Barack Obama Is *Not* Constitutionally Eligible to the Office of President of the United States

Leo Donofrio Esq. website: Natural Born Citizen
http://naturalborncitizen.wordpress.com/

'No person except a natural-born citizen...shall be eligible to the office of President,' …
Is the President a natural born citizen and therefore eligible to be President? That question is not being asked by anyone in Congress, nor the press, nor broadcast media, nor academia even though the answer is "No". That question has been assumed to have never arisen in any previous Supreme Court case and been adjudicated. But the answer to it has been hidden in a case that's 135 years old and has now finally been brought to light by Leo Donofrio, Esq. He demonstrates how it clearly answers the question and that that answer indicates that the current President is ineligible for the office.

Majority Opinion in Supreme Court decision
in Minor v. Happersett, 88 U.S. 162 (1875).

"The Constitution does not in words say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. 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. "

1. "…all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also."
First, the Court states that these persons are "citizens". But then it makes a second statement about this class.

2. "These were natives or natural-born citizens, as distinguished from aliens or foreigners." This class of citizens are part of a class defined as "natural-born citizens". They are citizens, natural-born. This distinguishes them from all other citizens. If this were not the case, it would have been sufficient for the Court to stop at the first statement concerning their citizenship.

But the Court didn't stop there. Because the Court was avoiding the 14th Amendment, the Court went to the second step and defined this class to be different from all other citizens. This class did not require the 14th Amendment to [declare or define who would] be US citizens.

Whether persons born in the US to non-citizen parents were "citizens" was not a question before the Minor Court
because Mrs. Minor was natural-born, whereas Wong Kim Ark was not. The determination of his citizenship required the 14th Amendment, whereas Mrs. Minor's did not.
It was held that Mrs. Minor was a US citizen – as the syllabus states in point 2 – because she was born in the United States to

PARENTS WHO WERE CITIZENS.

This was the independent ground that springs forth precedent. (See Ogilvie Et Al., Minors v. United States, 519 U.S. 79 at 84 (1996)).

A more careful reading of the Supreme Court's opinion in Minor makes it clear that it did not construe [interpret] the 14th Amendment with regard to the citizenship of the woman who wished to vote. The question presented was whether, since the adoption of the 14th Amendment, women had gained the right to vote. The Supreme Court in Minor held that nowhere in the Constitution, including the 14th Amendment, was anyone, man or woman, granted a right to vote. And it was only this part of the Minor case which was [later] superseded by the 19th Amendment.

The other issue decided by the Court in Minor required the Supreme Court to first determine if the woman was, in fact, a US citizen. As to this determination, the Court did not construe the 14th Amendment. In fact, the Court specifically avoided construing the 14th Amendment with regard to her citizenship. Instead, the Supreme Court in Minor chose to construe Article 2 Section 1

JUDICIAL RESTRAINT

It's important to note that the Supreme Court in Minor did not hold that all women born in the US were citizens. Only those born to citizen parents in the US were deemed to be citizens by the Court in Minor.

Since the Court was not required to construe the 14th Amendment – as to Mrs. Minor's citizenship – the Court refrained from doing so. Instead, the Court construed Article 2 Section 1 as an independent ground by which the Court determined that Mrs. Minor was a natural-born citizen since she had been born in the US to parents who were citizens.

Those outside the natural-born citizen "class" were subject to doubt regarding US citizenship. And the Court in Minor exercised judicial restraint by avoiding that issue. When Wong Kim Ark was decided in 1898, some of those doubts were resolved in favor of US citizenship for those persons not in the class of natural-born citizens.
But that case DID NOT open the class of natural-born citizens to include persons born in the US WITHOUT citizen parents.

Wong Kim Ark case DID NOT EXPAND the class of Natural Born Citizens. [by including all "native-born" citizens]

The Court in Wong Kim Ark did not expand the class of natural-born citizens defined in Minor. The simplest way to put it is thus: If Wong Kim Ark had been a natural-born citizen, then the Supreme Court would never have reached the 14th Amendment issue (just as it didn't reach it in Minor.) [his citizenship would have been uncontestable]

Take note of the words "if born of CITIZEN PARENTS". They are stated at the very top of the syllabus and more than once in the Opinion of the Court.

THIS IS A DIRECT HOLDING OF THE CASE.

IT IS CLEARLY PRECEDENT.

The precedent holds that Obama is NOT ELIGIBLE to be President of the United States.

For it not to be precedent, the Court could not have held that Mrs. Minor was a US citizen. But since that determination was part of the holding, the grounds by which they made that determination ARE, therefore, precedent, NOT dicta.

The recognition of US Supreme Court precedent excluding Obama from POTUS eligibility [since he had no American father] is a theoretical game changer. This places a permanent asterisk* upon his administration's authority. It may lead to multiple challenges against official actions of his administration.

If he wishes to be a true statesman to this nation, President Obama ought to directly petition the US Supreme Court for a declaratory judgment as to his eligibility rather than let the asterisk fester.

Up until the publication of this report, all discussion of the natural-born citizen issue (from both sides of the argument) agreed there had never been a precedent established by the US Supreme Court, and that the various cases which mentioned the clause did so in "dicta".
Dicta are authoritative statements made by a court which are not binding legal precedent.
Precedent that must be followed is known as **binding** precedent. Under the doctrine of stare decisis, a lower court must honor findings of law made by a higher court. On questions as to the meaning of federal law including the U.S. Constitution, statutes, and regulations, the U.S. Supreme Court's precedents must be followed.

It can no longer be denied that there is **controlling** US Supreme Court precedent concerning the definition of a natural-born citizen according to Article 2 Section 1 of the US Constitution. This **is not a remote obscure reading**. It is, when revealed, a clear undeniable holding and binding precedent established by the highest Court of our nation which specifically defines an Article 2 Section 1 natural-born citizen as a person born in the US to **parents who are citizens**.

There you have it. The Court stops short of construing the 14th Amendment as to whether the woman in question was a US citizen. The Court made a certain, direct determination that Mrs. Minor was a US citizen **before** the adoption of the 14th Amendment and that she did not need the 14th Amendment to be a US citizen.

Therefore, the holding in Minor is in no way superseded by Wong Kim Ark.[and] the determination that Mrs. Minor was a "natural-born citizen" is still controlling precedent.

"It is sufficient for everything we have now to consider that all children born of citizen parents within the jurisdiction

are themselves citizens."
This class is specifically defined as "natural-born citizens" by the Court. The other class – those born in the US without "citizen parents" – may or may not be "citizens". But the Minor Court never suggested that this other class might also be natural-born citizens.
It's quite the opposite. The Minor Court makes clear that this class ARE NOT Article 2 Section 1 natural-born citizens. If this other class were natural-born there would be no doubt as to their citizenship.

Twenty three years later, in 1898, the Court in Wong Kim Ark took the question on directly as to who is a citizen under the 14th Amendment, -but that case did not directly construe Article 2 Section 1, whereas Minor did.
The Court in Minor had to determine if Mrs. Minor fit into the class of "natural-born citizens", and therefore had to first define that class. They found that Mrs. Minor did fit. And by their definition, Mr. Obama DOES NOT.

The 14th Amendment specifically confers only "citizenship". In Minor, the US Supreme Court directly recognized that natural-born citizens were a class of citizens who DID NOT NEED the 14th Amendment to establish citizenship. The class of natural-born citizens was perfectly defined in the Minor case.

Therefore, we have a direct determination by the US Supreme Court which defines a natural-born citizen as a person born in the US to parents who are citizens. The citizenship of this class has never been in doubt. The citizenship of the other class was in doubt. But even if that doubt was erased – as to their citizenship – that they are NOT natural-born citizens was established as precedent by the Supreme Court in Minor, [which] defined the class of persons who were born in the US to citizen parents as "natural-born citizens".

The majority opinion in Dred Scott, cited Vattel directly:

"The citizens are the members of the civil society, bound to this society by certain duties, and subject to its authority; they equally participate in its advantages. The natives or natural-born citizens are those born in the country of parents who are citizens. As society cannot perpetuate itself otherwise than by the children of the citizens, those children naturally follow the condition of their parents, and succeed to all their rights."
Again:
"I say, to be of the country, it is necessary to be born of a person who is a citizen, for if he be born there of a foreigner, it will be only the place of his birth, and not his country. The inhabitants, as distinguished from citizens, are foreigners who are permitted to settle and stay in the country." Vattel, Book 1, cap. 19, p. 101

THE US SUPREME COURT DEFINITION OF PRECEDENT

In 1996, the US Supreme Court's majority opinion by Justice Breyer in Ogilvie Et Al., Minors v. United States, 519 U.S. 79 (1996), stated that when the Court discusses a certain "…reason as an 'independent' ground in support of our decision", then that reasoning is not simply dictum:

"Although we gave other reasons for our holding in Schleier as well, we explicitly labeled this reason an 'independent' ground in support of our decision, id., at 334. We cannot accept petitioners' claim that it was simply a dictum."
The Court's definition of a "natural-born citizen" was the core reason they found Mrs. Minor to be a citizen. Therefore, the Minor Court established binding precedent as follows:

"…[A]ll 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..."

STATE DEPT. STATEMENT:

The current US Department of State Foreign Affairs Manual, at "7 FAM 1131.6-2 Eligibility for Presidency", comments on the 1790 Naturalization Act as follows:

"This statute is no longer operative, however, and its formula is not included in modern nationality statutes. In any event, the fact that someone is a natural born citizen pursuant to a statute DOES NOT necessarily imply that he or she is such a citizen for Constitutional purposes."

The Minor Court also noted that the "substance" of the 1790 act, which granted US citizenship at birth via naturalization, had remained as law up until 1875 when the Minor case was decided. So, clearly, while citizens may either be born or naturalized, some born citizens are simultaneously [born and] naturalized [automatically] at birth. Naturalized citizens are NOT natural-born citizens. Therefore, they are NOT ELIGIBLE to be President.
Wong Kim Ark is specifically limited to determining who is a citizen under the 14th Amendment. [for those lacking US citizen parents -plural]
Minor is specifically limited to determining who is [automatically a natural] US citizen, -natural born.

According to the US Supreme Court precedent established by Minor, Obama IS NOT ELIGIBLE to the office of President of the United States.

If you understand the importance of this post, you will pass it on far and wide so the attention of the nation can focus on this true Constitutional crisis. Leo Donofrio, Esq.

The Minor Court cited the first naturalization act of 1790 to the effect that persons born of US citizen parents – outside the jurisdiction of the US – are "considered as natural-born citizens". So, here we can see that while the Minor Court only recognizes two paths to citizenship, birth and naturalization… it is clear that some persons who, at the time of their birth, [outside the U.S.] are, [nevertheless],US citizens, [but] require naturalization for such status.
[Note: One who is born to naturalized parents, or parent, is, by Naturalization law, "Natural-ized" automatically upon birth via naturalization statute, as well as being deemed a US citizen by the 14th Amendment if the parent(s) are permanent U.S. residents, and not foreign diplomats/military/visitors, but they are NOT deemed to be natural born citizens.]

~Brackets & capitals by a.r. nash http://obama--nation.com