STATE OF NEW JERSEY
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

IN THE MATTER OF EDWARD RAPHAEL CRUZ'S PRIMARY ELECTION PETITIONS AND HIS FALSE CERTICATION OF ELIGIBILITY FOR THE OFFICE OF PRESIDENT

AOL DOCKET NO. 5016-26 (WILLIAMS)
AOL DOCKET NO. 5018-26 (POWERS)

OBJECTOR VICTOR WILLIAMS' EXCEPTIONS TO THE

RECOMMENDATION/INITIAL DECISION OF JEFF MASIN

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Exceptions to the Recommendation/Initial Decision of Jeff Masin

Objector/Candidate Victor Williams comes now to most respectfully file Exceptions to the Recommendation/Initial Decision in this proceeding.

First. Williams strongly protests the irregularity of the Office of Administrative Law's "recall" of Jeff Masin to conduct the hearing rather than following a regular order of a random assignment of the case to a neutral officer. Mr. Masin began the hearing acknowledging that he had "been recalled" and appointed to the case because of his past experience with the natural-born citizen issue. It appears that rather than following regular order in the assignment of a neutral, objective hearing judge, the Office of Administrative Law "recalled" Mr. Masin. Any administrative economy achieved by recalling and assigning an officer because of his specific knowledge of and history with the subject/issue is of no consequence when considering the heavy costs (if only in perception) of his prejudgment. It destroys any confidence or reliability in the resulting recommendation/initial decision. To state, as some are doing, that Mr. Masin was "cherry-picked" for this case would not capture the ethical concern presented. Mr. Masin's special appointment raises a broader concern as to the future role of the Office of Administrative Law as a component part of the Lt. Governor/Secretary of State's internal deliberative processes in Election administration and particularly in maintaining New Jersey's ballot integrity.

Second. It was telling that Masin also stated at the beginnings of the hearings that he had not read the parties' briefs (which had been due and submitted for several days before the hearing); rather Mr. Masin spend the days before the hearing reading a variety of secondary sources. Mr. Masin's incredible accomplishment in producing a 26-page, quite detailed recommendation in a one-day time period deserves related note . It is now clear Jeff Masin had not changed his established opinions on this issue from his time overseeing a prior natural born citizen challenge in years past. It is more than just unfortunate that the Office of Administrative Law would have irregularly "recalled" Jeff Masin for this hearing in terms of fairness and the perception of objectivity. No public confidence can be had in the resulting recommendation. Nevertheless, it is Lt. Governor/Secretary of State Kim Guadagno whose ultimate duty it is to protect the integrity of the New Jersey ballot and enforce the U.S. Constitution's clear and unambiguous eligibility requirements for candidates for the presidency.

Third. Williams notes that his April 12 (1:30 p.m.) request for an extension of time and delay of the AOL's Recommendation to allow Williams adequate time to reply to Ted Cruz's supplemental late-night filing of April 11 was not even addressed.

Forth. Williams states his strong support for the reasoning and arguments of the Exceptions filed on April 13, 2016 by Attorney Mario Apuzzo (who represents the Powers group of objectors). Williams again separately emphasizes that, in the *Wong Kim Ark* case, the U.S. Supreme Court was required to fully consider the differences between **law of the soil** vs. **citizenship by parentage** and the high court ruled that citizenship by place (by soil) was the governing precept in interpreting the Article II, Section 1 "natural born Citizen" requirement. Also, Williams again argues that the term "natural born Citizen" was deliberately drafted and knowingly included by the 1787 Federal Convention's final product, sent to the States for ratification, to require all President must be born on the soil. It is a simple soil test just as is the requirement for a President to have been 14 years in residence on the soil. And again, Williams points out the well-established interpretative norm that the Constitution does not have "surplus" words – "natural" purposely modifies "born Citizen." While Mr. Cruz might have been naturalized "at birth" by statute, such would have only made him a "born citizen" – not a "natural born Citizen." While Mr. Cruz did not have to go through the complex naturalization process required by those aliens not born on the soil and whose parent(s) are not American citizens, he is still only a naturalized citizen. Mr. Cruz has exactly the same naturalized citizen status as those 650,000 aliens a year who become proud American citizens by more complex processes. In sum, the

ultimate decision of the Secretary of State (to protect the integrity of the New Jersey ballot and defend the U.S. Constitution's "clear and unambiguous" eligibility requirements) should be based on the text and structure of the Constitution, the drafting/ratification history of that document, and the Supreme Court's clear mandate in *Wong Kim Ark* that a "natural born Citizen" is one born on the soil of this nation.

Fifth. It is now clear that Jeff Masin has not changed his views on these matters as noted in the ethical challenge above. However, neither have the views of Chief Justice John Marshall changed regarding our Republic's basic constitutional order. Since John Marshall's opinion in *Marbury v. Madison*, citizens, lawyers, and judges have all known that the U.S. Congress may not by statute alter, tweak, add to, or subtract from the clear and unambiguous text of the U.S. Constitution. The Constitution may only be altered by the Article V amendment process. The U.S. Congress does not have the authority by legislation to alter the Constitution's absolute eligibility requirement that the President must be born on the soil ("natural born"). The U.S. Congress may by statute determine that a foreign born child of an American citizen is to be seen by the law as a "citizen at birth" in an automatical naturalization event but such legislation does not satisfy the Article II, Section 1 "natural born Citizen" requirement for a on the soil birth. Neither does the U.S.

Congress does have the magical ability to convert the Canadian-born Ted Cruz into an American-born Ted Cruz.

Sixth. Williams has noted that he shares Ted Cruz's Evangelical, "born-again" faith tradition believing in the Third Chapter in the Gospel of John in a spiritual rebirth. But beyond the spiritual, Ted Cruz now claims some type of "born again" experience that transformed him from "Canadian-born" to miraculously a "natural born [American] Citizen." The time-line for miracles is always important: this claimed miracle only happened after he decided to run for President and to renounce his Canadian citizenship in May 2014. Of course, Ted Cruz, the very intelligent Princeton man, the Harvard trained lawyer, the Supreme Court advocate who preaches textualism, strict-constructionism does not actually believe he is a "natural born Citizen." Thus, the patent falsity of his New Jersey Certificate of Eligibility and the fraud inherent in the procurement of his Signature Petitions.

Sixth. Williams notes that Mr. Masin's recommendation did not reject Williams' standing; however, it should be restated that Williams standing to challenge Mr. Cruz's ballot placement is specially as a "competitor candidate" actively seeking the election in the State of New Jersey and in other states across the nation as a "write-in" candidate. Williams has campaigned in New Jersey, has a support base in New Jersey, and has received financial contributions for his campaign from

residents in New Jersey. Williams faces imminent, concrete, and particularized injuries by New Jersey allowing the ineligible Ted Cruz on the New Jersey ballot. The absurdity of Mr. Cruz's logic that the Electoral College may afford Williams remedy to such injury when the electors meet on December 15, 2016 or when Congress meets to count those votes in January 2017 does not deserve refutation. Similarly absurd are Mr. Cruz's arguments seeking to apply the political question doctrine to restrict the instant Office of Administrative Law processes which are in this context not a function of the New Jersey judiciary but are rather only part of the internal deliberative processes of the New Jersey executive branch.

Seventh. Lt. Governor/Secretary of State Kim Guadagno has the sworn duty to maintain New Jersey ballot integrity, and to protect, preserver and defend the U.S. Constitution, by not allowing the ineligible Ted Cruz who has falsely filed a Certification of Eligibility and fraudulently procured signature petitions on the June 7, 2016 primary ballot. She also has the responsibility to prevent my certain injuries as a "competitor candidate" in New Jersey and as a national candidate in having to expend funds, resources, and energies to run against the ineligible Edward Rafeal Cruz.

Respectively submitted on this 13th day of April, 2016.

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