

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

ROBERT L. SCHULZ, ANTHONY FUTIA, Jr.
and all others similarly situated ,

Plaintiffs

VERIFIED COMPLAINT

v.

CASE No. _____

CONGRESS OF THE UNITED STATES OF
AMERICA, each member of the Senate
and House of Representatives,

Hon. _____

Defendant

Robert L. Schulz (“Schulz”) and Anthony Futia, Jr. (“Futia”) hereby file this Complaint against the Congress of the United States of America (“Congress”) pursuant to the Electors Clause and the Twelfth Amendment to the Constitution for the United States of America and 28 U.S.C. Section 1331 and 28 U.S.C. 1343 (a)(3).

STATEMENT OF THE CASE

1. This case arises from a constitutional crisis caused by:
 - a. violations by thirty-one States of the Electors Clause of the Constitution, resulting in the nullification of 401 electoral votes in relation to the 2020 Presidential Election, and

- b. the lack of a presidential candidate with a majority (270) of the whole number of electors chosen by the States (538), and
 - c. Congress's admission that those violations occurred, and
 - d. Congress's certification of electors that were unconstitutionally chosen.
2. The Twelfth Amendment to the Constitution for the United States of America provides the People with the remedy in the event of such violation(s) of their Rights under the Electors Clause – that is, their House of Representatives shall choose the President by ballot, and their Senate shall choose the Vice President by ballot.
3. As of January 20, 2021, the United States of America has a sitting President and Vice President that were unconstitutionally chosen.

RELIEF REQUESTED

4. Plaintiffs respectfully seek the entry of an Order:
 - a. declaring the 2020 electoral college to have been unconstitutionally formed, and
 - b. directing Defendant to choose immediately, by ballot, the President and Vice President of the United States, in accordance with the Twelfth Amendment to the Constitution, and
 - c. for such other and further relief as the Court may deem just.

JURISDICTION AND VENUE

5. The claims arise under the Constitution of the United States of America. The controversy involves violations of the Constitution. The Court has subject matter jurisdiction under Article III, Section 2 of the federal Constitution, which reads in relevant part: “The judicial power shall extend to all cases, in law and equity, arising under this Constitution.”
6. This court has jurisdiction also under 28 U.S.C. Section 1331 which reads, “The **district courts** shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”
7. This action is timely commenced as it is filed less than 30 days following the unconstitutional inauguration of President and Vice President on January 20, 2021, and less than forty days following Congress’s certification of the unconstitutionally chosen electors, a certification process that was thrown into disorder and confusion and short-circuited by a horrendous riot at the Capitol on January 6, 2021.
8. Defendant resides in this judicial district.

PARTIES

9. Plaintiff Schulz is a citizen-taxpayer-voter of the United States of America and a citizen-taxpayer-voter of the State of New York who has taken the oath

to support and defend the Constitution for the United States of America. He voted in the 2020 Presidential Election. He resides at 2458 Ridge Road, Queensbury, NY 12804.

10. Plaintiff Futia is a citizen-taxpayer-voter of the United States of America and a citizen-taxpayer-voter of the State of New York who has taken the oath to support and defend the Constitution for the United States of America. He voted in the 2020 Presidential Election. He resides at 34 Custis Ave., N. White Plains, NY 10603.
11. Plaintiffs Schulz and Futia are founders and members of the Board of Directors of the We The People Foundation for Constitutional Education, Inc., which is a not-for-profit organization with the official purpose of holding government accountable to the Rule of Law and institutionalizing citizen vigilance.
12. The Plaintiff-class consists of other American citizen-taxpayer-voters, including but not limited to those who signed the subject FIRST AMENDMENT PETITION FOR REDRESS OF VIOLATIONS OF THE GUARANTEE AND ELECTORS CLAUSES OF THE CONSTITUTION FOR THE UNITED STATES OF AMERICA (hereinafter "Petition").
13. Congress is structured and regulated by the Constitution for the United States of America; it consists of 535 voting members - 100 Senators and 435

Members of the House of Representatives, a President and three members representing the District of Columbia.

FACTUAL BACKGROUND

14. On or about December 8, 2020, Schulz and Futia learned about a lawsuit filed in the Supreme Court of the United States by the State of Texas against four other States claiming executive and judicial officials in those States usurped their legislatures' authority and unconstitutionally revised their State's election laws.
15. On or about December 11, 2020, Schulz and Futia learned that the U.S. Supreme Court decided 7-2 to dismiss the Texas case for lack of standing.
16. Between 12/11/20 and 12/14/20, Schulz and Futia researched the issue and learned executive and judicial officials in thirty-one (31) states had usurped their legislatures' authority and unconstitutionally revised their State's election laws.
17. On December 14, 2020, the Electoral College – formed of the electors chosen by the voters in all 50 States, including those unconstitutionally chosen - cast its vote for President and Vice President.
18. On December 17, 2020, Schulz completed and signed the Petition.

19. The Petition included two attachments; a) an historical record of the meaning and intent of the First Amendment's Petition Clause, and; b) a Petition regarding future Public Elections.
20. On December 17, 2020, Schulz spoke by telephone with staff in the Washington D.C. office of Rep. Elise Stefanik, his Representative in the U.S. House of Representatives, explaining the nature of the Petition and his desire to serve it on the Congress as soon as possible; he was advised to deliver the Petition to Rep. Stefanik's Glens Falls, N.Y. Office where it would be immediately scanned and e-mailed to her Congressional Office in Washington, D.C.
21. On December 18, 2020, Schulz hand delivered a hard copy of the Petition and a transmittal letter addressed to Rep. Stefanik to Josh Williams at Rep. Stefanik's Glens Falls office; Williams assured Schulz he would immediately scan and e-mail it to Rep. Stefanik. Exhibit A annexed hereto is a true copy of said letter.
22. Between December 18, 2020 and December 21, 2020, Schulz posted the Petition on the internet at <http://www.occupytheconstitution.org/presidential-election-2020> , along with a signature page, and emailed the link to the Petition to a half-dozen People, who forwarded the link to other Americans, who forwarded it to other Americans and so on.

23. Schulz spoke to staff at the Congress for advice regarding current protocols for service of the Petition on each member of Congress. Schulz was given the phone number for the Congressional Acceptance Site (“CAS”) and told the Petitions should be dropped off at the CAS for a 24 hour inspection and quarantine and that the CAS would then deliver the Petitions to every member of Congress.
24. By January 1, 2021, one thousand and fifty eight People representing all 50 States had signed the Petition; their names and addresses were added to the Petition.
25. On January 2, 2021, Schulz and Futia had 550 copies of the petition printed by a commercial printer, together with distinctly tailored transmittal letters addressed to the 101 members of the Senate and 435 members of the House of Representatives. Exhibit B annexed hereto is a true copy of the Petition with the names and addresses of the 1,058 signers, together with a copy of each of the two transmittal letters.
26. On Sunday, January 3, 2021, Schulz and Futia drove to Washington D.C. where they visited the CAS, located at 160 D Street, NE, which was open but not for business; they were able to speak with a staff person who confirmed the Petitions would be delivered to every member of Congress, no later than

Tuesday morning, January 5, 2021, if they were turned over to the CAS at 8:30 the following morning – Monday, January 4, 2021.

27. Schulz and Futia spent the evening of January 3, 2021 at the Phoenix Park Hotel located across the street from Union Station in Washington, D.C.
28. On Monday, January 4, 2021 at 8:30 AM, after paying the required monetary cost for the service, Schulz and Futia successfully turned over to the Senate side of the CAS 101 copies of the Petition with its two attachments and its transmittal letter and they successfully turned over to the House side of the CAS 435 copies of the Petition with its two attachments and transmittal letter. Exhibit C are copies of five photographs showing the Petitions arriving and being processed at the CAS.
29. On January 8, 2021, by telephone, staff at the CAS confirmed to Schulz that on Tuesday morning, January 5, 2021, following quarantine and screening of the Documents, each member of Congress and the President of the Senate were served with a copy of the Petition.

ARGUMENT

30. Article II, Section 1 of the Constitution, known as the Elector's Clause reads in relevant part:

The executive Power shall be vested in a President of the United States of America.

He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, **in such Manner as the Legislature thereof may direct**, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.... (emphasis added).

31. The Petition proves that the manner in which the Presidential Electors were chosen in 31 States violated the Electors Clause of the Constitution for the United States of America in that Executive and Judicial officials in those States usurped their legislatures' authority and unconstitutionally revised their State's election laws.
32. In every State where the violations occurred the State Legislators could have revised the subject election law(s) if the revisions were that important, making it unnecessary for the unconstitutional usurpations.
33. It was a violation of the supreme law of the land and wholly unnecessary for the Executive and Judicial officials to take the law into their own hands – i.e., to usurp the legislatures' authority.
34. In addition, these usurpations violate the separation of powers, which the Constitution is to protect.

35. No member of Congress has denied any of the violations detailed in the Petition.
36. The violations of the Electors Clause that are detailed in the Petition are factual and irrefutable.
37. Under the Petition Clause of the First Amendment, Congress had a duty to respond to the Petition.
38. When given an opportunity to do so, Congress chose not to deny the violations.
39. Service of the Petition on Congress by the People, with its declaration of the violations of the Electors Clause, was such an act as naturally to call for comment from Congress if not true.
40. It has been proper and possible for Congress to assert the People's declaration as untrue.
41. By its silence, Congress has admitted the violations – that is, that the electors from 31 states were unconstitutionally chosen, leaving 137 electors that were constitutionally chosen which is less than the majority (270) needed for a successful, constitutionally valid election.
42. No candidate for President and no candidate for Vice President received a majority of the electors appointed for the 2020 Presidential Election.

43. The Twelfth Amendment to the Constitution was passed by Congress in 1803 and reads in relevant part:

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; -the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and **if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President.** But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice...The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and **if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President;** a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. (emphasis added).

44. Thus, under the facts and circumstances of this case, the House of Representatives is constitutionally required to “choose immediately, by ballot, the President” and the Senate is constitutionally required to “choose the Vice-President.”

CONCLUSION

45. WHEREUPON, Plaintiffs respectfully seek the entry of an Order:
- a. declaring the 2020 electoral college to have been unconstitutionally formed, resulting in less than an majority of the appointed electors able to legitimately vote for President and Vice-President, and
 - b. directing Defendant to choose immediately, by ballot, the President and Vice President of the United States, in accordance with the Twelfth Amendment to the Constitution, and
 - c. for such other and further relief as the Court may deem just and fair.

Dated: February 14, 2021

/s/
ROBERT L. SCHULZ, pro se
2458 Ridge Road
Queensbury, NY 12804
[518] 361-8157

Sworn to before me
this 14th day of February, 2021

/s/
Notary

_____/s/_____
ANTHONY FUTIA, Jr., pro se
34 Custis Ave.
N. White Plains, NY 10603
914-906-7138

Sworn to before me
this 14th day of February, 2021

_____/s/_____
Notary

INDIVIDUAL VERIFICATION

STATE OF New York
COUNTY OF Westchester

ROBERT L. SCHULZ., being duly sworn, says: I am a Plaintiff in the action herein; I have read the foregoing Verified Complaint dated February 14th, 2021, and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief and as to those matters I believe them to be true.

_____/s/_____
ROBERT L. SCHULZ

Sworn to before me this
14th day of February 2021

_____/s/_____
Notary Public

INDIVIDUAL VERIFICATION

STATE OF New York
COUNTY OF Westchester

ANTHONY FUTIA, Jr., being duly sworn, says: I am a Plaintiff in the action herein; I have read the foregoing Verified Complaint dated February 14th, 2021, and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief and as to those matters I believe them to be true.

 /s/
ANTHONY FUTIA, Jr.

Sworn to before me this
14th day of February, 2021

 /s/
Notary Public