

**AFFIDAVIT OF PROFESSOR DAVID P. ROWE, ESQ.  
IN SUPPORT OF CLAIM FORM (ELECTION PETITION)**

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CLAIM NO. 2007 HCV 03921

IN CIVIL DIVISION

BETWEEN	ABRAHAM DABDOUB	CLAIMANT/PETITIONER
AND	DARYL VAZ	1 <sup>ST</sup> RESPONDENT
AND	CARLTON HARRIS	2 <sup>ND</sup> RESPONDENT
AND	THE ATTORNEY GENERAL OF JAMAICA	3 <sup>RD</sup> RESPONDENT

I, Professor David Patrick Rowe, being duly sworn make oath and say as follows:

1. I am an Attorney in good standing in the State of Florida.
2. I have practiced for 25 years in the area of Public International Law with specialties including U.S. Consular and the Law of Extradition.
3. I am authorized to practice and I am a member of the Federal Bar in the Southern District of Florida, the Middle District of Florida, the Eastern District of South Carolina and the Eastern District of New York.
4. I have tried more than twenty cases involving non-citizens in Federal Court as Lead Counsel over a period of twenty years. A number of these cases have been designated as death penalty cases or classified as "Complex Litigation" -
5. That I served for two years as Chairman of the American Bar Association Caribbean Law Committee.
6. That I was registered and designated as a Foreign Agent for Jamaica during the period 1984 to 1989.
7. That my advice has been sought on Caribbean Law Issues by the United States State Department and the United States Department of Justice on an ongoing basis. That I have taught law school classes jointly with Special Agents of the Drug Enforcement Administration and its role in the Caribbean.

8. That I have consulted professionally with People Magazine, BBC, Time Magazine and the Associated Press concerning Caribbean Law Issues.
9. That I maintain and operate a Website: <http://www.constitution-and-rights.com>.
10. That I have taught at the University of Miami for 10 years as an Adjunct Professor in Caribbean Law and that I have been granted research facilities and staff by that Institution from time to time in the Caribbean Law area.
11. That I have been an Adjunct Professor of Law at the St. Thomas University School of Law and that I am a Judicial Coordinator in the St. Thomas International Law Moot Court.
12. That I have examined the Affidavit of Daryl Wesley Phillip Vaz provided to me by Gayle Nelson, Esq. and I have perused its contents. In paragraph 4, Mr. Vaz states that "I was also at all material times a Citizen of the Unites States of America and the holder of a U.S. Passport". In Paragraph 6. Mr. Vaz states: "My mother is a U.S. Citizen". In Paragraph 9, Mr. Vaz states "I acquired United States Citizenship at birth by derivation or descent". In Paragraph 11, Mr. Vaz states that be currently has a valid U.S. Passport issued on the 5th of May, 2004 and that he applied for that passport while as an adult.
13. I find paragraph 16 of Mr. Vaz's Affidavit factually and legally inconsistent with the prior paragraphs in his Affidavit where he says that he has not "been under any acknowledgement or allegiance, obedience or adherence to a foreign Power or State".
14. It is not possible to apply for a U.S. passport under any known U.S. passport application without swearing allegiance to the United States.
15. The application for a United States passport is not a trivial document but a document that is prepared under the penalty of perjury. Claiming United States Citizenship cannot be done in any indirect manner. It can only be done by the positive acknowledgement of United States Citizenship.

16. The U.S. Department of State Application for a U.S. Passport, Form DS-11, states that the use of a passport in violation of the restrictions contained therein or of the U.S. passport regulations is punishable by fine or by imprisonment under 18 U.S.C. 1544.
17. Form DS-11 states that as a condition for applying for a U.S. passport, the applicant must declare that "since I have acquired United States Citizenship I have not accepted or performed the duties of any office, post or employment under the Government of a Foreign State or political sub-division thereof".
18. Section 1544 of 18 U.S.C. and the Illegal Immigration Reform and Immigrant Responsibility Act create criminal penalties for use of a passport contrary to the Conditions stated on the passport application.
19. The overwhelming implication of 18 U.S.C. 1544 is that use of a U.S. passport imposes an obligation for all U.S. passport holders to comply with U.S. Law, particularly the condition in the passport application form DS-11 that the applicant is not to not serve in formal political office without declaring the same to the United States State Department.
20. In my opinion, if an individual who has no allegiance to the United States applies for a U.S. passport, then the individual is making a False Claim to U.S. Citizenship.
21. Section 212(a)(6)(C)(ii) of the Immigration and Nationality Act applies not only to false claims to U.S. citizenship to obtain a benefit under the Act, but also to false claims for any purpose or benefit under any other Federal or State law. Therefore, an alien who made a false claim to U.S. citizenship to obtain any Federal or State benefit on or after September 30, 1996, would be inadmissible under section 212(a)(6)(C)(ii) of the Act. A false claim to U.S. citizenship for a "purpose" under Federal or State, law would include, for example, voting or failure to disclose foreign political activity to the U.S. State Department.

It is not necessary for the claim to have been made to a U.S. Government official. The statutory language in section 212(a)(6)(C)(ii) of the Act is broad in scope and provides that the false claim may have been made "...for any purpose or benefit under this Act (including section 274A) or any other Federal or State law..." Thus, a false claim of U.S. citizenship can be made to a private individual, as the statutory language

includes specific mention of 274A of the Act, and the employment verification procedures described under section 274A of the Act cover both Government and private employers. For example, an alien who makes a false claim of U.S. citizenship to a private employer on Form I-9 (Employment Eligibility Verification) on or after September 30, 1996, is inadmissible under section 212(a)(6)(C)(ii) of the Act.

Similarly, an application made by an adult, knowing that he is involved in foreign political activity, but who fails to report to the U.S. State Department, would make that individual inadmissible under Section 212(a)(6)(C)(ii). The individual could also be indicted by a Federal Grand Jury under 18 U. S.C. 1544.

22. Therefore, it is my opinion that Mr. Vaz either has made a claim of allegiance to the United States Government when, as an adult, he applied to renew his passport on form DS-11 or any similar form. Or, at that time, he made a false application for a United States passport contrary to 18 U.S.C. 1544.

Further affiant sayeth not.

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Professor David Patrick Rowe, Esq.

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