



# Obama unlikely at 'birther' hearing

President will be visiting five states, not Georgia.

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Even though President Barack Obama has been summoned to a court hearing here Thursday, don't expect the commander in chief to come.

Obama was set to embark on a five-state, three-day trip following his State of the Union address Tuesday. The White House has said that Obama will be in Las Vegas, Denver and Detroit on Thursday.

In a surprising ruling Friday, a Georgia state administrative judge declined to quash a subpoena directing Obama to attend a hearing at the Fulton County courthouse on a challenge to strike him from the Georgia ballot this fall on claims he is not a natural born U.S. citizen.

Deputy Chief Judge Michael Malihi issued the decision after previously declining to dismiss the case, one of dozens around the country brought by so-called "birthers." Malihi, appointed in 1995 by Gov. Zell Miller, presides at the Georgia Office of State Administrative Hearings, which hears complaints against state agencies.

Last year, eight people filed challenges to Obama's citizenship with the Georgia Secretary of State's office, which administers elections. The agency referred the dispute to the administrative hearing office as required by law, an office spokesman said Monday.

Lawyers for those pursuing the challenges recently issued a subpoena for Obama to attend the upcoming hearing. Obama's legal team filed a motion to

quash the subpoena, but Malihi declined. In his order, Malihi noted that Obama's legal team had argued that no president should be compelled to attend a court hearing.

Obama's court filings fail to show why his attendance would be "unreasonable or oppressive," the judge wrote.

The White House on Monday referred questions to Obama's re-election campaign, which had no public comment.

"It's a major victory," said Orly Taitz, a California lawyer who represents five of the people who filed challenges.

Taitz, who is also a dentist, is a leading proponent of challenges to Obama's citizenship. Last year Obama released a long-form birth certificate showing he was born in Hawaii.

In court filings, Obama's legal team has called the "birther" allegations baseless and the criticisms of his birth records "patently unfounded." During a 2009 challenge, a federal judge in Columbus fined Taitz \$20,000 for "frivolous" litigation.

Marietta lawyer Melvin Goldstein, who is not involved in the case, said if the hearing goes on as scheduled without Obama, Malihi could refer the matter to a Fulton County Superior Court judge. It would be up to that judge to decide whether to enforce the subpoena and, if necessary, hold the president in contempt, Goldstein said.

Eric Segall, a Georgia State University law professor, predicted that won't happen.

"There have been many, many lawsuits trying to litigate the issue of the president's nationality," Segall said. "They have all been dismissed and this one should be too."