

# California lawsuit questions McCain's Eligibility for Presidency

McCain is not a "natural-born citizen"

By [Prof. Michel Chossudovsky](#)

Global Research, August 30, 2008

30 August 2008

Region: [USA](#)

In-depth Report: [U.S. Elections](#)

Five days before The Denver Democratic Convention, a law suit was filed in a Pennsylvania federal court, accusing Barack Obama of lying regarding his citizenship. The legal filing pertaining to Obama's birth certificate was launched by Philip J. Berg, a close associate of Hillary Clinton.

Global Research covered this story. For further details see:



[Obama Sued in Philadelphia Federal Court on Grounds he is Constitutionally Ineligible for the Presidency](#)

- by Jeff Schreiber - 2008-08-23

This week, barely a few days before the Republican National Convention in Minneapolis - Saint Paul, a second law suit was launched, this time, against John McCain, who was born in a US military base in the Panama Canal Zone, where his father was stationed with the US Navy.

From a legal standpoint, it is argued, McCain is not a "natural-born citizen", which is a Constitutional requirement to be president.

"Federal law says anyone born in the Panama Canal Zone after Feb. 26, 1904, as a child of U.S. citizens is declared to be a U.S. citizen himself or herself. Some have questioned, however, whether this makes McCain a "natural-born citizen," a term the Constitution doesn't define any further; the federal law took effect about one year after McCain's birth, and doesn't say the person's citizenship was considered to have been acquired at birth." (Oakland Tribune, August 28, 2008)

"Theodore Olson, a former solicitor general who is advising the McCain campaign, said in February that he's confident Mr. McCain meets the constitutional requirement. Legal scholars say there is no precedent on the

subject because all previous presidents have been born within the 50 states or territories that became states. (Washington Times, August 28, 2008)

[The Constitution \(Art II, Section 1\)](#) states: “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”

The US media is mute on both lawsuits, which could potentially encroach upon the electoral process.

## **Lawsuit over McCain citizenship should be tossed, GOP lawyers say**

**By Josh Richman**

**Oakland Tribune**

**08/28/2008 06:19:23 PM PDT**

Lawyers for John McCain and the state and national Republican Party on Thursday asked a federal judge in San Francisco to dismiss a lawsuit challenging the candidate's place on California's Nov. 4 ballot.

Markham Robinson of Vacaville, chairman-elect of California's American Independent Party, sued McCain, the GOP and California Secretary of State Debra Bowen on Aug. 11, arguing the presidential candidate's birth 72 years ago today in the Panama Canal Zone means he's not a “natural-born citizen” — a Constitutional requirement to be president.

But lawyers for the GOP and McCain wrote Thursday that Robinson lacks standing to sue and is asking the courts to tread where the Constitution forbids.

Robinson hasn't shown McCain's candidacy causes him any harm, they said: He's neither a presidential candidate himself nor authorized to sue on behalf of his party or party nominee Alan Keyes, and stripping McCain from the ballot won't much improve the party's or Keyes' chances of winning.

If McCain were tossed, the GOP presumably would put up someone else in his place, they wrote. And even without a Republican in the race, they added, “Ambassador Keyes still would have to defeat Senator Obama in the state's general election.”

Keyes ran against Obama for a U.S. Senate seat in Illinois in 2004 after Republicans drafted Keyes as a last-minute replacement for their initial nominee, Jack Ryan, who withdrew amid a sex scandal. Obama won the election with 70 percent of the vote to Keyes' 27 percent. If that race is any guide, the GOP's lawyers dryly noted Thursday, Keyes' probability of beating Obama for president in California “seems, at best, speculative.”

Anyhow, they argued, the Constitution says issues of presidential eligibility are to be decided by voters and the Electoral College and not the courts — a matter of separation of powers among the government's branches. And federal courts lack jurisdiction and cause to direct Bowen to exceed her statutory powers by questioning a party nominee's eligibility.

Robinson must file an opposing brief by Sept. 4, and U.S. District Judge William Alsup will

consider the case Sept. 11.

The lawyers' brief doesn't discuss McCain's citizenship status. Federal law says anyone born in the Panama Canal Zone after Feb. 26, 1904, as a child of U.S. citizens is declared to be a U.S. citizen himself or herself. Some have questioned, however, whether this makes McCain a "natural-born citizen," a term the Constitution doesn't define any further; the federal law took effect about one year after McCain's birth, and doesn't say the person's citizenship was considered to have been acquired at birth.

McCain supporters have pointed to a 1790 law that provided that children of U.S. citizens born abroad "shall be considered as natural born citizens." Though no longer in effect, that law indicates what the founding fathers were thinking when the Constitution was drafted, those supporters contend.

The American Independents, a conservative party recently plagued by factional infighting, had 331,619 members as of May 19, comprising just over 2 percent of the state's registered voters. But there's anecdotal evidence that some voters join the party by mistake, believing they're registering as nonpartisan or "decline-to-state" voters.

Now, at the same time, there is a similar lawsuit pending in Pennsylvania about the Democratic nominee! Here's the story on that from the Washington Times: <http://www.washingtontimes.com/news/2008/aug/28/lawsuit-questions-obamas-eligibility-for-office/>

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