

January 10, 2012

Mrs. Dianna J. Duran, et al

New Mexico Secretary of State

325 Don Gaspar, Suite 300

Santa Fe, NM 88503

Phone: (505) 827-3600

Dear Mrs. Duran:

We, members and supporters of the Las Cruces Tea Party, are all residents of New Mexico and New Mexico voters. We do our best to stay abreast of the issues of New Mexicans. There have been many media comments on fraudulent voting in New Mexico and we would like to add our voices to this issue and to submit an administrative complaint concerning fraudulent ballots issued in 2008 and the similar possibility in 2012.

The 2008 (2012) New Mexico Candidate Guide and the 2008 (2012) Election Handbook provide the instructions by which our candidates are qualified and are presented on the ballots issued by the Secretary of State.

The 2008/2012 New Mexico Election Handbook defines who may be a candidate for President:

**Specific Eligibility Requirements and duties**

On page 13/15 for the 2008/2012 Candidate Guides

**President of the United States**

In addition to the general requirements, to serve as President of the United States, a person:

- **Must** be a **natural born citizen**
- Must be a resident within the United States for fourteen years; and
- Must be at least thirty-five years of age. (U.S. Const. Art. II Sec. 1)"

The certification by the then Democratic Party, and the then Governor, and the then Secretary of State, allowed a fraudulent candidate to be presented to the voters of New Mexico as a valid certified candidate. This candidate Barack H. Obama has since released a "certified" long form birth certificate that indicates his father was a citizen of Kenya, (a British protectorate) making him a British Citizen. This self-admission violates not only New Mexico candidate qualifications; it also violates the qualifications listed in the United States Constitution (Article 2 Section 1) requiring candidates to be born of two American citizens (natural born citizen).

Attached you will find an Administrative Complaint---Procedure Title 1 Chapter 10 Part 18, as required by the New Mexico Secretary of State. You will also find a historical basis for the definitions of "natural born citizenship". Also listed are Supreme Court decisions validating the definition of "natural born citizenship", and a petition with individuals wishing to be listed as co-complainants. Each individual is a registered voter of New Mexico.

Please accept this complaint, as we wish to assure the people of New Mexico, that the ballots presented to them are properly vetted and certified by the presenting political parties, the Secretary of State, and the Governor of New Mexico. In 2012, this same candidate or other candidates will be presented for inclusion on the Presidential Ballot. The political parties cannot present a candidate that is not certifiable under the New Mexico Candidate Guide or the Constitution of the United States. Nor can the Secretary of State present such candidates to the Governor of New Mexico for the ballot proclamation. The voters must believe that we are a state that upholds our own laws and the United States Constitution.

Sincerely,

Las Cruces Tea Party

Gen Mitchell, President

6700 Pueblo Vista

Las Cruces, New Mexico 88007

**Description of Complaint - As a New Mexico voter I was presented with a false candidate on the 2008 Presidential ballot due to failure of the New Mexico Secretary of State to assure compliance with New Mexico and Federal laws governing the qualifications for President of the United States. The 2012 Presidential Ballot will repeat the fraud of 2008 unless remedies are taken.**

#### **Basis of Complaint**

The New Mexico Secretary of State has the responsibility for oversight of the entire election process.

#### AUTHORITY OF THE SECRETARY OF STATE IN THIS MATTER

1. Pursuant to 2011 NMSA 1978 1-2-1, you are the Chief Election Officer, you oversee the entire election process:
  - a. NMSA 1978 1-2-1. Secretary of State; Chief Election Officer; **rules; enforcement power.**
  - b. According to the NM Secretary of State's website, "The Secretary of State oversees the entire election process..."

To insure compliance with municipal, state, and federal laws the Secretary of State publishes an Election Guide and a Candidate Handbook to provide direction to parties, candidates, and voters.

The candidate guides for 2008 and 2012 are identical in their description of the candidate qualifications required to be listed on the Presidential ballot:

***Specific Eligibility Requirements and Duties***  
***2008 Candidates Handbook page 13***  
***2012 Candidates Handbook page 15***

#### ***For the President***

- must be a natural born citizen;
- must be a resident within the United States for fourteen years; and
- must be at least thirty-five years of age. (U.S. Const. Art. II Sec.

This statement places New Mexico law in compliance with Article 2 Section 1 of the United States Constitution:

*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; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.*

President Obama released his long form birth certificate, which stated his father was born in Kenya, East Africa making him either a Kenyan

citizen or a British citizen not an American Citizen. This documented verification of his father's citizenship causes the **natural born citizenship requirement to be failed.**

As a Kenyan native, Barack Obama Sr. was a British subject whose citizenship status was governed by [The British Nationality Act of 1948](#). That same act governed the status of Obama Sr.'s children:

**British Nationality Act of 1948 (Part II, Section 5):** Subject to the provisions of this section, a person born after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by descent if his father is a citizen of the United Kingdom and Colonies at the time of the birth.

STATE OF HAWAII		CERTIFICATE OF LIVE BIRTH		DEPARTMENT OF HEALTH	
		FILE NUMBER 151		61 10641	
2a. Child's First Name (Type or print)		1b. Middle Name		3c. Last Name	
BARACK		HUSSEIN		OBAMA, II	
3. Sex		4. If Twin or Triplet, Was Child Born		5a. Birth Date	
Male		Single <input checked="" type="checkbox"/> Twin <input type="checkbox"/> Triplet <input type="checkbox"/> 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/>		Month Day Year August 4, 1961	
6a. Place of Birth: City, Town or Rural Location		6b. Island		6c. Hour /	
Honolulu		Oahu		7:24 P.m.	
8a. Name of Hospital or Institution (If not in hospital or institution, give street address)		8b. Is Place of Birth Inside City or Town Limits? If no, give judicial district			
Kapiolani Maternity & Gynecological Hospital		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
9a. Usual Residence of Mother: City, Town or Rural Location		9b. Island		9c. County and State or Foreign Country	
Honolulu		Oahu		Honolulu, Hawaii	
7d. Street Address		7e. Is Residence Inside City or Town Limits? If no, give judicial district			
6085 Kalanian'oolaha Highway		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
7f. Mother's Mailing Address		7g. Is Residence on a Farm or Plantation?			
		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
10. Full Name of Father		11. Race of Father			
BARACK HUSSEIN OBAMA		African			
10a. Age of Father		11a. Birthplace (State, Terr. or Foreign Country)		11b. Kind of Education or Industry	
25		Kenya, East Africa		University	
12. Full Mother Name of Mother		13. Race of Mother			
STANLEY ANN DUNHAM		Caucasian			
15. Age of Mother		16. Birthplace (State, Terr. or Foreign Country)		17a. Type of Occupation Outside Home During Pregnancy	
18		Wichita, Kansas		None	
17b. Date Last Worked		18a. Signature of Parent or Other Informant		18b. Date of Signature	
		Stanley Ann Dunham Obama		8-7-61	
19. I hereby certify that the above stated information is true and correct to the best of my knowledge		19a. Signature of Registrar		19b. Date of Signature	
		David A. Similan		8-8-61	
20. Date Accepted by Local Reg.		21. Signature of Local Registrar		22. Date Accepted by Reg. General	
AUG - 9 1961		W.C.R. Lee		AUG - 9 1961	
23. Evidence for Delayed Filing or Alteration:					

APR 25 2011

CERTIFY THIS IS A TRUE COPY OR ABSTRACT OF THE RECORD ON FILE IN THE HAWAII STATE DEPARTMENT OF HEALTH

Alvin T. Onaka, Ph.D.  
STATE REGISTRAR

<http://www.whitehouse.gov/blog/2011/04/27/president-obamas-long-form-birthcertificate>

### **What is the historical precedence to define "natural born citizen"?**

Our U.S. Supreme Court in *Minor v. Happersett*, 88 U.S. 162 (1875) held that women, while being citizens of the U.S., do not have the right to vote under the Constitution. Of course, we know that this law was later repudiated. In discussing who citizens of the United States are and whether women may be such citizens, the Court explains that we did not need the Fourteenth Amendment to create U.S. citizens. It explains that before the adoption of the Fourteenth Amendment, the Constitution itself did not prescribe what a citizen was. While the Court does not cite *The Law of Nations*, the Court goes into concepts, which can be found in that treatise. The concepts of "nation," "political community," "association of persons for the promotion of their general welfare," and "Member of the nation formed by the association" are all concepts that are found in *E. de Vattel's, The Law of Nations* (1758). The Court then says that each person so associated with the community was a member of that community and owed that community his allegiance. The Court says that citizens were then those persons who "associated themselves together to form the nation" and who were later admitted as members of that nation. The Court then explains that an individual's wanting to ban together with others to form the new nation was actually that person's allegiance to the new nation. The Court continues that it was the individual's giving of this allegiance to the cause of creating the new nation that made that individual a citizen of that nation. The Court explains that for his allegiance, the person received the protection of the nation (calling these reciprocal obligations). Finally, the Court comments that any person who participated and helped in politically separating the new nation from Great Britain and in the military cause against that nation became a citizen at the time the Constitution was adopted. The Court explains that anyone who was part of these people at the time of the drafting of the Constitution were the "original citizens" of the U.S.

The Court then says that citizenship would not be limited to only this original category, for the Constitution at Article II provided for allowing more citizens to be created by birth and in the clause giving Congress the power to establish uniform rules of naturalization by naturalization. The Court then tells us that the Constitution does not define what a "natural born Citizen" is. The Court then said the following in explaining what a "natural born Citizen" is:

At common law, with the nomenclature of which the framers of the constitution were familiar, it was never doubted that all children born in a country, of parents who were its citizens, became themselves, upon their birth, citizens also. These were natives or natural-born citizens, as distinguished from aliens or foreigners. Some authorities go further, and include as citizens children born within the jurisdiction, without reference to the citizenship of their parents. As to this class there have been doubts, but never as to the first. For the purposes of this case, it is not necessary to solve these doubts. It is sufficient, for everything we have now to consider, that all children, born of citizen

parents within the jurisdiction, are themselves citizens." *Minor v. Happersett* (1874) 21 Wall. 162, 166-168.

This test was affirmed in *United States v. Wong Kim Ark*, 169 U. S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898).

Article II of the Constitution provides that "[n]o 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....." From the *Minor* decision, we learn who the Framers placed in the second category as being eligible to be President. These were the "original citizens," those who were members of and who gave their allegiance to the revolutionary cause that produced the new nation. The Framers grandfathered these individuals to be eligible to be President. There cannot be any doubt that even children who were born on U.S. soil fell into this category simply because they were the first generation of citizens. It is interesting to note that Jane Randolph Jefferson (1720-1776), President Thomas Jefferson's mother, was born in the Tower Hamlets of Shadwell, a maritime neighborhood of London, England, and came to Virginia when she was young. With the passing of time, no one would be able to benefit from the grandfather clause and then would have to be "natural born Citizens" to be eligible to be President. We learn that "all children born in the country of parents who were its citizens. . . make up the "natural born Citizen" category. The Court says that there have never been any doubts as to the status of these children. As to children born in the U.S. to parents who were not U.S. citizens at the time of their birth, there have been doubts. In other words, "natural born Citizen" under this formulation requires two generations of U.S. citizens, one generation in the parents and the other in the child himself/herself who also must be born on U.S. soil. It is important to understand that we are focusing on what is a "natural born Citizen" under Article II, which specifies the requirements to be President, and not on what a "Citizen" is under the 14th Amendment or under some Congressional Act, which does not relate to Article II natural born Citizenship.

## **Conclusion**

In 2008, this qualification was violated because The Democratic Party of New Mexico certified that their candidate, Barack H. Obama, met the required standards. They submitted a false certification of this candidate, which allowed an unqualified candidate to be placed on the New Mexico federal ballot.

Similarly, the New Mexico Secretary of State Mary Herrera also violated New Mexico elections code and allowed this unqualified candidate to be placed on the New Mexico federal ballot. (Ref: NM Election Handbook 2011 Certification 1-19A-6 (3) QUALIFIED as a candidate PURSUANT to other APPLICABLE STATE ELECTION LAW;

**The alleged violator(s)** was either the Democratic Party of New Mexico or the New Mexico Secretary of State Mary Herrera.

**The violation** of the New Mexico Candidate Guide, New Mexico Election Guide, and the United States Constitution allowed an illegal candidate to be placed on the New Mexico ballot.

**A future violation** of the same New Mexico code will occur if this or any other unqualified candidate is placed on the 2012 Presidential ballot.

I ask that the New Mexico Secretary of State investigate this complaint and if the complaint is found to be valid to remove Barack H. Obama from New Mexico Presidential ballot for 2012. I would also request that legislation be put into place to assure that the fraud of 2008 never again will occur. The Secretary of State is vested with the authority to assure that the voters of New Mexico have the opportunity to vote for candidates with no possibility of fraud. The Secretary of State has the responsibility to fix the conditions that occurred in 2008.

Thank you for consideration of this complaint.

Attached to this complaint are 5 items

Item 1---Cover Letter to the New Mexico Secretary of State

Item 2---Complaint Description

Item 3---Historical basis for definition of "natural born citizen"

<http://people.mags.net/tonchen/birthers.htm>

Item 4---Supreme Court Decisions <http://www.thenationalpatriot.com/?p=3016>

Item 5---List of co-signers (all co-signers are registered voters in New Mexico)

Las Cruces Tea Party  
Gen Mitchell, President  
6700 Pueblo Vista  
Las Cruces, New Mexico 88007