

The Haley nbC Issue and the CNN Spin

by [Joseph DeMaio](#), ©2024



Gage Nikki Haley at an Iowa campaign event, Jan. 11, 2023 (Credit: [Skidmore, Wikimedia Commons, CC by SA 3.0](#))

(Jan. 23, 2024) — The blowback continues on the Substack [article](#) posted by one Paul Ingrassia positing that Nikki Haley is constitutionally ineligible because she is likely not a natural born Citizen (“nbC”) as required by Art. 2, § 1, Cl. 5 of the Constitution. Guess what: Ingrassia is more than likely *absolutely* correct.

He contends that, in order to be an nbC, one needs to be born on U.S. soil to two parents who at that time are already U.S. citizens. This, of course, is the definition articulated by Swiss attorney, jurist and scholar Emer de Vattel in § 212, Book 1, Ch. 19 of his 1758 [treatise](#), *The Law of Nations*, hereafter, for brevity “§ 212.”

And for remaining doubters, the historical record is clear that the Founders were in possession of that treatise, both in French and English, when they were drafting the Constitution in 1787, as acknowledged by the Supreme Court [here](#), [here](#) and [here](#).

An earlier Ingrassia [article](#) prompted President Trump to post on his TruthSocial platform a [concurrence](#), discussed at *The P&E* by the intrepid Editor [here](#) and by your humble servant [here](#). As expected, Mr. Trump’s post triggered the usual suspect blather of “birtherism,” “xenophobia,” “misogyny,” “racist dog whistle” and, of course, the omnibus general “Orange Man Bad” pejoratives. Childish and uninformed, but not altogether unexpected.

That paragon of objective journalism – CNN – has now jumped into the fray with this: [What to know about false ‘birther’ claims about Nikki Haley | CNN Politics](#). The article is by one Marshall Cohen, a CNN reporter based in Washington, D.C., and whose bio sketch states that, among other assignments, he “covered the January 6 insurrection.” [*sic*].

Even in a personnel profile, CNN cannot seem to grasp that the tumult at the Capitol on Jan. 6, 2021 may have been chaotic, but it was *not* an “insurrection.” It is akin to calling a cub reporter’s first fire a “conflagration.” Then again, as one of the leading purveyors of journalistic misinformation, Democrat propaganda and outright fabrications, CNN’s H.R. department’s careless selection of words is not unusual. It is as if Goebbels’ ghost haunts the halls of CNN.

But I digress.

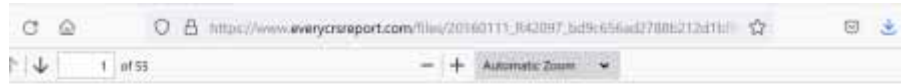
J.D.

The Cohen article’s first sentence boldly states that “[F]ormer UN Ambassador Nikki Haley is eligible to serve as US president, despite right-wing ‘birther’ questions about her natural-born citizenship [*sic*]...” Really? Missing from Cohen’s CNN bio is any reference to his possession of a law degree or that he moonlights as a U.S. Supreme Court Justice. BTW, Ingrassia graduated from Cornell Law School, *juris doctor*, in 2022. Young, but unlike Cohen, possessed of a J.D. degree from, arguably, a better than average law school.

Categorical statements such as those coming from “journalists” like Cohen have done almost as much damage to objective analyses of the nbC issue as the “[products](#)” of the Congressional Research Service (“CRS”) and former attorneys in the U.S. Solicitor General’s Office.

To begin with, Cohen carelessly utilizes the [neologism](#) “natural born citizenship” when referring to Nikki Haley’s asserted status as a “natural born Citizen” under the Constitution. The neologism appears *nowhere* in the Constitution, in *any* of its amendments or in *any* U.S. Supreme Court decision even mentioning the nbC issue. That

error is discussed in more detail [here](#). Parenthetically, the Ingrassia posts also use the term, and it too should be in the future avoided.



Qualifications for President and the “Natural Born” Citizenship Eligibility Requirement

name redacted
Legislative Attorney

January 11, 2016

If repeated enough times, even a false neologism begins to take on the appearance of the truth. The tactic blossomed during the period when the CRS was still pumping out its “products” to continue shielding Barack Hussein Obama from nbC scrutiny, as seen [here](#).

The Cohen article also boldly – and falsely – asserts that “in the US, anyone born on American soil automatically becomes a citizen, thanks to the 14th Amendment.” Cohen omits – perhaps taking an editorial cue from the CRS – the “and subject to the jurisdiction of [the United States]...” language of the Amendment. Standing alone, Cohen’s assertion would make the children of foreign diplomats and those of hostile occupying soldiers U.S. citizens. Careless and absurd.

CNN purported constitutional law guru Cohen then continues by first acknowledging that both of Nikki Haley’s parents were citizens of India – not the United States – when she was born in South Carolina, but then adds, haughtily, “[r]egardless, this is irrelevant to the question of Haley’s status as a natural-born citizen.”

Seriously? To the contrary, it is the *core* issue affecting not only the nbC *bona fides* of Nikki Haley – who at present is merely a person *aspiring* to be president – it directly and *immediately* affects the highly questionable eligibility *bona fides* of the nation’s Word-Salad/Cackle Queen: sitting Vice-President Kamala Harris. The Cohen approach is to conflate a 14th Amendment “citizen” with an nbC under Art. 2, § 1, Cl. 5. That approach gives new meaning to the term “*non sequitur*.”

After Cohen previously conceded, correctly – *** gasp *** – that the Constitution does not define the nbC term, and that the Supreme Court “*hasn’t ever ruled directly on what it means in relation to presidential eligibility...*” (Emphasis added), he forges ahead with the claim that the “legal consensus has consistently centered on the idea that a ‘natural-born citizen’ is someone who was a citizen at the time of their birth.”

First, while true of both a 14th Amendment citizen as well as a true “de Vattel” § 212 nbC, Cohen’s abbreviated conclusion disregards the import of parental citizenship. That condition was a fundamental *jus sanguinis* (law of blood or descent) factor motivating the Founders to adopt a **higher**, rather than a **lower** barrier to the potential for the insinuation of foreign influence into the presidency.

Second, the “citizen at/by birth” with no need for further “naturalization” standard advocated [here](#) by former U.S. Solicitors General Paul Clement and Neal Katyal – where only one parent need be a U.S. citizen and the birth can take place anywhere on the globe – sets a far **lower** barrier to the insinuation of foreign influence than does the § 212 nbC one.

Even Monsieur Cohen should be able to see: presented with the two options, one a higher barrier, the other a lower barrier, which one would the Founders more likely have adopted?

I’ll wait.

Finally, Mr. Cohen quotes one Rick Hasen, who he characterizes as “a leading election law scholar” and a professor at the UCLA School of Law. Professor Hasen is quoted: “It has long been accepted that anyone born on United States soil is a natural-born citizen of the United States entitled to serve as President. Although some anti-immigration forces have sought to change this rule, the question is not in legal doubt.”

Really?

For starters, once upon a time, it had “long been accepted” that the sun orbited the Earth perched on a giant turtle instead of vice-versa and that slaves in the nation were not “persons,” but instead were “property” owned by the slaveholder. Both of those obtuse theories were wrong when conceived and have mercifully long been abandoned.

Second, if it were true that it has been “long accepted” that “anyone born on United States soil is a natural-born citizen of the United States entitled to serve as President,” then we would presumably already have a Supreme Court decision so holding. But as Mr. Cohen (correctly) notes, we do not. That would seem to pull the life-support plug on the oft-repeated fable that the [decision](#) in *United States v. Wong Kim Ark* has “settled” the issue. It has not and it does not.

In short, both CNN and Professor Hasen – along with a *boatload* of “de Vattel Deniers” – need to heed the advice of the caveman in the classic Geico Insurance “Apology” [commercial](#) from the 1980’s: “Yeah, maybe next time do a little research.”

Like Paul Ingrassia has done.