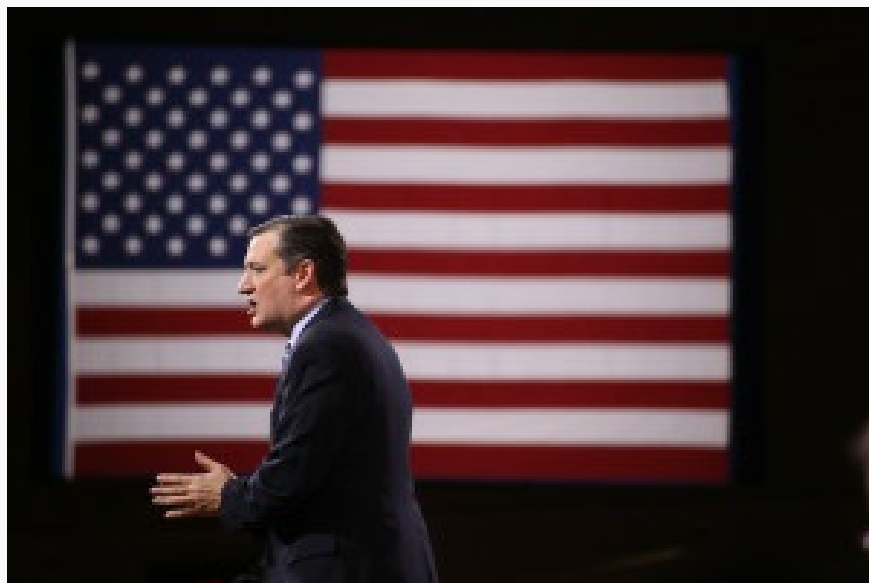


The Natural Born Citizen Debate

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The last couple of days I've seen a flood of posts and comments dealing with the constitutional qualifications for President. I even had somebody call me to debate the subject. I hung up when he didn't even let me complete a sentence or finish a thought. He didn't even bother to identify himself, but I digress.

We have seen this debate flare up recently in 2008 with U.S. Senator John McCain (R-AZ). This has been discussed with President Barack Obama in 2008 and 2012. This cycle the candidates in question are U.S. Senators Ted Cruz (R-TX) and Marco Rubio (R-FL), as well as, Louisiana Governor Bobby Jindal.



Is Cruz constitutionally eligible to run for President? Yes.
Photo credit: Dave Davidson – Prezography.com

The argument states that Cruz is not qualified because he was born in Calgary, AB, Canada. His mother is a U.S. Citizen. His father at the time of his birth was not. I've seen some contend that his mom pursued Canadian citizenship even though I've not seen one scintilla of proof verifying that. The more common argument states that since he was not born on U.S. soil (and some of these folks would probably be even more specific and one has to be born in the United States not just U.S. soil) Cruz is not a natural born citizen.

For Rubio and Jindal the argument goes that since their parents were not citizens even though both were born in the United States they are not natural born citizens.

For review, constitutionally there are three basic qualifications for those running for President today. In Article II, Section 1 of the U.S. Constitution we see that a candidate for President must be:

1. A natural born Citizen
2. Be at least 35-years-old, and
3. A resident of within the United States for at least 14 years.

There is no definition in the Constitution or in federal statute for what a "natural born citizen" is. There is no definition in federal law. There is no writings by our founders that defines it. There is not a clear understanding in British law in the British American Colonies. There is no binding Supreme Court case that settles this. None, nada, zip. There are two ways one becomes a citizen – by birth or through the naturalization process. The 14th Amendment states that those born in the United States are citizens by birth. Those born to a U.S. citizen regardless of where they were born.

The Article II, Section 1 of the U.S. Constitution does not specify a geographical location. At the time “natural born subjects” under British law were considered such through their father’s lineage. U.S. law, nor the Constitution, require both parents to be citizens or specifically the father to be a citizen in order to be considered a citizen by birth.

There is no third type of citizenship. The only two categories mentioned in the Constitution are natural born/citizenship by birth and naturalized citizenship. Those who are naturalized do not qualify.

So my point is not to settle this debate because I don’t think it ever will be. That’s the point I want to make with those who believe Cruz, Jindal and Rubio are not eligible to run is that this is not legally settled, and to think you have rock solid evidence to the contrary is nonsense. This is a political consideration. If you believe Cruz, Jindal and Rubio are not eligible then you are free to not vote for them for whatever reason you like.

That’s how we need to settle this argument because there no basis constitutionally or legally for keeping them off the ballot based on the text of the Constitution and federal law. Period.

Frankly I think this particular debate is a waste of time and a distraction. If there was rock solid evidence that shows Jindal and Rubio were not born in the United States or that Cruz’s mom renounced U.S. citizenship while living in Canada then I think that would be a compelling case, but there isn’t. If you disagree you can use your constitutional right to not vote for the candidates in question.

Additional note: I would encourage you to read [William Jacobson’s piece on this](#) from a couple of years ago. He is a law professor at Cornell Law School and he, unlike me, actually gets into the weeds on this topic. Here is [a shorter piece](#) on the subject from *Harvard Law Review*.

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