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Shayana Kadidal

Posted October 27, 2008 | 05:36 PM (EST)

Can Ted Stevens Vote for Himself? Not Anymore

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The *New York Times* reports, correctly, that Sen. Stevens can run for reelection despite his convicted felon status:

"Despite being a convicted felon, [Sen. Ted Stevens] is not required to drop out of the race or resign from the Senate."

If he wins re-election, he can continue to hold his seat because there is no rule barring felons from serving in Congress. The Senate could vote to expel Stevens on a two-thirds vote."

Ironically, though, it looks like Stevens may not be able to **vote** for himself. Felons whose crimes involve "moral turpitude" (defined by state law to include bribery, Alaska Stat. 15.60.010(9)) cannot vote in Alaska, at least until their civil rights are restored, which only happens when "a person is released from all disability arising under a conviction and sentence, including probation and parole." (The statute is at this citation: Alaska Stat. 15.60.010(39).) Deregistration from the voting rolls is automatic upon conviction.

Stevens was convicted of violating ethics disclosure rules. Technically the indictment charged violation of the federal criminal statute 18 U.S.C. 1001, which makes it a crime to knowingly fill out a federal form falsely. I guess the question now is whether that offense fits within the definition of a "felony involving moral turpitude" under Alaska law, below:

(9) "felony involving moral turpitude" includes those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, promoting prostitution, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography;

I would guess it does, but I invite input from the legal experts out there in the comments. If I'm right about that, Stevens joins the 5.3 million Americans who will be denied the right to vote because of their status as felons. In about a dozen states, one can lose the right to vote even after your probation is over. More on that issue generally here.

UPDATE: See the discussion below in the comments regarding whether Stevens is officially "convicted" (for purposes of the Alaska voter laws) upon the jury issuing its verdict, or whether something more needs to happen -- the judge issuing a final sentence (which won't happen here until February), or a "judgment of conviction" under Federal Rule of Criminal Procedure 32(k), which would include the results of the sentencing (and thus would also issue far after the election). Murky issues like this, at the intersection of state and federal law, are what we lawyers get paid the big bucks to sort out.

--October 27, 2008

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NEW

If he is now a convicted felon, does he lose his voter registration in Alaska?

Does Alaska require that candidates for public office be registered to vote? I know Colorado does, because a few announced candidates had to drop out because of this.

We need some lawyering up in Alaska.

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 - HenryDavid [See Profile I'm a Fan of HenryDavid](#) [permalink](#)

NEW
 Beyond a felony conviction, he's a U.S. Senator in a position of high public trust who repeatedly betrayed that trust to enrich himself illegally and then lie about it. Sen. Stevens needs to go to jail.

At the risk of being idealistic, I'll mention what I'd like to see. I believe all congressmen, when assuming office, should take an oath of honesty with the added clause that if they take a bribe or payoff and are convicted of such, they agree to resign immediately and go to jail. We might be able to raise the quality and character of representatives a notch or two.

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 - preemptivlove [See Profile I'm a Fan of preemptivlove](#) [permalink](#)

NEW
 obviously i meant "bribery". anyway, he wasn't convicted of that, so not sure if this piece is true. they didn't pursue bribery charges/a quid pro quo. sad but true.

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 - preemptivlove [See Profile I'm a Fan of preemptivlove](#) [permalink](#)

NEW
 love this piece, but.....

stevens was intentionally not prosecuted for or convicted of "briber". oh well. nice try.

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 - fredfep [See Profile I'm a Fan of fredfep](#) [permalink](#)

I don't think he's a felon yet, before sentencing and appeals, is he?

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 - Fez [See Profile I'm a Fan of Fez](#) [permalink](#)

He has been a felon for years. It was just confirmed yesterday by a jury. He's 84 years old, so if he appeals he will likely die before he has to serve any jail time. If he wins this election, we will have yet one more 90-year old senator. And judging by the performances of Strom Thurmond and Robert Byrd, we need to set an upper age limit in Congress to prevent being ruled by a sclerotic gerontocracy like the Kremlin under Brezhnev.

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 - WilliePilgrim [See Profile I'm a Fan of WilliePilgrim](#) [permalink](#)

While not fan of Stevens and his shenanigans, niether am I a fan of automatically prohibiting a citizen from voting just because they've been convicted of a felony or federal offense. If I'm not mistaken, I think you might be equally liabel if you fail to pay at parking ticket in a National Park. And more importantly civil disobedience might incurr the same penalty. Felons should be able to regain full status by a clear, recognized and achievable path to restoration that brings recompense to both the victims and society. 5 years of cleaning toilets at parks and roadside rests might do it for most. We could all appreciate that.

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 - gotborked [See Profile I'm a Fan of gotborked](#) [permalink](#)

Certain crimes evidence the criminal's willingness to breach the public trust. Through his actions, the criminal showed that he cannot be trusted with certain rights, privileges and responsibilities that come with citizenry. If a criminal has no problem with, say, defrauding a customer or steal an identity, how can we trust them not to defraud the voting system?

If a state wants to allow a criminal to regain his vote through some manner of rehabilitation, great--but a state has every right to include the prohibition from voting as part of a criminal's punishment to begin with.

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 - metivo [See Profile I'm a Fan of metivo](#) [permalink](#)

What about the possibility that Stevens voted early? Would his vote count?

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 - buzzy [See Profile I'm a Fan of buzzy](#) [permalink](#)

it has always bothered me that if a convict was denied the right to vote, then would he also be allowed to waive all laws that require him to pay his taxes. No taxation w/o representaion comes to mind.

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 - Amalek [See Profile I'm a Fan of Amalek](#) [permalink](#)

NEW
 Move to DC and try to make that argument.

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 - BillForObama [See Profile I'm a Fan of BillForObama](#) [permalink](#)

Looks like this isn't working for the colonists. The middle class is being taxed, but we don't have representation (yet!).

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- LeonBNJ [See Profile](#) [I'm a Fan of LeonBNJ](#) [permalink](#)

Don't forget too that the conviction may not be in affect while Stevens appeals it as the convictions could be overturned by an appeals court. If the appeals court (and up to the US Supreme Court if a Federal Law or if consitutional issue if a state law conviction) upholds the conviction, then it goes into full affect. Stevens may not have to serve a day in jail until he exausts his appeals.

It is highly probable that President Bush, just before he ends his term of office, will give a long list of persons in his administration (except for himself) and other Republicans like Stevens full Pardons to preempt any investigations by the US Justice Department and the Congress and of course any convictions.

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- HLM [See Profile](#) [I'm a Fan of HLM](#) [permalink](#)

While we're all in the mood for silly scenarios, try this:

It's likely Stevens will be re-elected (we are all witness to the sense and sensibilities of the Alaska voters); he then may decide to step down, at which time the Governor of Alaska (remember the Governor of Alaska?) has the power to name anyone -- that's anyone -- to serve out the remainder of Stevens's six year term.

How does Senator Todd Palin sound?

Or better yet: (lawyers please) is she legally permitted to name herself?

I'll wager the fun and games are about to begin in earnest.

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- wmfor [See Profile](#) [I'm a Fan of wmfor](#) [permalink](#)

Senator Levi Johnston?

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- Shayana Kadidal - Huffpost Blogger [I'm a Fan of Shayana Kadidal](#) [permalink](#)



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See some of the earlier comments -- this rule was changed in 2004 and now the Governor has to call a special election to fill the vacant Senate seat..

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- PrairieDem [See Profile](#) [I'm a Fan of PrairieDem](#) [permalink](#)

More important that can Uncle Ted vote for himself is whether or not Bush can give him a PARDON before he is sentenced. Given that the sentencing is scheduled for February, if a president can not give a pardon before someone is sentenced, we may actually see Stephens go to jail.

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- NotMcCain [See Profile](#) [I'm a Fan of NotMcCain](#) [permalink](#)

Stephens aside, how ironic that convicted felons can't vote in parts of the U.S.....

...but they CAN serve in Congress.

That's just weird.

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- demdemdem [See Profile](#) [I'm a Fan of demdemdem](#) [permalink](#)

In most places, a person must be an eligible voter to run for office.....could Stevens be disqualified since he is not an eligible voter???

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- DinkSinger [See Profile](#) [I'm a Fan of DinkSinger](#) [permalink](#)

No, the US Supreme Court has ruled that the qualifications for Federal elective office are limited to those specified in the Constitution.

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Right: see U.S. Term Limits v. Hill, 514 U.S. 779 (1995) ("an impressive number of courts have determined that States lack the authority to add qualifications. ... Courts have struck down state imposed qualifications in the form of ... restrictions on those convicted of felonies...")

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- primitivedreamer [See Profile](#) [I'm a Fan of primitivedreamer](#) [permalink](#)

Good call dem,

I checked the state of Alaska website and it states:

"A convicted felon may not register to vote unless unconditionally discharged from custody. When you are no longer on probation, a copy of your discharge papers will allow you to register."

See: <http://www.elections.alaska.gov/faqs.php#cand>

I checked the official Alaska candidate handbook and one of the qualifications is that:

"the candidate is a qualified voter as required by law."

See: <http://www.elections.alaska.gov/forms/b05.pdf>

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- cdemackio [See Profile](#) [I'm a Fan of cdemackio](#) [permalink](#)

Forget about voting for himself. Would he even be allowed to vote in the senate?

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- girlwild [See Profile](#) [I'm a Fan of girlwild](#) [permalink](#)

He has been convicted but is still unsentenced, thus he can still vote, unless he's sentenced prior to Election Day.

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- slwkf [See Profile](#) [I'm a Fan of slwkf](#) [permalink](#)

Is there any chance President Bush could pardon Stevens as one of his last official acts before leaving office? Since Stevens would likely not have been sentenced by then, would a pardon still exonerate him if he hasn't been formally convicted yet?

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- mheister [See Profile](#) [I'm a Fan of mheister](#) [permalink](#)

There's certainly a precedent for that. Ford pardoned Nixon before the former president was actually charged with any crime.

Or Bush could do as he did with Scooter Libby and commute the sentence, if Stevens if sentenced before 20 JAN 2009.

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