

IN THE UNITED STATES DISTRICT COURT
FEDERAL SUPPLEMENT
ALEXJCABOT v. RESET4K
[1 F. Supp. 4d. 1 (D.D.C. 2020)]

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ALEXJCABOT

v.

RESET4K, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE
UNITED STATES.

Case No. 4:20-1559.

Apr. 4, 2020.

Civil action against defendant, who commenced martial law and negotiations with the United Nations, in search of emergency injunctive relief by plaintiff. The District Court, Andrew_Carpenter, District Judge, denied injunctive relief for plaintiff, holding that:

1. The Hawaiian Acknowledgement of Sovereignty Act, Pub. L. 53-6, is unconstitutional because Article I does not allow Congress to give away the territory of the United States. In addition, only the President may recognize foreign sovereignties, so any legislation enacted is automatically unconstitutional pursuant to Article II, § 3.

2. The claim that the United States should have declared war pursuant to Article I, § 8 cl. 7 is mitigated by the fact that the United Kingdom declared war on the United States first. As such, a defensive war would be fostered, and the President would have the power to defend the country without having to issue an official declaration of war.

3. The President did not violate the Posse Comitatus Act, because he is legally required to act against a threat against the country.

4. Congress enacted 10 U.S.C. § 252, which allowed the president to use the militia and armed forces for certain purposes in enforcing federal authority. Nothing in the Constitution prohibits Congress from delegating this task to the President, and because the threat is real, the President's declaration is valid.

Emergency injunction denied.

ORDER DENYING MOTION FOR EMERGENCY INJUNCTION

CARPENTER, District Judge:

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On the 4th of April, 2020 Plaintiff Alex J. Cabot filed this action seeking an emergency injunction halting war term negotiations with the United Nations and terminating martial law. In support of this claim, Plaintiff makes the following arguments:

1. The President's claim of American sovereignty over Hawaii is refuted by the Hawaiian Acknowledgement of Sovereignty Act, Pub. L. 53-6, which states that "the United States of America recognizes the sovereignty of the Kingdom of Hawaii."
2. The President proceeding with war negotiations without a formal declaration of war from Congress invades Congress' authority to "declare war" under Art. I, §8, cl. 7.
3. The President's declaration of martial law violates the Posse Comitatus Act by authorizing U.S. troops to operate as deputized law enforcement.
4. The President's decision to deploy American troops domestically usurps Congress' power under Art. I, §8, cl. 11 to "provide for the calling forth of the Militia to execute the laws of the Union."

The Court has given thoughtful consideration to each of these arguments and recognizes the importance and urgency of this situation. That is why it has taken care to expedite its decision to the maximum extent reasoned decision making would allow. Because this motion comes before the Court on an emergency basis, the Court was forced to deliberate without the benefit of briefing from the Defendant.

But upon consideration, regardless, the Court must reject each of Plaintiff's arguments and therefore DENY the Motion for and Emergency Injunction in its entirety. Each argument is addressed in full below.

ANALYSIS

I. The Hawaiian Acknowledgement of Sovereignty Act.

Plaintiff invokes the Hawaiian Acknowledgement of Sovereignty Act, Pub. L. 53-6, to claim that the President's assertion of sovereignty over Hawaii is invalid. While this argument may seem credible on its face, careful examination reveals its weakness: the Act was unconstitutional to begin with. This is so for two reasons.

First, Article I does not grant Congress the power to give away America's sovereignty. America's sovereignty over its land is permanent. Even if occupied or temporarily ceded to a foreign power, as far as the Constitution is concerned, that land belongs to the People of the United States. As the Supreme Court has explained, under our founding charter, all parts of America are "permanently the same country." *Texas v. White*, 74 U.S. 700, 720 (1869). Congress is not given the power to circumscribe or reduce America's constitutional sovereignty, and as has always been the case under our system of separated powers, "Congress' authority is limited to those powers enumerated in the Constitution." *United States v. Morrison*, 529 U.S. 598, 610 (2000). The President may always reassert the sovereignty of America protected by the Constitution and no legislation may interfere with that prerogative.

Second, even were that not the case, the President has the sole power under the Constitution to recognize or not recognize foreign nations and therefore to decide whether to acknowledge their sovereignty. Any Act of Congress which attempts to usurp that power is unconstitutional. The power to "receive Ambassadors and other public Ministers," Art. II, §3, was vested in the President of the United States by the Constitution's Framers. At the time of the Constitution's drafting that power was understood to mean the "power to recognize other nations." *Zivotofsky v. Kerry*, 576 U.S. ____ (2015) (slip op., at 9). Because that power belongs to the President, not Congress, he must be recognized as having the authority to disregard legislation by Congress which attempts to take that power for itself.

For these reasons, the Hawaiian Acknowledgement of Sovereignty Act is unconstitutional and does not pose an obstacle to the President's efforts to reclaim Hawaii.

II. The Power to Declare War.

Plaintiff argues that the President proceeded with war negotiations without a formal declaration according to Art. I, §8, cl. 7. Although this reasoning seems justifiable, it should be noted that initially the United Kingdom declared war on the United States, which automatically fosters a defensive war. Therefore, the United States President has the authority and the duty to defend his territory without necessarily declaring war since his country is being invaded by the enemy. As the Supreme Court has explicitly stated, "if a war is made by invasion of a foreign nation, the President is not

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only authorized but bound to resist force by force ... without waiting for any special legislative authority.” *Prize Cases*, 2 Black 635, 668 (1863). In short, the President is not deploying troops for invasion and therefore does not require approval from Congress.

III. The Posse Comitatus Act.

Next, Plaintiff alleges that the deployment of U.S. troops domestically to enforce martial law violates the Posse Comitatus Act. But the President has broad authority as Commander-in-Chief to defend the United States, and take on foreign enemies wherever the battlefield may be, even if the battlefield happens to be an American city. The Supreme Court, in *Fleming v. Page*, observed that the President has the constitutional power to “employ [the Nation’s Armed Forces] in the manner he may deem most effectual to harass and conquer and subdue the enemy,” and nothing in the Posse Comitatus Act purports to override this aspect of the President’s constitutional power, nor could it. 9 How. 603, 615 (1850). When a foreign enemy is, or poses a substantial threat of, assaulting American cities, the Posse Comitatus Act does not prevent the President from using well-equipped forces to counter that threat. To the contrary, the Constitution requires him to meet that threat head on. Thus, this argument must be rejected.

IV. The Power to Call Forth The Militia.

Lastly, the Plaintiff asserts that the President by deploying American troops domestically topples the power of Congress to provide for calling forth the militia. This argument is the weakest of the lot. Congress has provided for calling forth the militia by enacting 10 U.S.C. § 252, authorizing the President to do so when he determines particular conditions are met. Nothing in the Constitution prevents Congress from delegating this function to the President.

The President, in this case, has determined that domestic deployment of military forces is necessary to protect the United States. As a result, this argument is rejected as well.

CONCLUSION

Based on these reasons, the Court **DENIES** the Plaintiff’s Motion for an Emergency Injunction in its entirety.

IT IS SO ORDERED.