IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

NEWTON BORIS SCHWARTZ, SR. INDIVIDUALLY, AND/OR AS (B) CLASS REPRESENTATIVE AND/OR ON BEHALF OF ALL ELIGIBLE TEXAS AND NATIONALLY UNITED STATES REGISTERED (C) ELIGIBLE AND/OR QUALIFIED VOTERS FOR VOTING IN THE 2016 FIFTY STATE ELECTION PRIMARIES AND IN THE NOVEMBER 1, 2016 GENERAL PRESIDENTIAL AND VICE PRESIDENT 2016 ELECTIONS	§	CIVIL ACTION _____
	§	NO JURY
vs.	§	
TED CRUZ A/K/A RAFAEL EDWARD CRUZ, INDIVIDUALLY Defendant	§	

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Newton Boris Schwartz, Sr., Individually and/or as (b) Class Representative and/or (c) on behalf of all eligible qualified 50 states and nationally United States Registered, eligible and Qualified Voters for Voting in: (1) all 50 State Caucus and primaries in 2016; (2) the 2016 Texas Primary elections; and (3) General National 2016 Electoral Presidential and Vice president election on November 1, 2016.

Plaintiff, as Party Plaintiffs[1] files this Civil Action based upon this Court's (1) original 28 USC § 1331 subject matter jurisdiction; and (2) personal jurisdiction over all parties, and (3) the standing of the parties hereinafter in this case and controversy now ripe for decision. Out of the veritable deluge of public opinions on this issue a majority presently appear to agree that American citizens may agree that while Defendant Cruz is not a natural born U.S. citizen, he may be eligible. Regrettably a majority of American citizens, including constitutional scholars, may disagree with. As with questions of a woman's right to choose upon pregnancy to have that child; or same sex marriages but at least five Justices of the Supreme Court must decide the issues not on a popular consensus. The U.S. Constitution is not a popularity document for fair weather only. The first Chief Justice John Jay was equivocal in his informal contemporaneous writing but his first Supreme Court never ruled on it because it was never presented. Justice Storey in 1833 for the Supreme Court did not rule on it. It is now.

I. DECLARATORY JUDGMENT

This procedural Declaratory Judgment prays for an declaratory Judgment of the (1) status (2) qualifications and (3) eligibility or ineligibility of defendant for election to the office of the President and vice President of the United States under Article II,

[1] This is not a constitutional challenge to any of the applicable subsequently enacted the following cited specific federal election statutes and/or state statutes (if any are applicable). They cannot amend, limit or contravene Article II, Section 1, Clause 5 of the United States Constitution cited herein enacted to date and not as amended as to the eligibility qualifications for and residence to be a candidate in forthcoming February 1, 2016 in Iowa caucuses in all subsequent 49 state primaries and in the November 1, 2016 general election and subsequent electoral college and other requirements for eligibility for the above national election of President and Vice President of the United States elected offices per FRCP 5.1 in the 2016 time for deciding Defendant Cruz' above eligibility now.

Section I, Clause 5 as original enacted and adopted and ratified by the requisite number of then thirteen states and not amended or repealed to date.

It is undisputed, by all legal scholars, there is no U S Supreme Court decision or precedent: determinative of the following agreed facts of this case and controversy. "Natural born citizen" has never been defined. This a case of first impression. Harvard professor Laurence Tribe on January 11-12, 2016 national including CNN media program opined "…this question is completely unsettled…".

There are no simplistic answers as incorrectly suggested herein by some of the authors cited and presented including in fn. 2 Exhibits A-D and adopted per FRCP 10 (c). If all that was and is required for Defendant's eligibility for the election to the office of the President and Vice President of the United States is that one of his biological parents be a U.S. citizen at the time of his birth in Canada outside the 50 United States (and has satisfied the requisite age of 35 and 14 years residence per statutes applicable herein, then why have the "birthers" or "doubters" and questioners of the place of birth of the 44th President of the United States, Barack Hussein Obama have persisted to this date and prior to his 2008 elections in 2008 and 2012? When undisputedly: (1) he was born in the U.S. State of Hawaii after its admission on August 21, 1959 and is documented by his birth records, U.S. citizenship status of his American born mother, a natural born and native born U.S. citizen, later married to Mr. Obama as Mrs. Stanley Ann Dunham Obama. That fact of his mother's U.S. citizenship alone under Defendant Cruz' contention satisfied the Constitutional requirement. He is incorrect. It didn't. President Obama's maternal grandparents were also native and natural born U.S. citizens. His

maternal grandfather fought with U.S. General Patton's third armored in Europe during World War II. Why then despite his documented birth in Hawaii after admission as a state of the United States of America in 1959, persisted even he was, as incorrectly but never documented other than he was born in Hawaii after its admission as the 50th admitted State since 1959. He was not born in Kenya (Africa). Even if that were, that did not prevent his being a natural born citizen so why did Senator Cruz speak out? The sole basis here for the ineligibility and disqualifications above of Defendant Cruz for President and/or the office or Vice President, of the States is Article II, Section I, Clause 5 (first paragraph) of the United States Constitution. Defendant satisfied the age of 35 years and 14 year residency requirements of Paragraph 2.

This 229 year question has never been pled, presented to or finally decided by or resolved by the U. S. Supreme Court and by any other U. S. Court of Appeals for the now twelve (12) Circuits that had and have the interim appellate jurisdiction to decide it. Only the U.S. Supreme Court can finally decide, determine judicially and settle this issue now.

A. Time is of the Essence

The Iowa caucus start February 1, 2016 in Iowa, and following shortly thereafter, New Hampshire, then South Carolina and then in Texas on March 1, 2016 and in all other states. If still deadlocked, or if the requisite delegates are not obtained by a single candidate necessary, must be resolved at the Republican Convention prior to campaigning the general election November 1, 2016.

1.

No previous case has been presented or decided on this issue by the U.S. Supreme Court, including because in fact none arose, as here to being a case or controversy ripe for decisions as here is presented. The entire nation cannot afford such constitutionally confusion and uncertainties overhangings the electorate process. The eminent forthcoming elections cannot await such decision prior to much less post November 1, 2016 or in the Constitutional Electoral College certification or results prior to noon, Eastern Time, January 20, 2017.

Typically, among the flood of media opinions on January 3, 2016, Sunday CSPAN one caller on the 3 hour program (6:00 am 9:00 a.m.) where the question was "Who [sic whom] do you support for President?" Several random callers stated their (lay) opinion that Ted Cruz is not eligible to be President because he is not a "natural born" or "native born" American citizen and therefore cannot be legally elected or sworn in. The callers whose names are not given are only identified at Republican, Democrat and/or Independent caller lines with separate toll free phone numbers 888 (wide area watts phone lines below.

Since then in all media, print, TV, cable, there has been local mounting questionings crescendo, as to Defendant's status because of his being Canadian born. Before and since such media vetting and asking the very question above presented here including by candidate Donald Trump himself (January 8-12, 2016). He suggested obviously or hopefully on advice of counsel, to file a Declaratory Judgment. So far Defendant hasn't filed.

II. ORIGINAL SUBJECT MATTER JURISDICTION

This Court has original subject matter jurisdiction, per 28 U.S.C. § 1331. This is a ripe case and controversy arising under the Constitution of the United States as adopted in 1787. Article II, Section 1, Clause 5 provides:

> "…No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President…" (all emphases are added throughout unless by the Court's or authors).

This "natural born citizen" Constitution requirement has never been defined or determined by the U. S. Supreme Court, nor has it ever been amended or repealed[2] as prescribed by the U. S. Constitution.

It is also referred to as the "Presidential Qualifications Clause" the above cited is part of which is popularly known as the "Natural Born Citizen Clause," Plaintiff seeks (a) declaratory judgment per (a) Federal Rules of Civil Procedure (FRCP) 57 and (b) The Declaratory Judgment Act 28 U.S.C. § 2201. Neither of these Rules or Statutes further expands this Court's above original subject matter jurisdiction. See e.g. *Medtronics, Inc. v. Mirowski Family Ventures, LLC*, 134 S. Ct. 843, 848 (2014) and earlier U.S. Supreme

[2] See e.g. cited law Review Articles prior to 2005, 2008, 2013 and 2015 infra. All are adopted by reference per FRCP 10(c). See Exhibit A "Native and Natural Born Citizenship Explored" "McCain – Opinion of Laurence H. Tribe and Theodore B. Olson" posted June 8, 2013 by NBC (March 19, 2008); Exhibit A-1 "Presidents and Citizenship" Opinion letter by Laurence H. Tribe and Theodore B. Olson March 19, 2008; Exhibit B "Natural Born Presidents" by James C. Ho; Exhibit C " Harvard Law Review "On the Meaning of 'Natural Born Citizen' Commentary by Neal Katyal & Paul Clement March 11, 2015; and Exhibit D International New York Times "Republican Candidates' Sparring Resumes Mere Hours After Their Debate" by Matt Flegenheimer and Jonathan Martin, December 16, 2015.
Professor Tribe to and in the media on January 10, 2016 stated that the Cruz eligibility question is not by the Supreme Court. The facts on which he and former Solicitor Ted Olsen opined in 2008 (Exhibit A attached) dealt with candidate John McCain, both of whose parents were native born and natural born U.S. citizens. He was born on a U.S. military base in the Panama Canal Zone in 1936 before its 1937 annexation or adoption. The facts are distinguishable for Senator Cruz.

Court cases cited therein decided in 2009, 1960 and 1937 respectively and all are adopted per FRCP 10(c).

The Naturalization Act of 1790 was rescinded shortly thereafter by Congress and is of no effect to this decision as has been suggested or may be argued by Senator Cruz:

> The Naturalization Act of 1790 provides "…An Act to Establish a Uniform Rule on Naturalization' which provided 'the children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens…" (Lawrence B. Solum, 107 Mich. L. Rev. First Impressions 22)
>
> 8 U.S.C. § 1401, Nationals and citizens of the United States at Birth:
>
> The following shall be naturals and citizens of the United States at birth:
>
> "…(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States…"
>
> "…(g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years…"

And see 8 U.S.C. § 1431(a)(1)(2)(3) (1952 as amended as to all three above 1952 statutes and 8 U.S.C. § 1433(1)(2)(A)(B) and (3).

Illustrative but not exhaustive (there are far too many) including CSPAN "Road to the Whitehouse" Saturday January 8, 2016 Donald Trump speaking in Clear Lake, Iowa to a his usual overflow (purportedly by him twice the seating capacity) large rally: (1) advised Senator Cruz to file this Declaratory Judgment above and (2) quoted Harvard

Law Professor Laurence Tribe since his March 19, 2008 opinions regarding Senator John McCain eligibility under substantially distinguishable facts and a different distinguishable situation and constitutional scholar Lawrence Tribe that "Senator Cruz" eligibility under the Constitution is "not a settled matter". Professor Tribe's above current opinions and his prior 2008 opinion Exhibit "A" publications speak for themselves. He represented Senator McCain on this issue in 2008 Ex. "A" with fellow former U.S. Solicitor Ted Olsen. Mr. Trump, other than by "Declaratory Judgment" action, stated correctly that it may take up to 3-4 years to resolve this issue in the courts other than by his own recommended filing a Declaratory Judgment. A usual constitutional challenge to a statute, rule or action requires developing procedural discovery and a Record usually takes time but not this declaration judgment. Expediting in 3-4 months is an achievable timeframe given a simple agreed and stipulated record as employees in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898) and as was recently done in *Roe v. Wade*, 410 U.S. 113 (1973). It was and remains a far more complex, ethical, medical, biological unchartered constitutional challenge with even the precise constitutional provisions invoke applicable and involving provisions uncertain between its 1971 filing, through hearings to its January 22, 1973 decision or to date. Justice Ginsburg has opined recently on the precise constitution bass for the Court's decision while she agreed to the end results.

III. PARTIES AND STANDING AND DISCLOSURES PER F. R. CIV. P. 26

For a summary of standing requirements, they are fully stated by both majority and dissenting opinion recently. See *State of Texas, et al. v. United States of America, et*

al. 787 F.3d 733 (5th Cir. 2015 S. D., TEXAS). Petition for Certiorari is pending as of the filing.

This suit is filed pro se and pro bono. An expedited accelerated decision by the Supreme Court is necessary. This Court, on the conflicting substantial authorities can readily define it especially aided by Defendant, a constitutional scholar, friend of the Court (amici) and its law clerks.

Defendant Ted Cruz was and is neither a natural born or native born U.S. citizen at the time of his birth is Rafael Edward Cruz in Canada in 1970. For legal reasons above and following here, Defendant not now and was not at birth in Canada a natural born citizen of the United States in 1970. Defendant's mother on information and belief subject to confirmation was (a) a natural born and/or native born U. S. citizen born in Delaware, U.S.A.; and (b) at the time of Defendant's birth in Canada in 1970 unless it is found that she renounced her U.S. citizenship. His father was born (pre 1959 Castro) in the nation of Cuba and later because a naturalized U.S. citizen.

Cuba was a colony of Spain until it was lost in the Spanish American War in 1898 along with the Philippines. Since 1959, it has been and continues to the present to be an independent Communist nation and having diplomatic relations with the U.S. since 1959 despite 2015 presidential edict but not congressional approval lifting the embargo.

Defendant Ted Cruz a/k/a Rafael Edward Cruz (at birth) is sued in his individual capacity. He is questioned here as to being a "natural born" citizen based solely on his mother's U.S. citizenship. Defendant was born in the Sovereign Dominion of Canada, in 1970 and he is the prescribed minimum age of 35 for President or Vice President and was

at the time of his election as a U.S. Senator from Texas in 2012 per U.S. Constitution Articles 1 and/or the Seventeenth Amendment. He is sued herein in his above individual capacity to determine if he is or is not a "natural born U.S. Citizen."

IV. VENUE

Venue lies in this Court in that all of the above named individual parties are residents and citizens of Texas and of Houston, Harris County, Texas within this Court's 28 U.S.C. § 124(b) jurisdiction as defined and prescribed for, including persons for venue purposes per 28 U.S.C. Section § 1391(a) and (b)(1) and/or (b)(2) and/or (c)(1). Texas is a place of Defendant Cruz' domicile required for his election to and continued representation in the U.S. Senate. Defendant Senator Cruz has his permanent residence in Houston, Harris County, Texas, and he maintains his principal Texas office at 808 Travis, Suite 1420, Houston, Harris County, Texas 77002 and residence at 3333 Allen Parkway, Unit 1906, Houston, Harris County, Texas 77019, within this Court's jurisdiction. He may be served with Summons if he is not agreeable to appearing. Defendant's political policies theories, stances and views are not in issue been and not in the scope of this case nor relevant to the decision here.

Defendant is not sued in any capacity as an employee, official or officer of the United States. Nor is he sued for any of his views or political positions. They are all irrelevant or do not affect at all the above eligibility requirements of Article II, Section 1, Clause 5. Defendant is not: (1) contested at to his election and status as a sitting U.S. Senator from Texas; nor (2) for his absences from many senate votes as Texas Junior Senator including in Iowa the entire week of January 4-8 as intensely covered by all

media including in two (2) full pages in the New York Times Saturday January 9 , 2016 free of charge. Defendant is not being sued in any official capacity and only in his personal capacity solely to his above lack of constitutional eligibility per Article II, Section 1, Clause 5 above cited, constitutionally required as a condition precedent for his eligibility for election of President and/or Vice-President of the United States of America. There are no other (U.S.) Constitutional requirement other than the above age of 35 to be eligible for election to the office for President and/or Vice President of the United States per above, except strict compliance with Article II, Section 1, including Clause 5 above, other than being admittedly satisfying all other constitutional requirements, 35 years of age and 12 year resident of the United States.

The standing of the parties to file this "case or controversy" has now become ripe for decision Plaintiff is eligible to vote per Exhibit E in both the March 1, 2016 Texas party primaries and/or as an Independent voter in such primary and November 1, 2016 General Election as published and as certified by the Texas Secretary of State, depending on who the Candidates are. Defendant's standing in the current polls of Defendant Cruz to be a candidate and contender in the Republican primaries and caucus starting in Iowa starting in February 1, 2016[3]. He now is a presidential contender even before voting in Iowa, then New Hampshire and following South Carolina and the other "Southern states" on March 1, 2016 when Texas per Exhibit E and numerous other states hold their primaries.

[3] Defendant Cruz has not and does not satisfy the above requirement of the U.S. Constitution "natural born" citizen Article II, Section 1, Clause 5 in this case and/or controversy. This makes it ripe for decision.

A scenario of the Defendant being nominated for vice presidential Republican or Independent candidate to presidential nominee as suggested by Senator Cruz' followers (husband and wife) attending his December 18, 2015 (CSPAN nationally televised unedited) Town Hall meeting in Chancellorsville, Virginia, near Richmond. It is noted in history as the site of a major early Confederate Civil War battle victory in 1863.

Ominously the very next day, March 2, 2016, the U. S. Supreme Court has scheduled arguments involving Texas and Mississippi's attempts, successful thus far, as decided by three lady Texas lawyers and judges sitting in the Fifth U. S. Circuit Court of Appeals from Texas hearing Planned Parenthood's appeals of a Texas and Mississippi States' attempts to require special medically accredited hospitals to perform abortions and only in certain few accredited restrictive hospitals in Texas. It would require lengthy travel of 200 miles or more between such presently certified hospitals and accredited hospitals. That Supreme Court decision either way will further polarize voters including the 90 million "evangelicals" whom Senator Cruz courts and which are a prize sought by all Republican candidates, preset and former. That decision shall also effects many millenials and future voters including 2 of Plaintiff's 3 granddaughters ages 10 and 13 years (the 3rd age is 1 presently unaffected and living in California), including one whose 11th birthday is on the same March 2, 2016 when Texas is celebrating its 170th birthday March 2, 1836, the day Texas won its independence from Mexico at the Battle of San Jacinto. It is relevant or may become very relevant in Texas Governor Abbott's call for a Constitutional Convention to amend the U.S. Constitution and potentially revoke specific certain Supreme Court decisions, including *Roe v. Wade*, ante 1973, and same sex

marriages, ante 2015. Texas was a republic from 1836 until its admission to the union in 1845 with a right reserved to be divided into five separate and independent states. Texas Governor Greg Abbott called for a Constitutional Convention to (a) amend the U.S. Constitution and expand the Eleventh Amendment "states rights"; and (b) revoke the above Supreme Court decisions; and (c) to divide into five states. Senator Cruz proposal limiting prior lifetime terms of federal judges, including Supreme Court Justices, revoking Obamacare, the addition for five additional Texas States. This is an idea Senator Cruz, might consider if the voting goes to ballots in the Republican Convention in the absence of a clear winner of sufficient delegate process take much longer than this suit and could not be accomplished this year or it could be accomplished by 2020. This is not now ripe for decision.

V. CAUSES OF ACTION
DECLARATORY JUDGMENT

Per above 28 U.S.C. Section § 1331 and 28 U.S.C. § 2201 and/or FRCP 57, Plaintiff seeks a declaratory judgment and declaratory relief and judgment that as a matter of law that Defendant Ted Cruz (1) was not at his birth in 1970; and (2) is not now a "natural born" citizen; and (3) therefore ineligible to be elected, or serve as President or Vice President of the U. S. or be certified by the requisite vote of the Electoral College both as required by the U. S. Constitution.

AGREED FACTS

Defendant: (1) was born in Canada in 1970; (2) to a Cuban citizen, father Rafael; and (3) mother Eleanor born in Wilmington Delaware, U.S.A. His father Rafael

Bienvenido Cruz was a Cuban born citizen and only became a naturalized U.S. citizen in 2005.

VI. RIPENESS

It is undisputed that this is an actual case and controversy between the parties and is presently ripe for a declaratory judgment, inter alia, because Defendant Cruz now is among the top 2 or 3 Republican contenders in the latest published unofficial December 2015 CNN, Wall Street Journal TV networks, Gallop and myriad state and national polls, and as Republican National Committee (RNC) and/or above as Vice President, part of a Trump-Cruz ticket.

The cost of planning, preparing, certifying eligible candidates and holding each above state caucus and state primary and general elections in 50 states is substantial and costly totaling well in the hundreds of millions of dollars expense to: (1) each state; and/or by (2) Republican National Committee; and (3) Democratic National Committee and each State's voter registration and election parties primaries each state including Texas. Each state party's costs are, by comparison, each greatly in excess of the cost and/or each state issuing drivers licenses to the eligible 10-11 million illegal aliens and non-citizens of lawful driving age 16 in Texas and the other 19 states parties, as noted affected by the recent litigated stay of Presidential relief granted by presidential executive order. *State of Texas, et al. v. United States, et al. Supra* (2015). It enjoined the U. S. Homeland Security and President Obama on the granted petition of 20 state Attorneys Generals including lead plaintiff Texas now Governor Greg Abbott by the U.S. District Court, Southern District of Texas, Brownsville Division (a division of this Court) by the

Honorable Andrew C. Hanen[4], U.S. District Judge. (See *State of Texas, et al. v. United States, et al.,* 86 F.Supp.3d 591, 677 (S.D. Tex. 2015)) and recently affirmed above by a 2-1 vote of a panel of the Fifth U.S. Circuit Court of Appeals (*State of Texas, et al. v. United States, et al.,* 787 F.3d 733, 743 (5th Cir. 2015)). A Petition for Certiorari had been applied for by the U.S. Dept. of Justice and through the office of the U.S. Solicitor General and is pending in the U.S. Supreme Court.

Defendant has as great and arguably greater urgency in deciding this question than does Plaintiff or 100 million or more eligible voters in 2016 until receipt of Exhibit E, Plaintiff, this week, Defendant has had standing for many months since declaring himself a candidate.

A final ruling, decision and judgment herein will decide and resolve above all of the uncertainties, status and eligibility of Defendant Cruz and recognize the substantial present speculation uncertainties in the electorate as to his eligibility and/or conducting a futile election. The Federal Election Commission (FEC) does not have either original exclusive or present subject matter jurisdiction of this dispute at this stage. Therefore neither original or nor exclusive venue lies in the District of Columbia, U.S. District and/or U.S. Circuit Courts of Appeals for the District of Columbia en route to the Supreme Court. All public factors and private factors undisputedly predominate and weigh in favor of this District and Division Court per *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501 (1947) and its genre.

[4] Plaintiff from my memory for 61 years as an attorney in Texas has not ever been on any of the official Texas Committee vetting prospective federal judicial appointees. He was asked about Judge Andrew Hanen with whom he had litigated in private practice inexplicably for Judge Hanen who authorized *Texas v. U.S.* 86 F.Supp. 3d 591, 677, (S.D. Tex. 2015) and affirmed by 787 F.3d 733, 743 (5th Cir. 2015).

VII. A SINGLE DISCRETE QUESTION OF CONSTITUTIONAL LAW IS ALLEGED AND PRESENTED FOR DECISION PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF RELIEF PRAYED FOR DECLARATORY JUDGMENTS DISQUALYING TED CRUZ AS INELIGIBLE FOR ELECTION AS PRESIDENT OF THE UNITED STATES

The attached and adopted Exhibits A-D (fn. 2 at p. 6) Law Review Articles, commentaries and opinions and the following cited excerpts from other published Law Review Articles, Commentaries and this Court and (b) the Fifth U. S. Circuit Court of Appeals, and (c) U.S. Supreme Court cases present a complete review of essential facts and respective legal reasons, factual and legal and opinions of law of the current and past state of the relevant helpful decisions including of the Supreme Court and relevant statutes with which to decide this sole question of law presented for decision here.

The U.S. Supreme Court majority in *Elk v. Wilkins*, 112 U.S. 94 (1884) (Justices Harlan and Woods dissenting) construing the then recently enacted post Civil War Fourteenth and Fifteenth Amendments to the U.S. Constitution following that Court's fateful decision in *Dred Scott v. Sandford* 60 U.S. 393 (1856) and *The Slaughterhouse cases*, 77 U.S. 273 (1868-1870) construing the then recently adopted Thirteenth, Fourteenth and Fifteenth Amendments. The Court held *Elk* because of his dual allegiance to his Indian tribe was not a citizen having standing within the protection of such amendments. And in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898) (Judges Harland and Wood dissenting) the Court's supported the proposition that foreign born children of American citizens are not "natural born". That 1898 Supreme Court analysis lends itself to the devolution of "natural born" status being inclusive only of and to children of

American citizens born overseas while in the employment and/or services as ministers, etc., the employment of the United States Government:

> "…The history of the Natural-Born Citizen Clause can be traced back to early discussions among the country's founders. On July 25, 1787, John Jay sent a letter to George Washington, and possibly to other delegates at the Constitutional Convention, which stated:…"
>
> "…Permit me to hint, whether it would be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Command in Chief of the American army shall not be given to nor devolve on, any but a natural born Citizen…"
>
> "…His letter is thought to have stemmed from either suspicion of Baron Von Steuben or to have been in response to talk that the Convention was attempting to erect a monarchy to be headed by a foreign ruler. Whatever the reasons, the "natural-born citizen" language was introduced shortly thereafter by the Committee of Eleven and was ultimately adopted, with no debate, in the form in which it was first introduced…" 36 Gonz. Legal Review 349.
>
> Senator Cruz cannot become Commander in Chief under the Constitution.

Defendant Cruz best case for his eligibility is capably set forth in Exhibits A, B, C and D (in fn. 2 at p. 6). He of course can allege, opine and explain further. None of Exhibits A-D articles and commentaries or opinions are controlling or binding opinion or precedent including as to Senator John McCain's presidential candidacy in 2008. He did not win, so it was moot and no longer ripe for decision, and became moot before any Supreme Court decision. Likewise in 1964, the eligibility of Sen. Barry Goldwater, also a Senior Arizona Senator at election time but he was born before Arizona became a state. He, likewise lost to Lyndon Johnson in 1964 43-7. Governor George Romney of Michigan in 1968, his being born in Mexico. Whether or not Defendant Cruz is

nominated as either the Republican candidate for President or Vice-President or as an Independent, he must nonetheless equally qualify as required by Article II, Section I, Clause 5 of the U.S. Constitution. In addition to above Exhibits A-D, all attached and adopted in their entirety, the following case decisions cited in the following Law Review Articles and commentaries are cited. Some due to their length and/or one unusual copyright restriction upon its total publication in full or beyond a limited discrete number of pages are cited. They include in addition to above attached Exhibits "A-D" (fn. 2 at p. 6) from the restricted publication.

"*COMMENTARIES: ORIGINALISM AND THE NATURAL BORN CITIZEN CALUSE"* September 2008 Lawrence B. Solum, Commentary, Originalism and the Natural Born Citizen Clause. 107 MICHIGAN. L. REV. FIRST IMPRESSIONS 22 (2008):

> "…The U.S. Constitution, Article II, Section 1, provides 'no person except a natural born Citizen, or a Citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the Office of President.' The enigmatic phrase 'natural born citizen' poses a series of problems for contemporary originalism. New Originalists, like Justice Scalia. Focus on the original public meaning of the constitutional test. The notion of a 'natural born citizen' was likely a term of art derived from the idea of a 'natural born subject' in English law—a category that most likely did not extend to persons, like Senator McCain, who were born outside sovereign territory. But the Constitution speaks of 'citizens' and not 'subjects,' introducing uncertainties and ambiguities that might (or might not) make McCain eligible for the presidency.
>
> What was the original public meaning of the phrase that establishes the eligibility for the office of President of the United States? There is general agreement on the core of its meaning. Anyone born on American soil whose parents are citizens of the United States is a 'natural born citizen.' Anyone whose citizenship is acquired after birth as a result of naturalization is not a natural born citizen. John McCain, born to American parents in Panama Canal Zone in 1936, had citizenship conferred by statute in 1937, but there is dispute as to whether the statute granted retroactive naturalization or whether it merely confirmed preexisting law under which

> McCain was an American citizen at birth. That leaves John McCain in a twilight zone—neither clearly naturalized nor natural born…" (All emphasis are added throughout except where the Court's or authors.)

Senator Cruz' mother's Delaware citizenship standing alone is insufficient to qualify Senator Cruz as a "natural born" citizen at his birth would qualify even if she had been (1) physically present in the U.S. for total periods of 5 years at least two of which were after she obtained the age of 14 years as enacted in this cited statute 1952 and as amended to October 25, 1994.

This Court's jurisdiction, inter alia, under 28 U.S.C. § 1331 as a case arising under the Constitution of the United States specifically Article II, the cited requires that all candidates for election to the Presidency of the United States and/or Vice President must be "natural born citizens". Senator Cruz undisputedly was born in the Sovereign Dominion of Canada in 1970. Senator Cruz above claims he became a citizen at birth under the U.S. Constitution and/or law to the United States solely because his mother was a U.S. citizen then living in Canada is insupportable. So was President Obama's mother, a U.S. citizen at his birth. It was his birth in Hawaii that was decisive and not his mother's. That is why it has been under constant attack for eight years, including by Donald Trump publicly.

Senator Cruz' father was born in Cuba prior to the Castro Revolution of 1959. Such above disqualification cannot be waived by any one, not by his Republican or Democrat or Independent opponents nor by Republican National Committee (RNC), nor by the Democratic National Committee or even by an Act of Congress except after the

proposed constitutional amendment process. All are without authority to waive, amend or avoid this 228 year established Constitution requirement for eligibility.

Exhibits A-D above, Legal Commentators, law review articles written on the subject were and are limited to the Supreme Court just prior to and at the time of the 1968 and 2008 presidential candidacy of Governor George Romney (1968) and Senator John McCain (2008) as to questions of their eligibility or ineligibility to file for running for and/or be duly elected and duly sworn as a President of the United States. Questions by the "Birthers"? That question was important because it distinguishes President Obama's case from Senator Cruz and McCain and Governor George Romney, factually and legally. Those who question President Obama were the subject to and still are disputing the legal birthplace of President Obama allegedly being born in Kenya and not in Hawaii, a state prior to 1959 and at the time of his birth in 1960. Based on an Cruz contention that his mother was an American native born U.S. citizen at the time of his birth, so why was President Obama's American birthplace relevant and questioned these past 8 years if his mother has an undisputedly U.S. citizenship as was Ted Cruz' mother's citizenship determative at both their births?

VIII.

NO RECORD IS REQUIRED FOR THIS INCLUDING NO DISCOVERY

The following is for the

Per FRCP 26(b) it is represented that no discovery is needed beyond the above undisputed and documented (1) birth of Defendant in Canada; (2) his mother birth in the State of Delaware, vital birth and citizenship records for the Court and Court of Appeals

and the U.S. Supreme Court to determine this pure question of Constitution law. No motions for summary judgment per FRCP 56 and/or Rule 12(b) motions are necessary. As the Supreme Court noted in its above seminal cases of: (1) *U.S. v. Wong Kim Ark* 169 U.S. 649, 704, 705 (1898) all of the discrete, relevant facts of the case were agreed to by the parties; (2) the same way decisions in *Roe v. Wade*, (1973), U.S. decision without discovery or any record even after re-argument in reaching a decision on January 22, 1973 as to those complex medical, ethical facts in uncertain still developing constitutional grounds applicable and supporting that seminal one decision.

A declaratory judgment suit was suggested and recommended publicly in media by Candidate Trump publicly on January 8-10, 2016.

Defendant Cruz should have initiated this Declaratory Judgment himself especially now with his eligibility being questioned from so many diverse sources by his opponents. He has standing to do so.

B Courts have held that the Federal Declaratory Judgment Act 28 U.S.C. § 2201 to 2202 is "…mirrored by and functional equivalent to Rule 57…" See *Ernest & Young v. Depositors Economic Protection Corp.*, 45 F.3d 530, 534 n. 8 (Fed. Cir. 1995).

Neither rule 57 nor 28 U.S.C. § 2201, ante, the Federal Declaratory Judgment Act expand this Court's jurisdiction. They provide a declaratory remedy in cases such as this are properly brought in federal court. See *Vanden v. Discover Bank*, 556 U.S. 49, 79 n. 19, 129 S.Ct. 1262, 1278 (2009); *Schilling v. Rogers*, 363 U.S. 666, 677, 80 S.Ct. 1288, 1295 (1960); *Aetna Life Ins. Co. of Hartford, Conn. v. Haworth*, 300 U.S. 227, 240, 57 S.Ct. 461, 463 (1937); Baicker-McKee, *Id.* at pp. 1208, 1215 (2016). Defendants could

have brought the action himself as an experienced constitutional litigation lawyer as Texas Solicitor General appointed by Governor Perry and a member of James A. Bakers litigation team in *Bush v. Gore*, 531 U.S. 98 (2000).

REQUIRED DISCLOSURES PER FRCP 26(a)(1)(A)-(D), AND (b)(c)(d) AND (g) INCLUSIVELY

The above Rule 26(a)(1)(A)-(D), (b),(c), (d) and (g) can all be readily complied with in expediting this time to meet the above urgent deadlines commencing February 1, 2016 Iowa caucus and following state primaries leading up to March 1, 2016, the Texas and other "Southern" primaries, and the Republican National Convention until the November 1, 2016 General Election. The above facts are uncontested by the parties by agreement and/or stipulation of the above law discrete relevant facts necessary for this case to be decided.

i. The only necessary facts or certified records include the above conservative Canadian Registry of Births and/or Vital Statisics for the City/Town and Province in Canada where the Defendant was born in 1970, and each of his parents birth records and/or of citizenship and their nationality and birth (Mr. Rafael Cruz and the Delaware birth certificate of his mother and when and the stated reasons why Defendant Cruz renounce his Canadian dual citizenship about 2014.

ii. No claim is made for any monetary or economic damages, nor even for any attorneys' fees or costs even if allowable, if any, to the prevailing party whether by statute and/or the Court's discretion. This is filed pro se and pro bono with no tax deduction being taken for costs paid or time.

iii. The declaratory judgments and related requested relief sought herein is disqualifying Defendant Cruz, if the Republican nominee and/or as an independent candidate from (a) appearing the 50 state federal election ballots of all 50 federally conducted elections for the Office of President and/or Vice-President of the United States on November 1, 2016, and from (b) being included and listed as a presidential candidate listed in each state Iowa caucus, February 1, 2016, and primaries following under the aegis of all 50 U.S. States and federal political parties and/or committees, including but not limited to the RNC (Republican National Committee) and its chairman, Hon. Reince Priebus and DNC (Democratic National Committee) and its chairman, Rep. Debbie Wasserman Schultz and in all 50 state, county and municipal election officials responsible for conducting the 2016 Presidential elections as presented by the U.S. Constitution, November 1, 2016 as prescribed by the U.S. Constitution, ante and enabling federal statutes cited been.

iv. Rule 26 Diligence. None are applicable, in the interest of expediting this action, Plaintiff makes the above disclosures early on at the outset. Now without requiring for up to 14 days after the parties FRCP Rule 26(f) conference unless a different time is stipulated to by the parties and/or by this Court's order. No expert testimony is anticipated to be used or required. None was in *Roe v. Wade* ante, under a far more complex questions, medical, ethical, biological and privacy and disputed applicable constitutional bases. The sole issue here is question of law not fact.

v. Proper certification of all of the above 50 state elections in order to avoid futile election or defeat of Senator Cruz on November 1, 2016 and his certificate by the Electoral College prior to January 20, 2016, nor any post election contest as has most recently occurred in *Bush v. Gore*, ante, 5-4, 531 U.S. 1060 (2000) in Florida County Clerks counting "chads" in Broward and Dade counties Florida

Defendant Cruz is a duly licensed Texas attorney and as well versed and experienced in federal constitutional issues far more than Plaintiff.

See *Vantage Trailers, Inc. v. Beall Corp.*, 567 F.3d 745, 748 (5th Cir. 2009).

Ted Cruz is not the first foreign born ineligible president candidate to run afoul of the above U.S. Constitution originals and other laws. The list is long. It includes in the last century, Henry Kissenger, FDR, Jr. Herbert Hoover, Jr. and George Romney Governor of Michigan above Law Review Article and Commentaries (fn. 2 at p. 6 ante).

On the standing issue CNN Monday, January 11, 2016, Professor or Laurence Tribe debated CNN Correspondent Jeffrey Toubin on this question. Professor Tribe acknowledged there is a "legitimate legal question as to Cruz's "eligibility" without discussing Mr. McCain's 2008 eligibility, prior opinions including that "opinions of the Supreme Court not directly addressed the question". The analyses of Prof. Tribe, as to the original intent of the Framers of the Constitution in 1787 was that the candidate must be born on American soil as was Sen. McCain.

Mr. Toubin, a CNN analyst's flexible approach versus Prof. Tribe's Antiquarium, i.e., original interest theory and analysis of Justice Scalia, as discussed by Prof. Tribe, thoroughly vetted in the above 107 Michigan Law Review article by the Professor. What

Prof. Tribe feared most recently in a Cruz's candidacy is his pandering to the far right to overturn the Supreme Court's *Roe v. Wade* ante (1973) and same sex marriage (2015) decisions. *Roe v. Wade* has become the agreed litmus test of all Republican candidates. So Senator Cruz is not sui generis on the policy and campaign pledge and promise.

Mr. Toubin also is unsupported or unsupportable in his contention that no one, but the candidates themselves have standing to challenge Senator Cruz's candidacy. Every eligible registered voter has such standing. This case contrast with the "selected" or "manufactured" candidates for Supreme Court solicitor Mr. Carvin who argued the same sex case and the California's earlier governmental unions "free rider" required payment of union dues argued January 11, 2016 in the same sex marriage case, in fact did not have standing. But the U.S. Solicitor chose not to present and argue and urge it to the court and the Court sua sponte (its own) majority chose not to deny certiorari for lack of standing or any review of the case as presented by that politically selected client. The nation would not have understood that procedural summary disposition and have avoided the resulting 5-4 rejection of DOMA (Defense of Marriage Act) and affirmance of the right of same sex marriages. It is that opinion along with *Roe v. Wade* that Texas Governor Abbott has called for convening Constitutional Convention. Cruz has the absolute First Amendment right to bring this transaction himself so he can do so here to the "Evangelicals" defined as the believers of the New and Old Testaments. Plaintiff being Jewish is familar to the latter and is no scholar or spokesperson on the New Testament. The opening sentence of the Old Testament "Genesis reads:

"…In the beginning, God began to create the heaven and the earth…". Thereafter coalesce President Jefferson and many of our founding fathers and signers of the U.S. Constitution were "deists", two centuries before the Big Bang theory, Enstein's theories and carbon dating that contrary to contemporary creationists determined that our earth is 4.54 billion years old. Senator Cruz has an absolute First Amendment right to preach as he did "…the body of Christ will rise up to help me…". He can believe and preach that and all other tenets of his sincere Baptist faith, including presumably as a Southern Baptist tenet that the wife is subordinate to her husband. Orthodox Jews believed this overall into the twenty-first century as some still do. So do Muslims.

Senator Cruz has the unfettered right to do campaign on the promise to: appoint Justices that will be committed to overturn *Roe v. Wade* (1973) and same sex marriage (2015). Prof. Tribe found that troubling as do many, if not a majority of the U.S. voting population. Disgracefully, no more than 40% of eligible voters in fact vote. So take your pick the "antiquarian or originalist" intent of the framers in 1787 of Mr. Toubin's so called "flexible analysis". Mr. Toubin cannot and has not made his case that no one, but the opposing candidate(s) *Bush v. Gore* U.S. 531 U.S. 98 (2000), have standing to challenge Senator Cruz's or any of the candidates' eligibility. However persuasive, one finds each side in this debate, the final decision ultimately rests in the hands of five or more of nine Justices on the Supreme Court as mandated by the Constitution. The answer is not dependent on a current popularity policy including the one with little or no margins of error the Iowa caucus and 49 state primaries and the November general election results without having another *Bush v. Gore*.

Neither this Texas Federal Court nor the Fifth U.S. Circuit Court of Appeals comprised of Texas, Louisiana, and Mississippi appointed judges may speak for the nation, the Supreme Court is empowered to do so, does for better or for worse. The Supreme Court has made colossal blunders, *Dred Scott v. Sandford*, 60 US 393 (1857), costing more lives than in the Revolution and in all subsequent wars to date (409,000 in WWII alone) in *Plessy v. Ferguson* 163 US 537 (1896), ("separate but equal doctrine"), which took 56 years to reverse unanimously in *Brown v. Bd. of Education* 347 US 483 (1954) and *Korematsu v. U.S.*, 323 US 214 (1944), entering U.S. citizens of Japanese ancestry. That is the real danger Prof. Tribe finds fault with Senator Cruz who now does not raise any opposition to his fellow Texas Governor Greg Abbott, campaigns for a Constitutional amendment to limit terms of Supreme Court and all Federal judges to less than their original lifetime appointments. That was wisely made in 1787 them free of the political pressures of the issue of "du jour" (of the day) as explained above in our 240 year history.

WHEREFORE, Plaintiff prays for a Declaratory Judgment holding that Defendant Candidate Ted Cruz is not constitutionally eligible to be elected President and/or Vice President of the United States. No monetary damages are involved and no claim for recovery of attorneys' fees or costs' made. Plaintiff prays for accelerated expedited decision for all above stated reasons.

Respectfully,

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McCain – Opinion of Laurence H. Tribe and Theodore B. Olson

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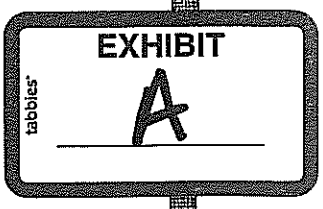
Posted on June 8, 2013 by NBC

Opinion of Laurence H. Tribe and Theodore B. Olson

March 19, 2008

We have analyzed whether Senator John McCain Is eligible for the U.S. Presidency, in light of the requirement under Article II of the U.S. Constitution that only "natural born Citizen [s] ... shall be eligible to the Office of



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President." U.S. Const. art. II, § 1, cl. 5. We conclude that Senator McCain is a "natural born Citizen" by virtue of his birth in 1936 to U.S. citizen parents who were serving their country on a U.S. military base in the Panama Canal Zone. The circumstances of Senator McCain's birth satisfy the original meaning and intent of the Natural Born Citizen Clause, as confirmed by subsequent legal precedent and historical practice.

Jus Sanguinis

The Constitution does not define the meaning of "natural born Citizen." The U.S. Supreme Court gives meaning to terms that are not expressly defined in the Constitution by looking to the context in which those terms are used; to statutes enacted by the First Congress, Marsh v. Chambers, 463 U.S. 783, 790-91 (1983); and to the common law at the time of the Founding. United Suites v. Wong Kim Ark, 169 U.S. 649, 655 (1898).

[**NBC**:

Ironic that the authors fail to mention [t] he court in Smith v. Alabama, 124 U. S. 465,478(1888)

> clearly stated the common law's influence on the Constitution:The interpretation of the Constitution of the United States is necessarily influenced by the fact that its

provisions are framed in the language of the English common law, and are to be read in the light of its history.

Furthemore, in the case or Marsh v Chambers, it was the fact that the practice continued which was important in their findings.

An act which is repealed a few years later and rewritten without a reference to natural born should not be considered as overwhelming evidence of the intent of Congress. If inclusion is argued to be such evidence, then removal also has a similar effect. The discussion during the passage of the 1790 Act shows how congress was worried about the status of those born outside the United States and offered to copy a British Act. The inclusion of the term natural born may very well have been accidental, explaining its removal several years later as a statute could never change our Constitution. The act was clearly a naturalization act and provided citizenship for those born abroad to citizen fathers.

In Weedin v. Chin Bow, 274 US 657 – Supreme Court 1927, the court observes

> The Act of March 26, **1790**, entitled "An Act to establish an uniform Rule

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of Naturalization," 1 Stat. 103, c. 3, came under discussion in February, **1790**, in the House, but the discussion was chiefly directed to naturalization and not to the status of children of American citizens born abroad. Annals of First Congress, 1109, 1110, *et seq.* The only reference is made by Mr. Burke (p. 1121), in which he says:

> "The case of the children of American parents born abroad ought to be provided for, as was done in the case of English parents in the 12th year of William III. There are several other cases that ought to be likewise attended to."

Mr. Hartley said (p. 1125) that he had another clause ready to present providing for the children of American citizens born out of the United States. A select committee of ten was then appointed to which the bill was recommitted and from which it was reported. But no subsequent reference to the provision of the bill which we are now considering appears.

...

Plea agree ment? NBC on DC – US v Class – Petition Habeas Corpus de nied NBC on DC – US v Class – Plea agree ment? NBC on DC – US v Class – Petition Habeas Corpus de nied dlm on DC – US v Class – Plea agree ment?

Obam a Long Form Birth Certifi cate

This Act was repealed by the Act of January 29, 1795, 1 Stat. 414, § 4, but the third section of that act reenacted the provisions of the Act of **1790** as to children of citizens born beyond the sea, in equivalent terms. The clauses were not repealed by the next Naturalization Act of June 18, 1798, 1 Stat. 566, but continued in force until the 14th of April, 1802, when an act of Congress of that date, 2 Stat. 153, repealed all preceding acts respecting naturalization. After its provision as to naturalization, it contained in its fourth section the following:

...

Mr. Binney demonstrates that, under the law then existing, the children of citizens of the United States born abroad, and whose parents were not citizens of the United States on or before the 14th of April, 1802, were aliens, because the Act of 1802 only applied to such parents, and because, u**nder the common law which applied in this country, the children of citizens born abroad were not citizens but were aliens.**]

These sources all confirm that the phrase "natural born" includes both birth abroad to

parents who were citizens, and birth within a nation's territory and allegiance. Thus, regardless of the sovereign status of the Panama Canal Zone at the time of Senator McCain's birth, he is a "natural born" citizen because he was born to parents who were U.S. citizens.

> [**NBC**: Tribe and Olson reference US v Wong Kim Ark but fail to admit that the Court found that such children born abroad become naturalized citizens through statute only.]

Congress has recognized in successive federal statutes since the Nation's Founding that children born abroad to U.S. citizens are themselves U.S. citizens. 8 U.S.C. § 1401(c); see also Act of May 24, 1934, Pub. L. No. 73-250, § 1,48 Stat 797, 797. Indeed, the statute that the First Congress enacted on this subject not only established that such children are U.S. citizens, but also expressly referred to them as "natural born citizens." Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103, 104.

> [**NBC**: Confusing citizenship and natural born citizenship. The spurious reference in 1790, was never used in later statutes.]

Senator McCain's status as a "natural born" citizen by virtue of his birth to U.S. citizen parents is consistent with British statutes in force when the Constitution was drafted, which

The Xerox "Forger"

Obama Conspiracy

Birther v. Cruz & Rubio

Trump's Albatross

Taitz, Arpaio chance to go on the offensive

Birther litigant sees the light

Who makes up all these fake quotes?

undoubtedly informed the Framers' understanding of the Natural Born Citizen Clause.

> [**NBC**: Confusing statutes with common law. Furthermore, the use of the term natural born in British Statutes ignore that its meaning is not constrained by a Constitution.]

Those statutes provided, for example, that children born abroad to parents who were "natural-born Subjects" were also "natural-born Subjects … to all Intents, Constructions and Purposes whatsoever." British Nationality Act, 1730, 4 Geo. 2, c. 21. The Framers substituted the word "citizen" for "subject" to reflect the shift from monarchy to democracy, but the Supreme Court has recognized that the two terms are otherwise identical:. See, e.g., Hennessy v. Richardson Drug Co., 189 U.S. 25, 34-35 (1903). Thus, the First Congress's statutory recognition that persons born abroad to U.S. citizens were "natural born" citizens fully conformed to British tradition, whereby citizenship conferred by statute based on the circumstances of one's birth made one natural born.

Birth on soil

There is a second and independent basis for concluding that Senator McCain is a "natural born" citizen within the meaning of the Constitution. If the Panama Canal Zone was

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Bad Fiction Birther Headlines Docket (at ObamaConspiracy) Natural Born Citizenship compendium of cases and legal scholarship on meaning of "natural born citizenship" – in light of claims that a native-born US citizen who has "dual

sovereign U.S. territory at the time of Senator McCain's birth, then that fact alone would make him a "natural born" citizen under the well- established principle that "natural born" citizenship includes birth within the territory and allegiance of the United States. See, e.g., Wong Kim Ark, 169 U.S. at 655-66.

[**NBC**: The authors overlook the Supreme Court's rulings in the Insular Cases, where the court rejected this conclusion. In Downes v. Bidwell, 182 US 244 – Supreme Court 1901, the Supreme Court rejected the argument:

> Upon the other hand, the Fourteenth Amendment, upon the subject of citizenship, declares only that "all persons born or naturalized *in the United States,* and subject to the jurisdiction thereof, are citizens of the United States, and of the *State* wherein they reside." Here there is a limitation to persons born or naturalized in the United States which is not extended to persons born in any place "subject to their jurisdiction."

In fact in several rulings since then, undermine this position:

Valmonte v. INS, 136 F. 3d 914 – Court of Appeals, 2nd Circuit 1998

citizenship" at birth does not qualify as a "natural born" citizen under Article II. Obama Conspiracy

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Citizenship under the Fourteenth Amendment, however, "*is not extended to persons born in any place `subject to* [*the United States*'] *jurisdiction,*'" but is limited to persons born or naturalized in the states of the Union. *Downes,* 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); *see also id.* at 263, 21 S.Ct. at 777 ("[I]n dealing with foreign sovereignties, the term `United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located.").[9]

Following the decisions in the *Insular Cases,* the Supreme Court confirmed that the Philippines, during its status as a United States territory, was not a part of the United States. *See Hooven & Allison Co. v. Evatt,* 324 U.S. 652, 678, 65 S.Ct. 870, 883, 89 L.Ed. 1252 (1945) ("As we have seen, [the Philippines] are not a part of the United States in the sense that they are subject to and enjoy the benefits or protection of the Constitution, as do the states which are united by and under it."); *see id.* at 673-74, 65 S.Ct. at 881 (Philippines "are territories belonging to, but not a part of, the Union of states under the Constitution," and

> therefore imports "brought from the Philippines into the United States … are brought from territory, which is not a part of the United States, into the territory of the United States.").
>
> Accordingly, the Supreme Court has observed, without deciding, that persons born in the Philippines prior to its independence in 1946 are not citizens of the United States. *See Barber v. Gonzales*, 347 U.S. 637, 639 n. 1, 74 S.Ct. 822, 823 n. 1, 98 L.Ed. 1009 (1954) (stating that although the inhabitants of the Philippines during the territorial period were "nationals" of the United States, they were not "United States citizens"); *Rabang v. Boyd,* 353 U.S. 427, 432 n. 12, 77 S.Ct. 985, 988 n. 12, 1 L.Ed.2d 956 (1957) ("The inhabitants of the Islands acquired by the United States during the late war with Spain, *not being citizens of the United States,* do not possess right of free entry into the United States." (emphasis added) (citation and internal quotation marks omitted)).
>
> …
>
> *Rabang v. INS,* 35 F.3d 1449, 1452 (9th Cir.1994) ("No court has addressed whether persons born in

> a United States territory are born "in the United States,' within the meaning of the Fourteenth Amendment."), *cert. denied sub nom. Sanidad v. INS,* 515 U.S. 1130, 115 S.Ct. 2554, 132 L.Ed.2d 809 (1995). In a split decision, the Ninth Circuit held that "birth in the Philippines during the territorial period does not constitute birth `in the United States' under the Citizenship Clause of the Fourteenth Amendment, and thus does not give rise to United States citizenship." *Rabang,* 35 F.3d at 1452. We agree. [7]

]

The Fourteenth Amendment expressly enshrines this connection between birthplace and citizenship in the text of the Constitution. U.S. Const. amend. XIV, § 1 ("All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are

—

citizens of the United States ....") (emphases added). Premising "natural born" citizenship on the character of the territory in which one is born is rooted in the common-law understanding that persons born within the British kingdom and under loyalty to the British Crown — including most of the Framers

themselves, who were born In the American colonies — were deemed "natural born subjects," See, e.g., 1 William Blackstone, Commentaries on the Laws of England 354 (Legal Classics Library 1983) (1765) ("Natural-born subjects are such as are born within the dominions of the crown of England, that is, within the ligeance, or as it is generally called, the allegiance of the king....").

There is substantial legal support for the proposition that the Panama Canal Zone was indeed sovereign U.S. territory when Senator McCain was born there in 1936. The U.S. Supreme Court has explained that, "[from 1904 to 1979, the United States exercised sovereignty over the Panama Canal and the surrounding 10-mile-wide Panama Canal Zone." O'Connor v. United States, 479 U.S. 27, 28 (1986). Congress and the executive branch similarly suggested that the Canal Zone was subject to the sovereignty of the United States. See, e.g., The President –Government of the Canal Zone, 26 Op. Att'y Gen, 113, 116 (1907) (recognizing that the 1904 treaty between the United States and Panama "imposed upon the United States the obligations as well as the powers of a sovereign within the [Canal Zone]"); Panama Canal Act of 1912, Pub. L. No. 62-337, § I. 37 Stat. 560, 560 (recognizing that "the use, occupancy, or control" of the Canal Zone had been "granted to the United. States by the treaty between the United States and the Republic of Panama"). Thus, although Senator McCain was not born within a State,

there is a significant body of legal authority indicating that he was nevertheless born within the sovereign territory of the United States.

Historical practice confirms that birth on soil that is under the sovereignty of the United States, but not within a State, satisfies the Natural Born Citizen Clause. For example, Vice President Charles Curtis was born in the territory of Kansas on January 25, 1860 — one year before Kansas became a State. Because the Twelfth Amendment requires that Vice Presidents possess the same qualifications as Presidents, the service of Vice President Curtis verifies that the phrase "natural born Citizen" includes birth outside of any State but within U.S. territory. Similarly, Senator Barry Goldwater was born in Arizona before its statehood, yet attained the Republican Party's presidential nomination in 1964. And Senator Barack Obama was born in Hawaii on August 4, 1961 — not long after its admission to the Union on August 21, 1959. We find it inconceivable that Senator Obama would have been ineligible for the Presidency had he been born two years earlier.

Senator McCain's candidacy for the Presidency is consistent not only with the accepted meaning of "natural born Citizen," but also with the Framers' intentions when adopting that language. The Natural Born Citizen Clause was added to the Constitution shortly after John Jay sent a letter to George Washington expressing concern about

"Foreigners" attaining the position of Commander in Chief, 3 Max Farrand, The Records of the Federal Convention of 1787, at 61 (1911). It goes without saying that the Framers did not intend to exclude a person from the office of the President simply because he or she was born to U.S. citizens serving in the U.S. military outside of the continental United States; Senator McCain is certainly not the hypothetical "Foreigner" who John Jay and George Washington were concerned might usurp the role of Commander in Chief.

—

Therefore, based on original meaning of the Constitution, the Framers' intentions, and subsequent legal and historical precedent, Senator McCain's birth, to parents who were U.S. citizens, serving on a U.S. military base in the Panama Canal Zone in 1936, makes him a "natural born Citizen" within the meaning of the Constitution.

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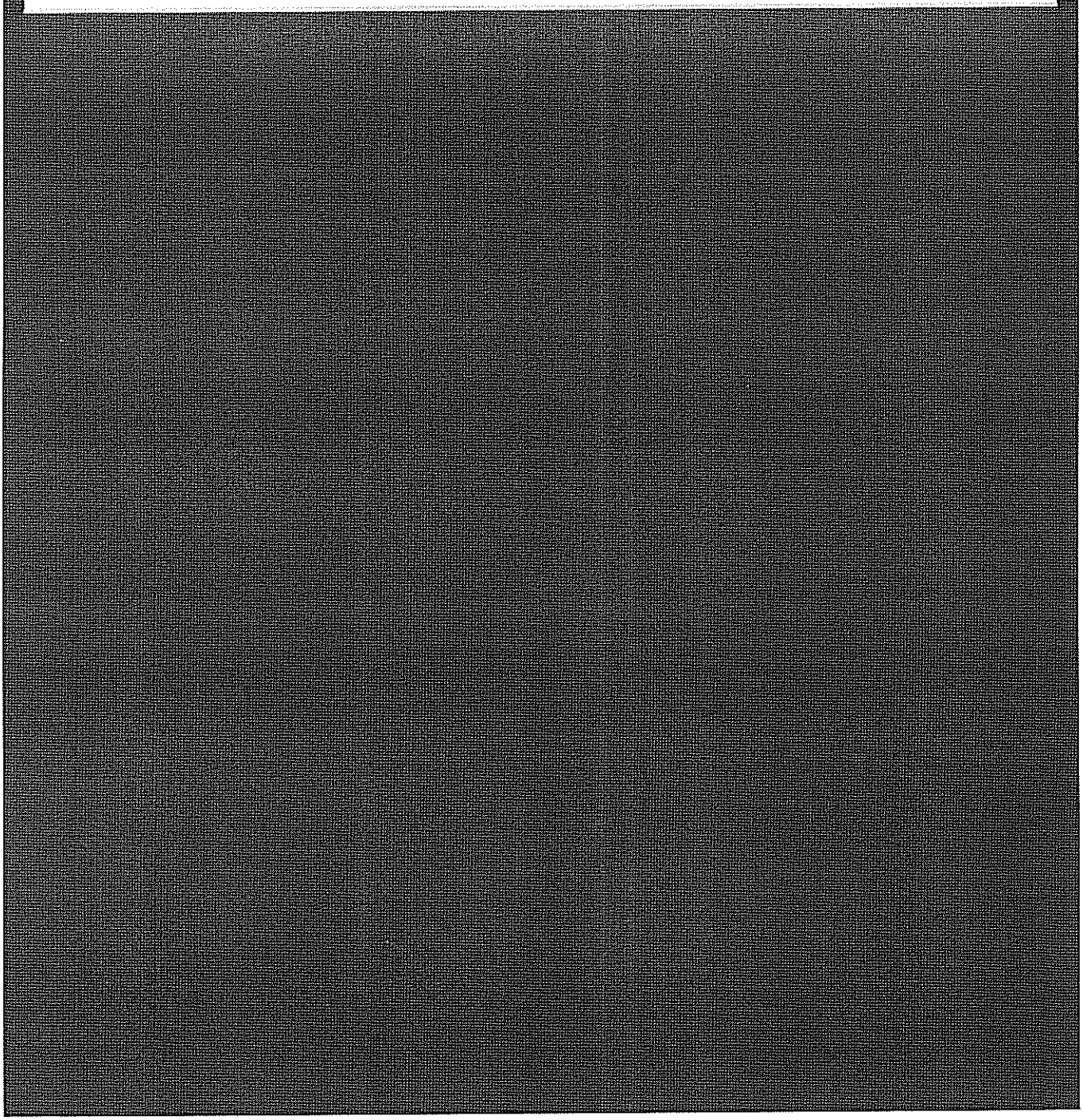


PRESIDENTS AND CITIZENSHIP

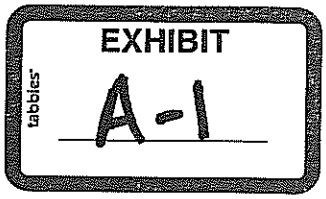
Opinion letter by Laurence H. Tribe and Theodore B. Olson

March 19, 2008

We have analyzed whether Senator John McCain is eligible for the U.S. Presidency, in light of the requirement under Article II of the U.S. Constitution that only "natural born Citizen[s] . . . shall be eligible to the Office of President." U.S. Const. art. II, § 1, cl. 5. We conclude that Senator McCain is a "natural born Citizen" by virtue of his birth in 1936 to U.S. citizen parents who were serving their country on a U.S. military base in the Panama Canal Zone. The circumstances of Senator McCain's birth satisfy the original meaning and intent of the Natural Born Citizen Clause, as confirmed by subsequent legal precedent and historical practice.

The Constitution does not define the meaning of "natural born Citizen." The U.S. Supreme Court gives meaning to terms that are not expressly defined in the Constitution by looking to the context in which those terms are used; to statutes enacted by the First Congress, *Marsh v. Chambers*, 463 U.S. 783, 790-91 (1983); and to the common law at the time of the Founding. *United States v. Wong Kim Ark*, 169 U.S. 649, 655 (1898). These sources all confirm that the phrase "natural born" includes both birth abroad to parents who were citizens, and birth within a nation's territory and allegiance. Thus, regardless of the sovereign status of the Panama Canal Zone at the time of Senator McCain's birth, he is a "natural born" citizen because he was born to parents who were U.S. citizens.

Congress has recognized in successive federal statutes since the Nation's Founding that children born abroad to U.S. citizens are themselves U.S. citizens. 8 U.S.C. § 1401(c); *see also* Act of May 24, 1934, Pub. L. No. 73-250, § 1, 48 Stat. 797, 797. Indeed, the statute that the First Congress enacted on this subject not only established that such children are U.S. citizens, but also expressly referred to them as "natural born citizens." Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103, 104.



Senator McCain's status as a "natural born" citizen by virtue of his birth to U.S. citizen parents is consistent with British statutes in force when the Constitution was drafted, which undoubtedly informed the Framers' understanding of the Natural Born Citizen Clause. Those statutes provided, for example, that children born abroad to parents who were "natural-born Subjects" were also "natural-born Subjects . . . to all Intents, Constructions and Purposes whatsoever." British Nationality Act, 1730, 4 Geo. 2, c. 21. The Frames substituted the word "citizen" for "subject" to reflect the shift from monarch to democracy, but the Supreme Court has recognized that the two terms are otherwise identical. *See e.g.*, *Hennessy v. Richardson Drug Co.*, 189 U.S. 25, 34-35 (1903). Thus, the First Congress's statutory recognition that persons born abroad to U.S. citizens were "natural born" citizens fully conformed to British tradition, whereby citizenship conferred by statute based on the circumstances of one's *birth* made one *natural born*.

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There is substantial legal support for the proposition that the Panama Canal Zone was indeed sovereign U.S. territory when Senator McCain was born there in 1936. The U.S. Supreme Court has explained that, "[f]rom 1904 to 1979, the United States exercised sovereignty over the Panama Canal and the surrounding 10-mile-wide Panama Canal Zone." *O'Connor v. United States*, 479 U.S. 27, 28 (1986). Congress and the executive branch similarly suggested that the Canal Zone was subject to the sovereignty of the United States. *See*, *e.g.*, *The President – Government of the Canal Zone*, 26 Op. Att'y Gen. 113, 116 (1907) (recognizing that the 1904 treaty between the United States and Panama "imposed upon the United States the obligations as well as the powers of a sovereign within the [Canal Zone]"); Panama Canal Act of 1912, Pub. L. No. 62-337, § 1, 37 Stat. 560, 560 (recognizing that "the use, occupancy, or control" of the Canal Zone had been "granted to the United States by the treaty between the United States and the Republic of Panama"). Thus, although Senator McCain was not born within a State, there is a significant body of legal authority indicating that he was nevertheless born within the sovereign territory of the United States.

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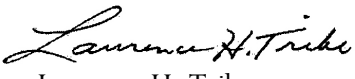
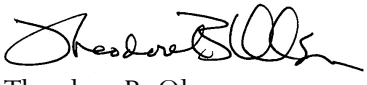
dency had he been born two years earlier.

Senator McCain's candidacy for the Presidency is consistent not only with the accepted meaning of "natural born Citizen," but also with the Framers' intentions when adopting that language. The Natural Born Citizen Clause was added to the Constitution shortly after John Jay sent a letter to George Washington expressing concern about "Foreigners" attaining the position of Commander in Chief. 3 Max Farrand, *The Records of the Federal Convention of 1787*, at 61 (1911). It goes without saying that the Framers did not intend to exclude a person from the office of the President simply because he or she was born to U.S. citizens serving in the U.S. military outside of the continental United States; Senator McCain is certainly not the hypothetical "Foreigner" who John Jay and George Washington were concerned might usurp the role of Commander in Chief.

Therefore, based on the original meaning of the Constitution, the Framers' intentions, and subsequent legal and historical precedent, Senator McCain's birth to parents who were U.S. citizens, serving on a U.S. military base in the Panama Canal Zone in 1936, makes him a "natural born Citizen" within the meaning of the Constitution.



Laurence H. Tribe



Theodore B. Olson

NATURAL BORN PRESIDENTS

James C. Ho[†]

The 2012 Presidential campaigns generated more than their fair share of controversies. One particular issue garnered relatively little interest this election cycle, however: Were the two major party candidates for President constitutionally eligible to hold the office?

This stands in stark contrast to four years ago. Remarkably, both major party candidates in 2008 faced persistent questions – and multiple lawsuits – challenging their eligibility to serve as President.

The nature of the challenges differed significantly between the two candidates, however.

For then-Senator Barack Obama, the discussion quickly became fodder for late night comedians and a fixture in our nation's popular culture. But it turned largely on factual disputes of little interest to the legal academy (not to mention of little merit as well).

By contrast, questions about the eligibility of Senator John McCain implicated genuinely disputed legal issues that scholars have hotly contested for decades.

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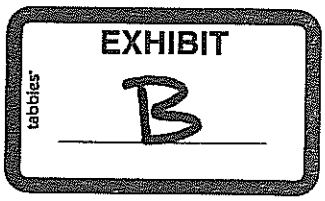
Article II of the Constitution provides that only a "natural born Citizen" shall be eligible to serve as President. But what exactly does that mean?

Must a person actually be born on U.S. soil? Or is any person eligible who was a U.S. citizen at time of birth – whether as a result

[†] Partner, Gibson, Dunn & Crutcher LLP.



of place of birth, or through the U.S. citizenship of the person's parents? These questions have been debated by constitutional scholars since well before the 2008 election cycle.[1]

Just ask the 2012 Republican candidate for President. His father, former Michigan Governor George Romney, faced questions about his own eligibility when he (unsuccessfully) pursued the Republican nomination for President in 1968. George Romney was born to U.S. citizen parents, and thus entitled to U.S. citizenship at birth – but he was born in Mexico.

Thanks to the 2008 Presidential election cycle, this decades-long debate over the meaning of "natural born Citizen" should now be settled as a practical matter. A major political party nominated an individual for President, and the other major political party accepted that person's constitutional qualifications for the office – even though that person was born outside the United States. As *Pub. L. Misc.* readers well know, constitutional law is not exclusively written by judges. Even "political" precedents can play a significant role in constitutional law.

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But exactly what "precedent" does the McCain nomination establish? This question has generated some confusion.

One might argue, for example, that McCain was eligible for the Presidency based on the traditionally accepted ground that he was in fact born on U.S. soil – namely, on Coco Solo Naval Air Station, a U.S. military installation in the Panama Canal Zone. Others, however, have raised real doubts about this claim, due to ambiguities concerning whether the United States actually exercised sovereignty over the Panama Canal Zone at the time of his birth.[2]

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[1] *See, e.g.*, Isidor Blum, *Is Gov. George Romney Eligible to Be President?*, N.Y.L.J., Oct. 16 & 17, 1967, at 1; Charles Gordon, *Who Can Be President of the United States: The Unresolved Enigma*, 28 Md. L. Rev. 1 (1968); Jill A. Pryor, *The Natural-Born Citizen Clause and Presidential Eligibility: An Approach for Resolving Two Hundred Years of Uncertainty*, 97 Yale L.J. 881 (1988). Indeed, the constitutional debate over McCain's eligibility inspired an entire *Michigan Law Review* symposium devoted to the topic. *See Senator John McCain and Natural Born Citizenship: The Full Symposium*, *available at* www.michiganlawreview.org/first-impressions/volume/107.

[2] *See, e.g.*, *Hollander v. McCain*, 566 F. Supp. 2d 63, 66 (D.N.H. 2008) (noting that "[t]he

So when the United States Senate unanimously approved a resolution deeming Senator McCain eligible for the Presidency, it did not do so because he was born on U.S. soil. Instead, the Senate resolved that McCain was eligible because "previous presidential candidates were *born outside of the United States of America* and were understood to be eligible to be President."[3] The resolution further pointed out that any other view would be "inconsistent with the purpose and intent of the 'natural born Citizen' clause of the Constitution of the United States, as evidenced by the First Congress's own statute defining the term 'natural born Citizen'" to cover persons born to U.S. citizens outside U.S. soil.[4]

The Senate resolution came just weeks after the publication of a legal opinion by renowned constitutional scholar Laurence H. Tribe and former U.S. Solicitor General Theodore B. Olson. That letter argued in support of both potential bases for Senator McCain's eligibility. But it led with McCain's entitlement to citizenship at birth by virtue of his parents' citizenship – not place of birth.

To the extent that courts have subsequently weighed in on the issue, they too have sided in favor of the broader conception of Presidential eligibility.[5] But to your humble *Pub. L. Misc.* editors, it is the

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Supreme Court . . . has made contradictory comments in dicta on the status of the Canal Zone" under the Hay-Bunau-Varilla Convention). Mischievously, Congress did not enact legislation conferring citizenship at birth on persons born in the Canal Zone to U.S. citizens until 1937 – a year *after* McCain's birth. 8 U.S.C. § 1403(a). *See generally* Gabriel J. Chin, *Why Senator John McCain Cannot Be President: Eleven Months and a Hundred Yards Short of Citizenship*, *available at* papers.ssrn.com/sol3/papers.cfm?abstract-id=1157621.

[3] S. Res. 511, 110th Cong. (2008), 2 J.L. (2 PUB. L. MISC.) ___ (2012) (emphasis added).

[4] *See* 1 Stat. 103, 104 (1790) ("the children of citizens of the United States that might be born beyond the sea, or out of the limits of the United States, should be considered as natural-born citizens"). It is well established that enactments of the First Congress provide strong context for construing our Constitution. *See, e.g.*, *Marsh v. Chambers*, 463 U.S. 783, 790-91 (1983).

[5] *See Robinson v. Bowen*, 567 F. Supp. 2d 1144, 1146 (N.D. Cal. 2008) (finding it "highly probable . . . that Senator McCain is a natural born citizen" due to his birth to at least one U.S. citizen parent, before dismissing case for lack of standing); *Hollander v. McCain*, 566 F. Supp. 2d 63, 66 n.3 (D.N.H. 2008) (noting that "the weight of the commentary falls heavily on the side of eligibility" for persons born outside the U.S. to at least one U.S. citizen parent, before dismissing case for lack of standing); *see also Ankeny v. Governor of Indiana*, 916 N.E.2d 678, 684 n. 10 (Ind. Ct. App. 2009) (noting that "[t]he United States Senate passed a resolution on April 30, 2008, which explicitly recognized Senator John McCain as

non-judicial materials that emerged from Senator McCain's 2008 run for the White House that are more interesting – not to mention less accessible. Accordingly, we are pleased to publish them here – for posterity, and for those who study the Presidency.

a natural born citizen," and that "Plaintiffs do not cite to any authority or develop any cogent legal argument for the proposition that a person must actually be born within one of the fifty States in order to qualify as a natural born citizen").

PRESIDENTS AND CITIZENSHIP

Opinion letter by Laurence H. Tribe and Theodore B. Olson

March 19, 2008

We have analyzed whether Senator John McCain is eligible for the U.S. Presidency, in light of the requirement under Article II of the U.S. Constitution that only "natural born Citizen[s] . . . shall be eligible to the Office of President." U.S. Const. art. II, § 1, cl. 5. We conclude that Senator McCain is a "natural born Citizen" by virtue of his birth in 1936 to U.S. citizen parents who were serving their country on a U.S. military base in the Panama Canal Zone. The circumstances of Senator McCain's birth satisfy the original meaning and intent of the Natural Born Citizen Clause, as confirmed by subsequent legal precedent and historical practice.

The Constitution does not define the meaning of "natural born Citizen." The U.S. Supreme Court gives meaning to terms that are not expressly defined in the Constitution by looking to the context in which those terms are used; to statutes enacted by the First Congress, *Marsh v. Chambers*, 463 U.S. 783, 790-91 (1983); and to the common law at the time of the Founding. *United States v. Wong Kim Ark*, 169 U.S. 649, 655 (1898). These sources all confirm that the phrase "natural born" includes both birth abroad to parents who were citizens, and birth within a nation's territory and allegiance. Thus, regardless of the sovereign status of the Panama Canal Zone at the time of Senator McCain's birth, he is a "natural born" citizen because he was born to parents who were U.S. citizens.

Congress has recognized in successive federal statutes since the Nation's Founding that children born abroad to U.S. citizens are themselves U.S. citizens. 8 U.S.C. § 1401(c); *see also* Act of May 24, 1934, Pub. L. No. 73-250, § 1, 48 Stat. 797, 797. Indeed, the statute that the First Congress enacted on this subject not only established that such children are U.S. citizens, but also expressly referred to them as "natural born citizens." Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103, 104.

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There is a second and independent basis for concluding that Senator McCain is a "natural born" citizen within the meaning of the Constitution. If the Panama Canal Zone was sovereign U.S. territory at the time of Senator McCain's birth, then that fact alone would make him a "natural born" citizen under the well-established principle that "natural born" citizenship includes birth within the territory and allegiance of the United States. *See, e.g.*, *Wong Kim Ark*, 169 U.S. at 655-66. The Fourteenth Amendment expressly enshrines this connection between birthplace and citizenship in the text of the Constitution. U.S. Const. amend. XIV, § 1 ("All persons *born* or naturalized *in the United States*, and subject to the jurisdiction thereof, are citizens of the United States . . . .") (emphases added). Premising "natural born" citizenship on the character of the territory in which one is born is rooted in the common-law understanding that persons born within the British kingdom and under loyalty to the British Crown – including most of the Framers themselves, who were born in the American colonies – were deemed "natural born subjects." *See*, *e.g.*, 1 William Blackstone, *Commentaries on the Laws of England* 354 (Legal Classics Library 1983) (1765) ("Natural-born subjects are such as are born within the dominions of the crown of

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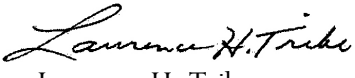
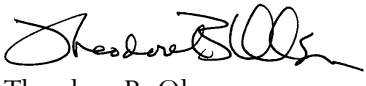


Laurence H. Tribe



Theodore B. Olson

PRESIDENTS AND CITIZENSHIP

Claire McCaskill et al., Senate Resolution 511

April 30, 2008

S. RES. 511

Recognizing that John Sidney McCain, III, is a natural born citizen.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2008

Mrs. MCCASKILL (for herself, Mr. LEAHY, Mr. OBAMA, Mr. COBURN, Mrs. CLINTON, and Mr. WEBB) submitted the following resolution; which was referred to the Committee on the Judiciary

APRIL 24, 2008

Reported by Mr. LEAHY, without amendment

APRIL 30, 2008

Considered and agreed to

RESOLUTION

Recognizing that John Sidney McCain, III, is a natural born citizen.

Whereas the Constitution of the United States requires that, to be eligible for the Office of the President, a person must be a "natural born Citizen" of the United States;

Whereas the term "natural born Citizen", as that term appears in Article II, Section 1, is not defined in the Constitution of the United States;

Whereas there is no evidence of the intention of the Framers or any Congress to limit the constitutional rights of children born to Americans serving in the military nor to prevent those children

from serving as their country's President;

Whereas such limitations would be inconsistent with the purpose and intent of the "natural born Citizen" clause of the Constitution of the United States, as evidenced by the First Congress's own statute defining the term "natural born Citizen";

Whereas the well-being of all citizens of the United States is preserved and enhanced by the men and women who are assigned to serve our country outside of our national borders;

Whereas previous presidential candidates were born outside of the United States of America and were understood to be eligible to be President; and

Whereas John Sidney McCain, III, was born to American citizens on an American military base in the Panama Canal Zone in 1936: Now, therefore, be it

Resolved, That John Sidney McCain, III, is a "natural born Citizen" under Article II, Section 1, of the Constitution of the United States.

HARVARD LAW REVIEW

HARVARD LAW REVIEW FORUM

On the Meaning of "Natural Born Citizen"

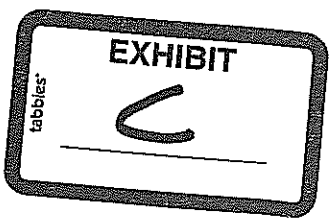
Commentary by Neal Katyal & Paul Clement

MAR 11, 2015
128 Harv. L. Rev. F. 161

We have both had the privilege of heading the Office of the Solicitor General during different administrations. We may have different ideas about the ideal candidate in the next presidential election, but we agree on one important principle: voters should be able to choose from all constitutionally eligible candidates, free from spurious arguments that a U.S. citizen at birth is somehow not constitutionally eligible to serve as President simply because he was delivered at a hospital abroad.

The Constitution directly addresses the minimum qualifications necessary to serve as President. In addition to requiring thirty-five years of age and fourteen years of residency, the Constitution limits the presidency to "a natural born Citizen."[1]

1. U.S. CONST. art. II, § 1, cl. 5.



All the sources routinely used to interpret the Constitution confirm that the phrase "natural born Citizen" has a specific meaning: namely, someone who was a U.S. citizen at birth with no need to go through a naturalization proceeding at some later time. And Congress has made equally clear from the time of the framing of the Constitution to the current day that, subject to certain residency requirements on the parents, someone born to a U.S. citizen parent generally becomes a U.S. citizen without regard to whether the birth takes place in Canada, the Canal Zone, or the continental United States.[2]

2. *See, e.g.*, 8 U.S.C. § 1401(g) (2012); Immigration and Nationality Act of 1952, Pub. L. No. 82-414, § 303, 66 Stat. 163, 236–37; Act of May 24, 1934, Pub. L. No. 73-250, 48 Stat. 797.

While some constitutional issues are truly difficult, with framing-era sources either nonexistent or contradictory, here, the relevant materials clearly indicate that a "natural born Citizen" means a citizen from birth with no need to go through naturalization proceedings. The Supreme Court has long recognized that two particularly useful sources in understanding constitutional terms are British common law[3]

3. *See* Smith v. Alabama, 124 U.S. 465, 478 (1888).

and enactments of the First Congress.[4]

4. *See* Wisconsin v. Pelican Ins. Co., 127 U.S. 265, 297 (1888).

Both confirm that the original meaning of the phrase "natural born Citizen" includes persons born abroad who are citizens from birth based on the citizenship of a parent.

As to the British practice, laws in force in the 1700s recognized that children born outside of the British Empire to subjects of the Crown were subjects themselves and explicitly used "natural born" to encompass such children.[5]

5. *See* United States v. Wong Kim Ark, 169 U.S. 649, 655–72 (1898).

These statutes provided that children born abroad to subjects of the British Empire were "natural-born Subjects . . . to all Intents, Constructions, and Purposes whatsoever."[6]

6. 7 Ann., c. 5, § 3 (1708); *see also* British Nationality Act, 1730, 4 Geo. 2, c. 21.

The Framers, of course, would have been intimately familiar with these statutes and the way they used terms like "natural born," since the statutes were binding law in the colonies before the Revolutionary War. They were also well documented in Blackstone's Commentaries,[7]

7. *See* 1 WILLIAM BLACKSTONE, COMMENTARIES *354–63.

a text widely circulated and read by the Framers and routinely invoked in interpreting the Constitution.

No doubt informed by this longstanding tradition, just three years after the drafting of the Constitution, the First Congress established that children born abroad to U.S. citizens were U.S. citizens at birth, and explicitly recognized that such children were "natural born Citizens." The Naturalization Act of 1790[8]

8. Ch. 3, 1 Stat. 103 (repealed 1795).

provided that "the children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens: Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States . . . ."[9]

9. *Id.* at 104 (emphasis omitted).

The actions and understandings of the First Congress are particularly persuasive because so many of the Framers of the Constitution were also members of the First Congress. That is particularly true in this instance, as eight of the eleven members

of the committee that proposed the natural born eligibility requirement to the Convention served in the First Congress and none objected to a definition of "natural born Citizen" that included persons born abroad to citizen parents.[10]

10. *See* Christina S. Lohman, *Presidential Eligibility: The Meaning of the Natural-Born Citizen Clause*, 36 GONZ. L. REV. 349, 371 (2000/01).

The proviso in the Naturalization Act of 1790 underscores that while the concept of "natural born Citizen" has remained constant and plainly includes someone who is a citizen from birth by descent without the need to undergo naturalization proceedings, the details of which individuals born abroad to a citizen parent qualify as citizens from birth have changed. The pre-Revolution British statutes sometimes focused on paternity such that only children of citizen fathers were granted citizenship at birth.[11]

11. *See, e.g.*, British Nationality Act, 1730, 4 Geo. 2, c. 21.

The Naturalization Act of 1790 expanded the class of citizens at birth to include children born abroad of citizen mothers as long as the father had at least been resident in the United States at some point. But Congress eliminated that differential treatment of citizen mothers and fathers before any of the potential candidates in the current presidential election were born. Thus, in the relevant time period, and subject to certain residency requirements, children born abroad of a citizen parent were citizens from the moment of birth, and thus are "natural born Citizens."

The original meaning of "natural born Citizen" also comports with what we know of the Framers' purpose in including this language in the Constitution. The phrase first appeared in the draft Constitution shortly after George Washington received a letter from John Jay, the future first Chief Justice of the United States, suggesting:

> *[W]hether it would not be wise & seasonable to provide a . . . strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Command in chief of the american [sic] army shall not be given to, nor devolve on, any but a natural* born *Citizen.*[12]

12. Letter from John Jay to George Washington (July 25, 1787), in 3 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 61 (Max Farrand ed., 1911).

As recounted by Justice Joseph Story in his famous Commentaries on the Constitution, the purpose of the natural born Citizen clause was thus to "cut[] off all chances for ambitious foreigners, who might otherwise be intriguing for the office; and interpose[] a barrier against those corrupt interferences of foreign governments in executive elections."[13]

13. 3 JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 1473, at 333 (1833).

The Framers did not fear such machinations from those who were U.S. citizens from birth just because of the happenstance of a foreign birthplace. Indeed, John Jay's own children were born abroad while he served on diplomatic assignments, and it would be absurd to conclude that Jay proposed to exclude his own children, as foreigners of dubious loyalty, from presidential eligibility.[14]

14. *See* Michael Nelson, *Constitutional Qualifications for President*, 17 PRESIDENTIAL STUD. Q. 383, 396 (1987).

While the field of candidates for the next presidential election is still taking shape, at least one potential candidate, Senator Ted Cruz, was born in a Canadian hospital to a U.S. citizen mother.[15]

15. *See* Monica Langley, *Ted Cruz, Invoking Reagan, Angers GOP Colleagues But Wins Fans Elsewhere*, WALL ST. J. (Apr. 18, 2014, 11:36 PM), http://www.wsj.com/articles/SB10001424052702303873604579494001552603692 (http://www.wsj.com/articles/SB10001424052702303873604579494001552603692) .

Despite the happenstance of a birth across the border, there is no question that Senator Cruz has been a citizen from birth and is thus a "natural born Citizen" within the meaning of the Constitution. Indeed, because his father had also been resident in the United States, Senator Cruz would have been a "natural born Citizen" even under the Naturalization Act of 1790. Similarly, in 2008, one of the two major party candidates for President, Senator John McCain, was born outside the United States on a U.S. military base in the Panama Canal Zone to a U.S. citizen parent.[16]

16. *See* Michael Dobbs, *John McCain's Birthplace*, WASH. POST: FACT CHECKER (May 20, 2008, 6:00 AM), http://voices.washingtonpost.com/fact-checker/2008/05/john_mccains_birthplace.html (http://voices.washingtonpost.com/fact-checker/2008/05/john_mccains_birthplace.html) [http://perma.cc/5DKV-C7VE (http://perma.cc/5DKV-C7VE)].

Despite a few spurious suggestions to the contrary, there is no serious question that Senator McCain was fully eligible to serve as President, wholly apart from any murky debate about the precise sovereign status of the Panama Canal Zone at the time of Senator McCain's birth.[17]

17. *See, e.g.*, Laurence H. Tribe & Theodore B. Olson, Opinion Letter, *Presidents and Citizenship*, 2 J.L. 509 (2012).

Indeed, this aspect of Senator McCain's candidacy was a source of bipartisan accord. The U.S. Senate *unanimously* agreed that Senator McCain was eligible for the presidency, resolving that any interpretation of the natural born citizenship clause as limited to those born within the United States was "inconsistent with the purpose and intent of the 'natural born Citizen' clause of the Constitution of the United States, as evidenced by the First Congress's own statute defining the term 'natural born Citizen.'"[18]

18. S. Res. 511, 110th Cong. (2008).

And for the same reasons, both Senator Barry Goldwater and Governor George Romney were eligible to serve as President although neither was born within a state. Senator Goldwater was born in Arizona before its statehood and was the Republican Party's presidential nominee in 1964,[19]

19. *See* Bart Barnes, *Barry Goldwater, GOP Hero, Dies*, WASH. POST, May 30, 1998, http://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwater30.htm (http://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwater30.htm) [http://perma.cc/K2MG-3PZL (http://perma.cc/K2MG-3PZL)].

and Governor Romney was born in Mexico to U.S. citizen parents and unsuccessfully pursued the Republican nomination for President in 1968.[20]

20. *See* David E. Rosenbaum, *George Romney Dies at 88; A Leading G.O.P. Figure*, N.Y. TIMES, July 27, 1995, http://www.nytimes.com/1995/07/27/obituaries/george-romney-dies-at-88-a-leading-gop-figure.html (http://www.nytimes.com/1995/07/27/obituaries/george-romney-dies-at-88-a-leading-gop-figure.html) .

There are plenty of serious issues to debate in the upcoming presidential election cycle. The less time spent dealing with specious objections to candidate eligibility, the better. Fortunately, the Constitution is refreshingly clear on these eligibility issues. To serve, an individual must be at least thirty-five years old and a "natural born Citizen." Thirty-four and a half is not enough and, for better or worse, a naturalized citizen cannot serve. But as Congress has recognized since the Founding, a person born abroad to a U.S. citizen parent is generally a U.S. citizen from birth with no need for naturalization. And the phrase "natural born Citizen" in the Constitution encompasses all such citizens from birth. Thus, an individual born to a U.S. citizen parent — whether in California or Canada or the Canal Zone — is a U.S. citizen from birth and is fully eligible to serve as President if the people so choose.

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Tags: *Constitutional Law, Harvard Law Review Forum, Legal History*

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POLITICS

Republican Candidates' Sparring Resumes Mere Hours After Their Debate

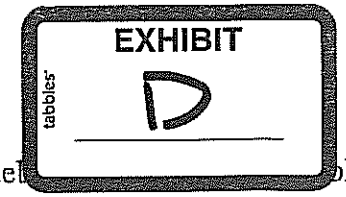
By MATT FLEGENHEIMER and JONATHAN MARTIN DEC. 16, 2015

Senator Ted Cruz, facing the most aggressive effort yet to sully his reputation with conservatives, absorbed a flood of attacks Wednesday from Senator Marco Rubio over immigration policy and national security, an offensive aimed at halting Mr. Cruz's rise among Tea Party and evangelical voters.

In public and in private, Mr. Rubio and his allies raised questions about whether Mr. Cruz had changed his position on a pathway to legal status for people already in the country illegally, deploying a barrage of emails, news clips and opposition research to suggest that his record on the subject was not so different from Mr. Rubio's.

Mr. Cruz, the Texas senator, responded by tying Mr. Rubio's past support for a pathway to citizenship to recent concerns about terrorist threats and refugees. He also echoed some far-right commentators who have repeatedly suggested that Mr. Rubio, of Florida, is more willing to present himself as a pragmatist on immigration when speaking to Spanish-language news outlets.

"To this day, he supports granting citizenship to 12 million people here illegally," Mr. Cruz told reporters in Los Angeles on Wednesday. "Last night was the



first time he admitted it, and admitted not only on Spanish-language television but on English-language television."

Yet if the tussle seemed likely to persist through the holidays, Mr. Cruz's steady performance in Tuesday night's debate underscored his ascendance in the Republican race, where he has passed Donald J. Trump in some recent Iowa polls.

At the same time, the debate and its aftermath highlighted the race's volatility in New Hampshire and beyond, adding little clarity on who might emerge as center-right Republicans' choice.

Mr. Trump, who leads in national polls, slogged through an uneven debate night, though previous forgettable performances had little effect on his support. Perhaps most notably, he resisted repeating past criticisms of Mr. Cruz in and after the debate.

After facing two forces at the debate to which he was unaccustomed — an often unsympathetic crowd and an effectively pugnacious Jeb Bush — Mr. Trump returned to his campaign comfort zone with a rally on Wednesday.

"Ted Cruz was very nice to me last night," he told supporters at a Mesa, Ariz., airport hangar. The police estimated his crowd at 5,000 — and Mr. Trump put the number at three times that.

Mr. Bush appeared energized, beating rivals to cable news just eight hours after the debate.

After appearing to irritate Mr. Trump in a series of exchanges during the debate, a triumph that bordered on cathartic for many supporters of his long-languishing campaign, Mr. Bush and his team moved quickly to convince his donors that he was seizing the momentum gained through his pointed attacks on Mr. Trump.

"I don't think he's a serious candidate. I don't know why others don't feel compelled to point that out, but I did," he said on CNN. "Donald Trump is not going to be president of the United States by insulting every group on the planet, insulting women, P.O.W.s, war heroes, Hispanics, disabled, African-Americans."

Mr. Bush finds himself battling on two fronts in New Hampshire, increasingly seen as decisive for his campaign. In addition to Mr. Trump, he must contend with establishment favorites like Mr. Rubio and Gov. Chris Christie of New Jersey, who had a strong showing Tuesday and has been rising in polls in the state, which holds the nation's first primary.

Underscoring Mr. Christie's growing stature, backers of both Mr. Bush and Gov. John Kasich of Ohio criticized him Wednesday.

" 'Mr. Tell It Like It Is' shamelessly pandered," a Bush aide, Matt Gorman, wrote in an email to reporters, pointing out that Mr. Christie had called Mr. Trump "a serious candidate" in an interview on conservative talk radio.

And a "super PAC" supporting Mr. Kasich was to begin running ads Wednesday in New Hampshire on Mr. Christie's fiscal record, an acknowledgment of Mr. Christie's new strength there and a sign of the chaos in the race.

"For the jumbled-up establishment lane, it's now even more congested," said Matt Strawn, a former Iowa party chairman. "And Cruz's lane is totally clear."

Mr. Rubio traveled on Wednesday to Iowa and New Hampshire. For the second consecutive debate, the focus afterward was in large measure on him and the party's approach to immigration.

"It's easy to stand up and say: 'I will destroy ISIS. I will make the sands in the Middle East glow in the dark,' " he said in Manchester, N.H., mocking a bit of bravado Mr. Cruz offered this month.

His campaign also reveled in what it saw as a tentative, overly parsed statement from Mr. Cruz on Fox News on Wednesday.

"The fact that I introduce an amendment to remove part of the Gang of Eight bill doesn't mean I support the rest of the Gang of Eight bill," Mr. Cruz said after repeated questions about comments he made, showing support for letting unauthorized immigrants stay, while the immigration overhaul was being debated.

Mr. Cruz told CNN that the confrontations with Mr. Rubio were unsurprising. "Senator Rubio's campaign has been running attack ads against me," he said, "and I think they're concerned" at the prospect of conservatives' uniting around Mr. Cruz.

The Cruz-Rubio dynamic appears to be growing more confrontational beyond the debate stage and campaign trail. Republicans in Iowa this week received their first piece of mail from a group run by backers of Mr. Rubio, criticizing Mr. Cruz for his vote to limit the National Security Agency's metadata program. (Mr. Cruz has said an alternative program strengthened the country's capacity to fight terrorism.)

"These men undermined our intelligence agencies' ability to stop terrorist attacks," the mailer read, below a photo of Mr. Cruz, Mr. Paul, President Obama and Senator Harry Reid.

Mr. Rubio's intentions in Iowa are something of a mystery. But leading Republicans there said his best hope for making himself the mainstream alternative to Mr. Trump and Mr. Cruz would be to finish close to them, and well above other right-of-center Republicans, in the caucuses.

For others, the debate — the last major scheduled event for Republican candidates this year — prompted new questions about the viability of their campaigns.

Carly Fiorina, appearing on CNN, chafed at a remark about her struggles in polls. "Oh wow, you're like declaring an end to my candidacy," she said. "I think we're just getting started."

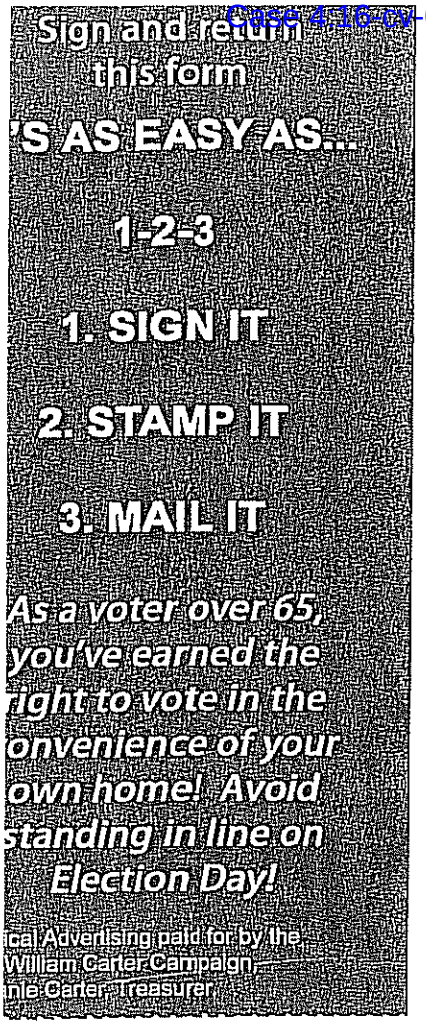
Minutes later, Senator Lindsey Graham of South Carolina, widely seen as a standout in the so-called undercard debate of low-polling candidates, made a pitch to viewers after a questioner said he was funny.

"I am hilarious. Send money if you want to keep me in this race," he said. "I'm not speaking again until somebody sends $100,000."

Adam Nagourney, Fernanda Santos and Ashley Parker contributed reporting.

Find out what you need to know about the 2016 presidential race today, and get politics news updates via Facebook, Twitter and the First Draft newsletter.

A version of this article appears in print on December 17, 2015, on page A26 of the New York edition with the headline: Republican Candidates' Sparring Resumes Mere Hours After Their Debate.



APPLICATION FOR ANNUAL BALLOT BY MAIL FOR 2016 ELECTION CYCLE

NAME AND ADDRESS (As registered to vote)

Newton Boris Schwartz I
1802 Milford St
Houston TX 77098

6231105

TYPE AND DATE OF ELECTION

Democratic Primary
March 1, 2016

[X] Check here for ballots fc both the main election an runoff if applicable.

THE REASON YOU ARI APPLYING FOR AN EARL BALLOT.

[X] 65 years of age or older

SIGN YOUR APPLICATION – If you cannot sign, you must have a person witness your mark. If a person helped you fill out this application, he or she must complete the box for WITNESS and/or ASSISTED section. In any single election, it is a Class B misdemeanor for any person to sign a ballot application as a witness or assistant for more than one applicant. A person may sign more than one application as a witness or assistant if the second and subsequent applications are related to the witness as parent, spouse, child, sibling, or grandparent. **If you need additional information call the Secretary of State at 1-800-252-8683.**

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in presence of witness. If applicant is unable to make mark, the witness shall check here___.

X RELATIONSHIP TO APPLICANT: CHECK ONE: ___parent, ___grandparent, ___spouse, ___child, ___sibling, ___other.

SIGNATURE OF APPLICANT AS REGISTERED

SIGN HERE X Newton B Schwartz Sr

Signature of Witness, IF REQUIRED Print Full Name of Witness

Residence Address of Witness or Title of Witness, If an Election Official See Instructions for Clarification.

APPLICATION MUST BE RECEIVED BY FEBRUARY 17, 2016

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FROM: Newton B Schwartz Sr
1802 Milford (MILFORD)
Houston, Texas, 77098

Stan Stanart, Harris County Clerk
Attn: Elections Division
PO BOX 1148
HOUSTON, TX 77251-1148

EXHIBIT
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E

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Newton B. Schwartz, Sr.

(b) County of Residence of First Listed Plaintiff Harris
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Newton B. Schwartz, Sr. pro se, 1911 Southwest Freeway,
Houston, Texas 77098
(713) 630-0708

DEFENDANTS

Ted Cruz a/k/a Rafael Edward Cruz

County of Residence of First Listed Defendant Harris
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☒ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 USC § 1331, 28 USC § 2201, 28 USC § 1654 and FRCP 57

Brief description of cause:
Declaratory judgment action regarding Article II, Section 1, Clause 5 U.S. Constitution

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $ 0.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*:

JUDGE _____ DOCKET NUMBER _____

DATE
01/14/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____