

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-5335**September Term, 2012****1:11-cv-02189-EGS****Filed On: March 11, 2013**

Abdul Karim Hassan,

Appellant

v.

Federal Election Commission,

Appellee

BEFORE: Henderson, Griffith, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the motion to expedite and the opposition thereto; the motion for summary affirmance, the opposition thereto, and the reply; and the motion for summary reversal, the opposition thereto, and the reply, it is

ORDERED that the motion for summary affirmance be granted and the motion for summary reversal be denied. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court correctly determined that appellant lacks standing to challenge the constitutionality of the Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001 et seq., ("Fund Act"), to the extent it renders naturalized citizens ineligible for campaign funding. See Arizona Christian School Tuition Org. v. Winn, 131 S. Ct. 1436, 1442 (2011) (and cases cited therein) (to establish standing plaintiff must show injury-in-fact, causal connection between injury and challenged conduct, and likelihood that a favorable decision will redress injury). Because appellant lacked standing to bring a Fund Act claim, the district court properly declined to convene a three-judge court. Wertheimer v. FEC, 268 F.3d 1070, (D.C. Cir. 2001). To the extent appellant maintains that Article II, Section I, clause 5 of the United States Constitution has been implicitly repealed to the extent it bars naturalized citizens such as himself from holding the office of President, appellant failed to state a claim for relief. Appellant cites no authority to support his contention that a constitutional provision can be implicitly repealed, nor has he shown the natural-born citizen requirement is in irreconcilable conflict with the Fifth and Fourteenth Amendments, or that those

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amendments “cover[] the whole subject” of the requirement and are “clearly intended as a substitute.” Branch v. Smith, 538 U.S. 254, 273 (2003). It is

FURTHER ORDERED that the motion to expedite be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam