



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission  
Staff Director  
Acting General Counsel  
FEC Press Office  
FEC Public Disclosure

**FROM:** Office of the Commission Secretary *De g*

**DATE:** August 31, 2011

**SUBJECT:** Comment on Draft AO 2011-15  
(Abdul Karim Hassan, Esq.)

**Transmitted herewith is a timely submitted comment from Crawford M. Kus regarding the above-captioned matter.**

**Draft Advisory Opinion 2011-15 is on the agenda for September 1, 2011.**

**Attachment**

**Kus: public comment on the FEC's draft Advisory Opinion 2011-15**

12 Freeman Court  
Windham, Maine 04062  
August 30, 2011

**Office of the Commission Secretary  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463  
Via fax (202) 208-3333**

**and copy to:**

**Office of General Counsel  
ATTN: Rosemary C. Smith, Esq.  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463  
Via fax (202) 219-3923**

**Re: Public comment on the FEC's DRAFT A and DRAFT B of ADVISORY  
OPINION 2011-15 to be read into the public record at an open meeting on  
September 1st, 2011.**

**Dear FEC Citizens:**

**According to the Constitution and affirmed by binding US Supreme Court  
precedent Mr. Hassan is not eligible to be President. By his own admission  
Mr. Hassan is not a "natural born" citizen as required by the Constitution for  
the United States of America, Article 2 Section 1. It is patently absurd to  
give taxpayer dollars to someone who may not become President under the  
"natural born" citizen requirement of the Constitution. Congress never  
intended to give money or recognition to any illegal candidacy when it  
created the matching fund program. The "natural born" requirement has not  
been trumped by the Fifth and/or Fourteenth Amendments as Mr. Hassan  
suggests. Mr. Hassan may not become President and giving him matching  
funds would certainly be absurd and fraud.**

**Under law of the Constitution and binding US Supreme Court precedent  
regarding the "natural born" requirement of Article 2 Section 1, the FEC is  
prohibited from issuing any declaratory judgment declaring that Mr. Hassan**



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**may be a candidate for President or that he may solicit funding as a candidate for President. The FEC is not authorized to judge or decide any Constitutional matter.**

**Supreme Court precedent in *Minor v. Happersett* construed the natural-born citizen clause of Article 2 Section 1 to make only those persons born in the US to citizen parents eligible to be President. The US Supreme Court definition of an Article 2 Section 1 "natural born" citizen as stated in *Minor v Happersett* is strictly limited to those persons born in the United States to parents who were citizens.\* No legislative, judicial or executive agency may change that requirement of the Constitution. Accordingly, Mr. Hassan is not eligible to be President.**

### **NATURAL BORN CLARITY**

**The Supreme Court in *Minor* specifically avoided construing the 14th Amendment as to the issue of whether Virginia Minor was a US citizen. Instead, the Court looked no further than the natural-born citizen clause in Article 2 Section 1. The Court held that *Minor* was a member of the "class" of persons who were "natural born" citizens. They defined this "class" as those born in the US to parents (plural) who were citizens.\***

**The Court also noted that the "citizenship" of those born to non-citizen parents was subject to doubt. Since Virginia Minor was in the class of "natural born" citizens, that doubt didn't need to be resolved. The Court exercised judicial restraint and thereby avoided construction of the 14th Amendment as to the citizenship issue.\***

**Such avoidance and restraint were called for. In order for the Court to act, there must be a genuine controversy with regard to the laws in question. Since there was no controversy before the Court involving a 14th Amendment citizenship issue, the Court decided the issue on other grounds, specifically Article 2 Section 1.\***

**Now we turn to *US v. Wong Kim Ark*. In that case, the US Supreme Court held that (some) persons born in the United States of alien parents were "citizens". In doing so, the Court stated that it was specifically construing only the 14th Amendment. And here lies the rub of clarity:**

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**If Wong Kim Ark had been a natural-born citizen, the Supreme Court would never have reached the 14th Amendment issue (just as it didn't reach it in Minor.)\***

**THE NATURAL BORN CITIZEN CLAUSE HAS NOT BEEN AMENDED OR REPEALED.**

**Minor and Wong Kim Ark were both decided years after the 14th Amendment had been adopted. Minor *avoided* construing the 14th Amendment, while Wong Kim Ark *required* it. Since Wong Kim Ark was not a "natural-born" citizen under Article 2 Section 1, the Supreme Court looked to the 14th Amendment to grant him citizenship.\***

**The 14th Amendment did not repeal or amend Article 2 Section 1. Furthermore, while other parts of Article 2 Section 1 have been amended (by the 12th and 25th Amendments), the natural-born citizen clause has never been amended or repealed.\***

**Article 2 Section 1 is stated with clarity, precisely, and specifically with no ambiguity that: "No Person except a natural born Citizen ... shall be eligible to the Office of President ...".**

**Article 2 Section 1, Clause 5 is now and always has been the law, the same, unchanged, ever since the beginning when it was first enacted. It has not changed. It has not been "trumped" by any other amendment. It continues to be the law. It remains in full force and effect before, during, and after this open meeting. No valid Constitutional issue has been raised by Mr. Hassan. Therefore, no advisory opinion is necessary or even allowed.**

**Inquisitor/applicant, Mr. Hassan may not become President.  
Inquisitor/applicant, Mr. Hassan may not seek to be elected President.  
Inquisitor/applicant, Mr. Hassan may not call himself a candidate for President.**

**Inquisitor/applicant, Mr. Hassan may not be considered, recognized or designated in any way using the terminology "candidate" for President. To do so would be confusing, misleading, wrong, and might interfere with the electoral process.**

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In reading the correspondence dialog, there could be other motives behind such a request to the FEC such as the following.

The dialog could be suspected as an attempt to defraud the public into contributing to one not qualified to become President. The dialog could be suspected as a ploy in attempt to create a divisive court case. The dialog could be suspected as an attempt to get the FEC to "rubber stamp" the inquisitor's/applicant's stratagem. The dialog could be suspected as an attempt to trick the FEC into volunteering an advisory opinion that may not be legal or necessary. The dialog could be suspected as a scam to upset, bias or interfere with the electoral process

### **BOTH DRAFT ADVISORY OPINIONS ARE WRONG**

Both advisory opinions answer three of Mr. Hassan's four questions in a similar way. They state that **Mr. Hassan could be a candidate, may solicit funds and would be required to file disclosure reports.** Both Mr. Hassan and/or the FEC could commit fraud by explicitly, implicitly, or tacitly suggesting or recognizing Mr. Hassan as a "candidate" for President in contravention of the law of the Constitution and SCOTUS.

Mr. Hassan's application/request appears to be divisive and frivolous and should be denied. Inquisitor/applicant, Hassan must be advised that he may not be a candidate and that should he solicit Presidential campaign funds he could be subject to prosecution for Presidential campaign fraud.

Respectfully submitted,



Crawford M. Kus

\* Note: This Public Comment makes extensive use of materials publicly available from Leo Donofrio, Esq. at <http://naturalborncitizen.wordpress.com/>