

FROM THE DESK OF
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SENT VIA EMAIL ONLY:

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JASON MARINER FOR CONGRESS

ATTN: JASON MARINER

Dear Mr. Mariner:

RE: FALSE CLAIMS ABOUT MR. MARINER'S ELIGIBILITY TO RUN FOR CONGRESS AND HOLD OFFICE IN THE U.S. HOUSE OF REPRESENTATIVES UPON HIS ELECTION

The media allegations regarding Mr. Mariner's eligibility to run for office in the 20th Congressional District are weak and baseless. To be clear, Mr. Mariner is eligible to hold office in the United States House of Representatives. In particular, the Report for Congress prepared by Jack Maskell, Legislative Attorney of the American Law Division entitled Congressional Candidacy, Incarceration, and the Constitution's Inhabitancy Qualification¹ states emphatically the following:

The issue of whether one is permitted to run for and hold office in the House of Representatives either after a felony conviction, and/or while incarcerated in prison, specifically involves a question of the qualifications, or disqualifications, to be a Representative in Congress. There are three, and only three "positive" qualifications for Representative in Congress set out in the United States Constitution: (1) age (25 years); (2) citizenship (7 years); and (3) inhabitancy (one must be an "inhabitant" of the State from which chosen "when elected").

It is now well-settled that these three qualifications for office in the Constitution are the exclusive qualifications for Congress (and are not merely “minimum” qualifications), and that they are fixed and may not be supplemented by Congress nor by any State unilaterally. Specifically, there is no qualification in the Constitution that one not be a convicted felon (nor a “disqualification” for offenses other than in the 14th Amendment for certain treasonous conduct by those who have taken an oath of office). Similarly, there is no qualification in the Constitution that a person, when elected to Congress, not be in prison. Furthermore, no State could permissibly implement such additional qualifications for federal office through election laws or ballot procedures. The Framers of the Constitution intentionally implemented a representative scheme whereby significant discretion is given and deference provided to the judgment and choice of the people as to whom they wish to have represent them in Congress.

The law of the land is clear that the Constitution provides the exclusive qualifications to be a Member of Congress, and that neither a state nor Congress itself may add to or change such qualifications to federal office, absent a U.S. Constitutional Amendment.ⁱⁱ

The Qualifications of Members of the U.S. House of Representatives are found in U.S. Constitution Article I, Section 2, Clause 2:

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

The United States Supreme Court, in the matter of *United States v. Classic*, 313 U.S. 299, 314, 61 S. Ct. 1031, 1037, 85 L. Ed. 1368 (1941) held that:

The right of the people to choose, whatever its appropriate constitutional limitations, where in other respects it is defined, and the mode of its exercise is prescribed by state action in conformity to the Constitution, is a right established and guaranteed by the Constitution and hence is one secured by it to those citizens and inhabitants of the state entitled to exercise the right.

In a later case, the High Court ruled that the even the House, which has broad powers of governance over its members could only review Member Qualifications within the four corners of the eligibility criteria set forth in the Constitution. Per the High Court in *Powell v. McCormack*, 395 U.S. 486, 550, 89 S. Ct. 1944, 1979, 23 L. Ed. 2d 491 (1969):

Further, analysis of the ‘textual commitment’ under Art. I, s 5 (see Part VI, B (1)), has demonstrated that in judging the qualifications of its members Congress is limited to the standing qualifications prescribed in the Constitution.

The Supreme Court in the Powell case quoted Hamilton’s reasoning for limiting the power of the States and the Federal branches of government to disqualify members of the house by explaining:

The true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect in proportion as the current of popular favor is checked. This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed.ⁱⁱⁱ

Additionally, the House of Representatives has routinely dismissed challenges to the legitimacy of a Member-elect based

on alleged failure to comply with a state requirement; when states sought to enlarge the qualifications laid out in the United States Constitution.^{iv}

Despite this, Florida law further supports Mr. Mariner's eligibility and his right to vote. See specifically, section 4, Article VI, Fla. Const., and section 98.0751, Fla. Stat. through Section 98.0751, Fla. Stat. (Restoration of voting rights; termination of ineligibility subsequent to a felony conviction):

(1) A person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution upon the completion of all terms of his or her sentence, including parole or probation.

Therefore, as is clearly written into Florida Law the voting disqualification must automatically terminate at the completion of all terms of his or her sentence, including parole or probation.

This position is further substantiated by the Florida Department of State. As it points out the following standard via the Division of Elections on its' own website in the below excerpt: ^v

What standards govern eligibility to vote after a felony conviction?

- > A felony conviction in Florida for murder or a sexual offense makes a person ineligible to vote in Florida unless and until the person's right to vote is restored by the [State Clemency Board](#).
- > For any other felony conviction in Florida, a person is eligible to register and vote if the person has completed all terms of his or her sentence. *Completion of the sentence* means:
 - > Prison or jail time;
 - > Parole, probation, or other forms of supervision; and
 - > Payment of the total amount of all fines, fees, costs, and restitution ordered as part of the felony sentence.

Therefore, despite the spurious claims of the Media Outlets there are no special applications that Mr. Mariner neglected to submit.

Mr. Mariner did not need to submit any applications as this was the objective and reason behind the people of Florida passing Florida Constitutional Amendment 4: STANDARDS GOVERNING ELIGIBILITY TO VOTE AFTER A FELONY CONVICTION. This restored voting rights to Mr. Mariner and now some of those very same people have voted for Mr. Mariner to represent their interest.

The recent media articles surrounding Mr. Mariner and his qualifications to hold office in the U.S. House of Representatives is nothing more than click-bait and it is a tactic employed in an effort to demoralize the campaign's voter base and distract from the real issues that are being addressed by Mr. Mariner.

Sincerely,

DAVID MITCHELL GRAHAM
Attorney-at-Law

ⁱ U.S. Congressional Research Service, Congressional Candidacy, Incarceration, and the Constitution's Inhabitancy Qualification, RL31532, August 12, 2002, Jack Maskell (<https://sgp.fas.org/crs/misc/RL31532.pdf> Retrieved November 8, 2021).

ⁱⁱ U.S. Congressional Research Service, Qualifications of Members of Congress, R41946, January 15, 2015, Jack Maskell (<https://sgp.fas.org/crs/misc/R41946.pdf>, Retrieved November 8, 2021).

ⁱⁱⁱ Two Debates on the Federal Constitution, p. 257 (J. Elliot ed. 1876)

^{iv} 1 Hinds' Precedents of the House of Representatives § 414 (1907).

^v <https://dos.myflorida.com/elections/for-voters/voter-registration/constitutional-amendment-4felon-voting-rights/> Retrieved November 7, 2021.