

RECEIVED

NOV 23 2015

NEW HAMPSHIRE  
DEPARTMENT OF STATE

THE BALLOT LAW COMMISSION  
STATE OF NEW HAMPSHIRE

---

**Robert C. Laity**, Petitioner

v.

**Ted Cruz**, Candidate for President of  
the United States of America;

-and-

**Marco Rubio**, Candidate for President  
of the United States of America;

-and-

**Piyush "Bobby" Jindal**, Candidate for  
President of the United States of America;

-and-

**Rick Santorum**, Candidate for President  
of the United States of America

---

STATEMENT OF PETITIONER  
AND MOTION IN OPPOSITION  
TO RESPONDENT MOTION TO  
DISMISS FOR LACK OF  
JURISDICTION

Case #: \_\_\_\_\_

Dated: November 22, 2015

The petitioner hereby *OPPOSES* the motion to dismiss for lack of  
Jurisdiction and makes the following statement in *Reply* to Respondent's  
Response to Petition:

BASIS

While RSA 655:47 may not give the Ballot Law Commission Jurisdiction  
to review a final decision of the Secretary of States to classify a declaration  
of Candidacy as "Regular" there is no preclusion preventing the Secretary of  
State from revisiting *sua sponte* his decision upon being presented with  
evidence that the Declaration of Candidacy was falsely sworn to and to order  
appropriate measures to remedy the breach of law.

RSA 665:7 places the responsibility of the Ballot Law Commission to hear  
disputes regarding DoCs and to ensure that all Declarations of Candidacy  
conform with the law and therefore this petition is under BLC Jurisdiction.

To certify a knowingly false statement from a candidate would not conform  
with the law. Furthermore, the actual text of the declaration made under  
penalty of perjury in RSA 655:47 does not conform with law. The U.S.  
Constitutional Article and Section is correct but the Clause is not. The  
correct Citation is Article II, Section 1, Clause 5 and not "Clause 4" which  
deals with the time that electors will be chosen and the day that they will  
vote. The oath declaring that one is eligible does not conform with the law  
given that the NH legislature wanted an oath under Article II, Sec. 1, Clause

---

5 and not clause 4.

If the State of New Hampshire fails to correct irregularities which are presented to it especially since it holds the first primary in the Nation, it will have become complicit in electoral disenfranchisement of all of New Hampshire voters and the voters at large in the Nation.

We have lived for the last seven years under a usurped government. Barack Obama was illegally elected twice. He is not a "Natural Born Citizen" and he is not the nations first usurper. We had a usurper before him named Chester Arthur. It is untenable to allow usurpations to occur because of inadequate checks and balances. Usurpations allows people with divided loyalties and foreign influence to insinuate themselves into our government.

Each and every one of us are duty bound as Americans to curtail such usurpations at every level, every chance we get.

The term "Citizen" and "Natural Born Citizen" are not tantamount. Contrary to Respondent's Attorney's assertion that "every single reliable authority has confirmed that a "Natural Born Citizen" is a person who was a citizen at birth... who does not need to go through naturalization proceedings to become a citizen" that is not what a "Natural Born Citizen" is. Furthermore, given that the Supreme Court of the United States is a "Reliable authority", respondent's assertion is "baseless".

A "Natural Born Citizen" is a person born in the United States (Jus Soli) to parents who are BOTH Americans themselves (100% Jus Sanquinis). *Minor v Happersett, U.S. Supreme Court, 88 U.S. 162 (1875)*.

The grounds upon which Cruz became a Citizen was by virtue of an act of Congress exercising it's power of Naturalization under Article 1, Sec.8 of the U.S. Constitution . Cruz was not born in the United States. He has no U.S. Jus soli. Also relevant and material is that Cruz was born to a Cuban National. He is a "Citizen" by Statute only because of his Mother giving him a tie to the USA. He has only 50% American Jus Sanquinis and no US jus soli. He is not eligible to be President of the United States of America.

A perjured declaration of eligibility is actionable under New Hampshire Law and the New Hampshire Secretary of State is not precluded from addressing evidence of irregularity simply because the perjurer is running for President. The election of an ineligible candidate with foreign loyalties has resulted in cognizable injury to the petitioner. I have suffered harm. I am now living

---

with less freedom than I had before Barack Obama was illegally elected. I have suffered commensurate physical and mental stress. Electing another

usurper for another (8) years would serve to exacerbate the infringement of my rights to enjoy the Blessings of Liberty which were fought for by countless ancestors of New Hampshire citizens.

A pattern of usurpations is transpiring. Respondent's mentioned New Hampshire's interest in curtailing usurpations, twice, in his brief.

With regard to children of Americans being born abroad, it is true that the Congress once, for a very brief time of five years from 1790 to 1795 "considered" children born abroad to American Parents "Natural Born Citizens" in the Naturalization Act of 1790, as Katyal and Clement stated.

What Katyal and Clement failed to note is that in the NA of 1795, that provision was repealed and revised. No longer was a child born abroad "considered" a "Natural Born Citizen" but a "Citizen". Cruz, Rubio, Jindal and Santorum are "Citizens" by virtue of a Naturalization Statute and/or the 14<sup>th</sup> Amendment.

The 14<sup>th</sup> Amendment does not confer "Natural Born Citizen[ship]" on anyone.

We are no longer under British rule either. The founders may have based some of our laws on British law but not all of it. It's useful for reference but is not applicable to American Jurisprudence under American common law. It can be demonstrated that each and every President since the Constitution was ratified, except for those who were grandfathered in, were born in the United States of Parents who were both American citizens except for Chester Arthur and Barack Obama. Both Arthur and Obama were born with British dual citizenship. Did the founders countenance a British subject to be OUR President? I think not.

McCain is not a Natural Born American. He was not born in the US nor in an incorporated Territory. He was born in Colon, Panama. Colon, Panama and Panama City, Panama were explicitly excluded from the PCZ by treaty. In any event, a Senate non binding resolution can not make a "Natural Born Citizen" out of a citizen who attained that status by statute under the authority of an act of Congress exercising its naturalization power in Art. 1, Sec. 8.

For the Commission's information, contrary to respondent's assertion,

---

George Romney was disqualified from being President and was not allowed to become President based on not being a "Natural Born Citizen". Additionally, Court cases saying that one is "probably" a "Natural Born Citizen" or Statutes that make people "Citizens" are irrelevant to the discussion of what a "Natural Born Citizen" is. All "Natural Born Citizen[s]" are "Citizens" but not all "Citizens" are "Natural Born Citizen[s]".

Cruz was born in Canada to a Cuban Father and an American Mother. He is but a naturalized "Citizen" by statute " and does not meet the criteria necessary to be a "Natural Born Citizen".

Rubio was born in the US to parents who were "Permanent Resident[s] and un-naturalized Cuban Citizens at the time of his birth. Permanent residents are not Citizens. They must naturalize to become citizens.

Jindal was born in the US to un-naturalized Indian citizens

I wish to withdraw Rick Santorum from my dispute at this time. I no longer believe that he is ineligible after revisiting the circumstances of his birth.

It is not appropriate to state that a person made a "Citizen" by act of Congress exercising it's power to naturalize non citizens, is a "Natural Born Citizen"

If one does not meet all the parts of the legal formula outlined in Minor v Happersett, U.S. Supreme Court, 88US 162 (1875), Being born in the United States to Parents who are both citizens themselves, Then that person is not a "Natural Born Citizen" of the United States.

Indeed, the U.S Embassy in Cuba recently apprised Rubio and Cruz that visiting Cuba may serve to repatriate them as Cuban Citizens. Rubio recently did visit Cuba. That would be an untenable circumstance should they become President, which as a matter of law, they cannot.

There is ample proof that the Supreme Court has consistently recognized that children born abroad even to two Americans, attain their citizenship by congressional enactment and are "naturalized citizens" not "Natural Born Citizens". Montana v Kennedy, USSCt and Rogers v Bellei, USSCt. Also See: Zimmer v Acheson, USCA, 10<sup>th</sup> Circuit.

In Bellei, Justice Blackmun delivering the majority opinion stated that "But it [the first sentence of the 14<sup>th</sup> amendment] has not touched the acquisition of citizenship by being born abroad of American parents; and

---

has left that subject to be regulated, as it always has been, by Congress in the exercise of the power conferred on it by the Constitution to establish a uniform rule of ***naturalization***. The court went so far as to state that Bellei's citizenship rested purely on statute which rested purely on congress' power to "Naturalize". In short, but for the generosity of Congress passing enactments conferring citizenship at birth upon children born abroad to US Citizens, those children would be considered aliens. The court continued by saying that "all means of obtaining American Citizenship which are dependent upon a congressional enactment are forms of ***naturalization***."

Bellei, the court ruled was a "citizen at birth", not by constitutional right, but only through operation of a federal Statute". Bellei's citizenship was eventually revoked for not complying with Statutory residency requirements.

In Bellei. Aldo Bellei, like Ted Cruz, was born outside US territory. Aldo Bellei, like Cruz, had a father that was not a US Citizen, Aldo Bellei, like Cruz had a Citizen Mother who provided a pathway to statutory US citizenship at birth. Aldo Bellei was considered by the entire court to be a naturalized Citizen. If Aldo Bellei was a naturalized citizen then Ted Cruz is also a naturalized citizen. A naturalized citizen is not a "Natural-Born Citizen".

In Klaprott v US the Supreme court ruled that "no... procedures could strip a "Natural Born Citizen" of his birthright or lay him open for such a penalty. Naturalized citizenship may be revoked.

In US v Wong Kim Ark, the Supreme Court stated that "a person born outside the jurisdiction of the United States can ***only become a citizen by being naturalized***, by authority of congress, exercised... by declaring certain classes of persons to be citizens, as in the enactments conferring citizenship upon foreign born children of citizens". Wong Kim Ark was not declared to meet the criteria for being a "Natural Born Citizen" although the court had the opportunity to do so after talking at length about "Natural born Subjects". Ark was determined to be a "Citizen" by virtue of the first clause of the 14<sup>th</sup> amendment. A citizen by virtue of the 14<sup>th</sup> amendment is not a "natural born citizen". If Ark, born on US soil to parents who were not citizens, was only a "Citizen" by virtue of the 14<sup>th</sup> Amendment, which he was, then, by the same token Marco Rubio and Bobby Jindal, both born on US soil to parents who were not citizens at the time they were born are nothing more than "Citizen[s]" by virtue of the first clause of the 14<sup>th</sup> Amendment and are not "Natural born Citizen[s]".

To reiterate those persons born of citizen parents outside of the US are

naturalized at birth by congressional statute. Neither birth on US soil alone nor birth to US parents alone is sufficient to make a "Natural born citizen". Prior to the 14<sup>th</sup> amendment, Congressional action was required to naturalize each of these classes at birth. The 14<sup>th</sup> amendment does not confer Natural Born Citizenship on anyone. Simply having citizen parents isn't enough to make a natural born citizen.

A "Natural Born Citizen" is one born in the United States to Parents who are both citizens themselves. Minor v Happersett. It is a known fact that Congress has attempted to erode the "Natural Born Citizen" requirement of Article II, Sec. 1, Clause 5 at least (8) times since 1975. All eight attempts failed. There have been no amendments to the constitution which have either changed the requirement that a President must be a "Natural Born Citizen" nor has the definition of a "Natural Born Citizen" changed. The founders relied on the definition of a Natural Born Citizen found in the Law of Nations. That is "One born in a country of Citizen Parents". Why is it so hard for some to grasp the concept that people born outside the US do not meet the required Jus soli factor and those without two citizen parents do not meet the 100% Jus Sanquinis factor that makes a "Natural Born Citizen"?

The 14<sup>th</sup> Amendment makes no mention of conferring the status of "Natural born citizen" nor does it qualify "Citizen[s]" as eligible to be President. While the 14<sup>th</sup> amendment may confer citizenship at birth to those who wouldn't otherwise qualify for citizenship, it does not confer the character of "Natural Born Citizen[ship]" upon those whose citizenship is wholly dependent upon the 14<sup>th</sup> amendment.

Mere birth within the territory of the United States is not sufficient by itself to make the child a "Natural Born Citizen". "The 14<sup>th</sup> amendment does not address natural born citizenship' Minor v Happersett.

Cases in which the Supreme Court has indicated that someone was a natural born citizen or eligible to be President:

Shanks v Dupont

Kwock Jan Fat v White

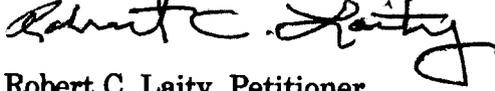
Perkins v Elg

Minor v Happersett

All of the plaintiffs in these cases were determined to be Natural born citizens by virtue of being "born in the Country to parents who were both citizens". Ted Cruz, Marco Rubio and Piyush "Bobby" Jindal are not eligible

to be President of the United States since none of them are "Natural Born Citizen[s]" as required by Article II, Sec. 1, Clause 5 of the U.S. Constitution.

Submitted,



Robert C. Laity, Petitioner  
43 Mosher Drive  
Tonawanda, NY 14150  
(716) 260-1392  
Email: [robertlaity@roadrunner.com](mailto:robertlaity@roadrunner.com)

#### CERTIFICATE OF SERVICE

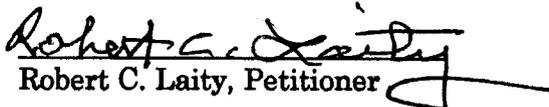
I certify that I have delivered a copy of this **Statement of Petitioner and Motion in Opposition to Respondent Motion to Dismiss for Lack of Jurisdiction**, by method outlined, this day, to:

Gordon J. MacDonald  
Nixon Peabody LLP  
900 Elm Street  
Manchesterr, NH, 03101  
Email: [gmacdonald@nixonpeabody.com](mailto:gmacdonald@nixonpeabody.com)

By Email

Bryan K. Gould, Esq.  
Cleveland, Waters and Bass, PA  
2 Capital Plaza, Box 1137  
Concord, New Hampshire, 03302  
Email: [gouldb@cwbp.com](mailto:gouldb@cwbp.com)

By Email



Robert C. Laity, Petitioner

November 22, 2015