

**FOR PUBLICATION**

**UNITED STATES COURT OF  
ELECTION REVIEW**

DISPLEAD, a candidate  
for Congress,

*Appellant,*

v.

FEDERAL ELECTIONS  
COMMISSION,

*Appellee.*

No. 3:18-1321

F.E.C. No.  
Z8Ed2D5o

OPINION

Appeal from the Federal Elections Commission  
acting through its Congressional Committee  
LordiousHulaios, Chairman, Presiding

Argued and Submitted March 11, 2018  
Via Discord

Filed March 12, 2018

Before: Bob561, President, KOTwarrior, and  
SamuelKing22, Judges.

Opinion by Judge SamuelKing22  
Concurrence by Judge KOTwarrior

**SUMMARY\***

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**Candidate Disqualifications**

The panel concluded that the Federal Election Commission's disqualification of appellant was contrary to law and the Constitution. Appellant had been disqualified for speculated past membership in the criminal street gang, TPR. The Commission acknowledged that the last provable association between him and TPR was "a month ago."

The panel rejected the Commission's argument that review was not timely. The panel observed that review began well within the lawful twelve-hour timeframe and that it was therefore able to proceed to the merits. The panel vacated appellant's disqualification on the grounds that the law did not permit it.

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**COUNSEL**

MrArabMayham (argued), Washington, D.C., for Appellant Displead.

Snowbleed (argued), Federal Elections Commission,

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\* This summary is not part of the court's opinion and was prepared by court staff for the convenience of the reader.

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Congressional Committee, Washington, D.C., for Appellee.

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## OPINION

SAMUEL KING22, Judge:

On March 11, 2018, the Federal Election Commission presented a motion to disqualify the appellant for a previous affiliation with a criminal organization. The motion, upon receiving two-thirds in affirmation, passed and the appellant subsequently requested this Court to hear his petition challenging the Commission's disqualification ruling. The Commission argued that the appellant had a previous affiliation with the criminal organization known as TPR, which would permit the Commission to disqualify the appellant. The Commission also argued that any candidate who partakes in criminal activity during the election process can be disqualified under the Congressional Electoral Law, which prohibits such conduct. See §IV(iv)(b). Although this previous affiliation may at best be suspect, it is not a criminal act nor does it violate any law in regard to congressional elections. Due to the Constitution and current federal electoral law contradicting the arguments made by the Commission, this Court cannot sustain the disqualification of the appellant.

We vacate appellant's disqualification.

**VACATED.**

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KOTWARRIOR, Judge, concurring:

I join the court's opinion fully. I write separately to address the timeliness argument made by the Commission. By deciding the merits of this case, the court has implicitly rejected the government's objections on timeliness grounds—I nonetheless believe a full response is warranted.

The Electoral Reform Act gives this court jurisdiction to hear challenges to FEC candidate disqualifications during Congressional elections. Section 302 directs that a “candidate shall be informed [] in writing of” their disqualification. Pub L. 55-2, § 302(a). Subsequently, they may “within 12 hours” obtain review from this court. *Id.*, § 302(b). The FEC, based on that time requirement, makes two arguments. First, they contend that the candidate only sought review *after* twelve hours from the actual disqualification had passed. Assuming that to be true, it is irrelevant because the candidate's challenge came well within twelve hours from his receipt of *notice*.

Second, the FEC argues that this court is entirely precluded from exercising review after twelve hours

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have passed from the initial disqualification. More specifically, the FEC's position is that once twelve hours have passed, we lose jurisdiction to pass any judgment on the disqualification. The actual language of the Electoral Reform Act, however, disagrees. Section 202, which provides a more in-depth analysis of time constraints, specifies that the court "shall finish ... adjudicating any matters before it no later than *96 hours after the election has concluded.*" *Id.*, § 202(e) (emphasis added). Our decision on this matter was completed before the election even concluded.