

Yes, Ted Cruz Likely Eligible to Be President

On March 8, reporter Carl Cameron on *Special Report* on Fox News Channel was surveying potential GOP 2016 presidential candidates. Then he raised Ted Cruz—one of the most brilliant constitutional lawyers ever to serve in the Senate—the new 41-year old Hispanic senator from Texas.

Cameron added, “But Cruz was born in Canada and is constitutionally ineligible” to run for president. While many people assume that, it’s probably not true.

Cameron was referring to the Constitution’s Article II requirement that only a “natural-born citizen” can run for the White House.

No one is certain what that means. Citizenship was primarily defined by each state when the Constitution was adopted. Federal citizenship wasn’t clearly established until the 14th Amendment was ratified in 1868. The Constitution is not clear whether it means you must be born on U.S. soil, or instead whether you must be born a U.S. citizen.

Cruz was born in Canada, but his mother was a lifelong American, born in Delaware. (His father was a political refugee from Cuba.) So under federal law, Cruz was born an American citizen by virtue of his mother.

His family moved back to Texas, where Cruz grew up, and lived his entire life except the years he spent in New Jersey attending Princeton, Massachusetts attending Harvard Law School, and Washington, D.C., clerking for Chief Justice William Rehnquist at the Supreme Court and later serving in the Bush administration. So this former Texas solicitor general was born an American citizen and has spent almost all his life in America-usually serving his state or nation.

It would be better to report, "Some constitutional experts say he would be ineligible," or more accurate still, "A small minority of constitutional experts say he would be ineligible." But no one can make the unqualified claim that the Constitution declares Ted Cruz is unable to run for president.

There's never been a court case to decide this issue, and there are only a few law review articles written by professors. The only professor I know of who thinks Cruz is ineligible to run for president also said John McCain was ineligible to run for president because he was born on a U.S. Navy base in Panama. I don't recall any media outlet reporting John McCain was ineligible to be president.

The most likely meaning of the national-born clause is that you must have been an American citizen at birth, so that you would not have greater loyalty to some foreign nation. Cruz was born an American citizen, and has spent most of his life serving this nation with unabashed patriotism.

If Cruz runs for the White House, then one of his opponents in the primary would have standing to sue in federal court to argue Cruz is ineligible. But the smart money would be on a court agreeing that Cruz is as eligible as anyone else who was born an American citizen.

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