. See

Victor Williams, *Trump Will Bring Return to Rule of Law and Economic Growth*, THE HILL, Nov. 6, 2016. <http://thehill.com/blogs/pundits-blog/presidential-campaign/304291-trump-will-bring-return-to-rule-of-law-and-economic> , Victor Williams, *Law Professor Now Proudly in Basket of Deplorables*, THE HILL, Sept. 20, 2016, <http://thehill.com/blogs/pundits-blog/presidential-campaign/296783-law-prof-once-an-obama-supporter-now-in-basket-of> , and *Inside the Beltway: 'Lawyers for Trump' Founded* WASH. TIMES, July 4, 2016.

The campaign group has now transformed into the “America First Lawyers Association” (www.americafirstlawyers.com) which Professor Williams chairs, to advance the Trump administration’s “America first” nominations, policies, and programs. *See e.g.* Victor Williams, *D.C. Law Professor Makes Case for Sessions’ Senate Confirmation*, STREET INSIDER, Jan. 9, 2017, <http://markets.financialcontent.com/streetinsider/news/read/33555004>

UNIQUE CONTRIBUTION OF THE AMICUS BRIEF

Prospective *Amicus* offers that the proffered brief will make a valuable contribution to the existing briefing in this case as it presents an alternatively

focused theory asserting that the claims against the president's January 27, 2017 executive order raise a nonjusticiable political question.

Amicus respectfully argues that the Court does not have subject matter jurisdiction in this matter. And *Amicus* further respectfully suggests that this Court has an obligation to examine this subject matter deficiency, in full, before proceeding further in this adjudication.

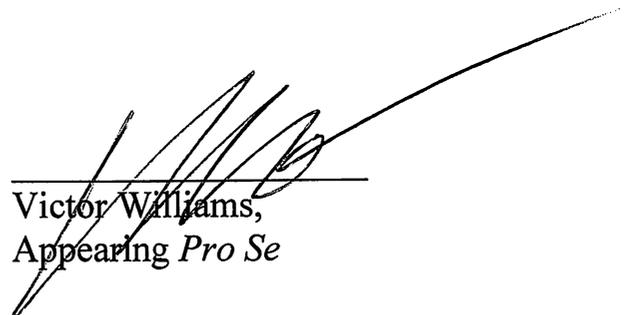
If a case presents a political question, the judiciary lacks subject matter jurisdiction to decide that question. *See* Victor Williams, *Travel Ban Challenges Present a Non-Reviewable Political Question*, JURIST - Forum, Feb.15, 2017. <http://jurist.org/forum/2017/02/Victor-Williams-travel-ban.php>

There are no judicially manageable standards by which the Court can endeavor to assess the President's interpretation of classified and military intelligence and his resulting decision—based on that intelligence—whether to restrict entry of foreign-soil aliens visiting from certain terrorist-breeding nations.

The Court's inquiry is thus barred by the patent political question, and any assertion by that such inquiry is necessary to a second-order statutory analysis would not make the inquiry or the first-order controversy justiciable. *El-Shifa v. United States*, 607 F.3d 836 (D.C. Cir. 2010) (*en banc*).

But both technical and prudential understandings of the political question doctrine require this Court to reject review of this matter.

Submitted on March 13, 2017

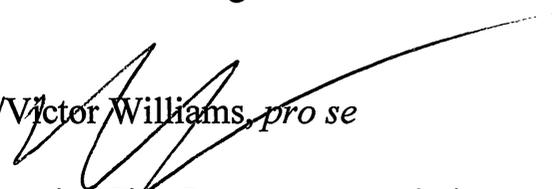


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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2017, the foregoing motion with proposed brief was filed with the Clerk of this Court using the U.S. Mail (as *pro se* prospective *Amicus* is not a registered ECF user) and served on parties by electronic transmission using their email address registered with the ECF account.



/s/ Victor Williams, *pro se*

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