



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KURT S. BROWNING
Secretary of State

July 27, 2011

Abdul K. Hassan, Esq.
215-28 Hillside Avenue
Queens Village, New York 11427

RE: DE 11-03 Presidential Elections; Candidates –
Ballot access. § 103.021, Florida Statutes

Dear Mr. Hassan:

This letter responds to your request for an advisory opinion. As a declared presidential candidate for 2012 and a person engaged in political activity, you desire to know if your name would be placed on the ballot for President of the United States if you met all of Florida's requirements for placement on the ballot as a no-party-affiliated candidate or as a nominee of a political party for President of the United States even though you do not satisfy the requirement in Article II, § 1, U.S. Constitution, of being a natural born citizen of the United States. Instead, you state you are a naturalized U.S. citizen and you have ongoing litigation in federal court regarding the citizenship requirements of President. Because you have questions about the provisions of Florida's election laws, the Division of Elections has the authority to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2010).

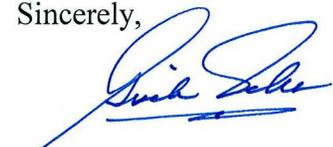
Section 103.021, Florida Statutes, as amended by Ch. 2011-40, § 45, Laws of Florida (2011), governs ballot access in Florida for presidential candidates who have no party affiliation and those who are the nominees of political parties. Assuming you satisfy all requirements of section 103.021, the Secretary of State of Florida performs only a ministerial function as a filing officer for such candidates. The Secretary of State has no authority to look beyond the filing documents to determine if a candidate is eligible. The Florida Supreme Court long ago stated: "The law does not give the secretary of state any power or authority to inquire into or pass upon the eligibility of a candidate to hold office for the nomination for which he is running." *Davis ex rel. Taylor v. Crawford*, 116 So. 41, 42 (Fla. 1928). If a presidential candidate (or the party in the case of a political party nominee) files the required papers under Chapter 103, Florida Statutes, which papers are complete on their face, the Secretary must grant ballot access to the candidate. However, the Secretary's ministerial granting of ballot access would not preclude litigation from proper plaintiffs to remove a candidate's name from the ballot if the candidate does not satisfy the qualifications for the office of President of the United States.

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SUMMARY

A no-party-affiliated candidate or a nominee of a political party who satisfies all the requirements in section 103.021, Florida Statutes, will be placed on the ballot in Florida as a candidate for President of the United States. Florida's Secretary of State performs only a ministerial function as a filing officer for such candidates and has no authority to look beyond the filing documents to determine if a candidate is eligible to hold the office of President. However, the ministerial placing of one's name on the ballot does not preclude litigation to have the name removed from the ballot for not satisfying the eligibility requirements of the office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gisela Salas", with a horizontal line underneath the name.

Dr. Gisela Salas
Director, Division of Elections