

9/22/21

To the Judicial Committee:

Introduction

This is an *amicus curiae* brief in favor of suspended LNC Secretary Caryn Ann Harlos, with the request that it be considered in her appeal. I, Michael Seebeck, as *amici*, submit this brief as a 20+-year Member of both the Libertarian Party and the Libertarian Parties of Colorado and California, and a former officer in both state affiliates. My Party credentials are listed on LPedia. I currently serve as the parliamentarian for the Board of Directors of the Libertarian Party of Colorado.

This brief is filed, as is my right as a Member, in accordance with Judicial Committee Rule of Appellate Procedure #10 regarding the aforementioned appeal made by Ms. Harlos under the Libertarian Party Bylaws Article 8, Section 2, subsections b and d, relating to action taken against her under Article 6, Section 7.

I. Due Process and Procedural Problems of Suspension Motion

A. Due Process Violation Historical Note

The suspension of Ms. Harlos violates her proper due process rights as well as the proper application of the Bylaws and Robert's; but that is better argued by Ms. Harlos and will not be addressed here, except to note that such denial of due process to remove a member of the LNC has been attempted before and it was turned back by the Judicial Committee. That case was of Lee Wrights in 2009, and *amici* assisted Mr. Wrights in arguing that case, as did Dr. Ruwart. That was an attempt to establish a dangerous precedent of denial of due process by the LNC that was correctly rebuffed.

B. Procedural Flaw in Suspension Motion

Because the motion to suspend was not a question divided into each of the charges, with separate votes on each charge, all of the charges were lumped together into one motion. This was a deliberate choice of the Complainants, who could have divided this question at any time. An overturn of the charge of a NAP violation would overturn the entire motion and the suspension. Not dividing the question required Complainants to prove all charges to suspend, not just one, in the original motion. In contrast, on appeal, the failure to prove any one charge, or the overturn of any one charge, defeats the entire motion and the suspension. Ms. Harlos explains similar in Petitioner's response to Respondents' response to the Petition.

II. Perversion of the Non-Aggression Principle

Instead, *amici* wishes to call attention to another VERY alarming and dangerous precedent that the Complainants and Respondents are attempting to establish.

In the Bill of Particulars that was presented by the Complainants, one part stands out:

“Furthermore, Ms. Harlos’s public slander and harassment of the LNC and LP Members to achieve her political and social goals are in clear violation of the Non-Aggression Principle.”¹

Unpacking that accusation, the Complainants first accuse Ms. Harlos of “public slander and harassment,” then go on to make the remarkable assertion that such statements violate the NAP. *Amici* defers to Ms. Harlos on the first part, except to note that as public figures, the Complainants have a much higher bar to prove their accusation of slander than a private figure, the Complainants offer no evidence of slander or harassment, and Ms. Harlos’s free speech rights as a LP Member and as a private individual are not silenced because she holds an elected position. (There are no accusations of any objectionable speech at any LNC meeting, either, and the only examples provided by the LNC Business list appear to be retaliation for her raising concerns about the poor handling of a complaint about a 2016 assault at the national convention and her raising concerns about the bias of a committee applicant.)

The alarming and dangerous part is the second part of the accusation, that Ms. Harlos’s statements, her speech and expression, violate the NAP.

The NAP states, as indicated on the Libertarian Party website, and its membership forms: “I certify that I oppose the initiation of force to achieve political or social goals.” (Source: <https://my.lp.org/contribute/join/#contribute>)

The Complainants assert that critical or offensive speech is force. Therein lies the problem: **Speech is NOT force!**

The term “force” in the NAP is generally understood to mean aggression in a physical manner against person and/or property: assault, theft, vandalism, murder, etc. It does not and never has meant speech or expression, with the disputable exception of threats of force.

Ms. Harlos has never threatened force against the LNC or any of its members. In fact, she is on record multiple times in multiple places, including the LNC business list and many of her webcasts, explicitly denying any threat to sue the Party or engage in any aggression. She is well-known to be an avowed pacifist.

But the real problem with this accusation is not Ms. Harlos or her words.

¹ It is clear the Complainants are referring to the membership pledge as they further state “All individuals must sign and adhere to the Non-Aggression Principle in order to be a member of Libertarian Party.” In doing so, they misrepresent the requirements for membership, as the Party does not police adherence to the NAP in order to maintain or become a member. However, in this misrepresentation they claim that Ms. Harlos should not only be suspended as Secretary but also imply that she be disqualified from Party membership. It is ironic that this implied claim is made while accusing Ms. Harlos of slander.

Rather, the real problem with this accusation is it attempts to fundamentally change the meaning of the NAP into something that was never contemplated nor seriously considered at the Party's founding or until now. If speech is considered aggression, then the consequences of such a precedent are far-reaching and serve to not only undermine the Libertarian Party, but the entire libertarian movement.

David Nolan, Party founder, explained what the Pledge meant in 1993:

*"Interestingly, most people in the LP do not know why it was originally placed on membership applications. We did it not because we believed that we could keep out 'bad' people by asking them to sign—after all, evil people will be able to achieve their ends—but **to provide some evidence that the LP was not a group advocating violent overthrow of the govt.** In the early 70's, memories of Nixon's 'enemies list' and the McCarthy hearings of the 50's were still fresh in people's minds, and we wanted to protect ourselves from future witch-hunts." (Source, letter from David Nolan to David Aitken, postmarked Jan 20, 1993, shown in Harlos Appeal Petition Exhibit H, emphasis added)*

It's rather clear from one of the Party's founders that the NAP had everything to do with the violent overthrow of the government, NOT policing or prohibiting private speech. That's pretty authoritative.

So is the LP Platform:

1.2 Expression and Communication

We support full freedom of expression...

If NAP violations are redefined to include non-threatening speech, going against our own Platform and our most fundamental principle, then the ability to censor speech that is not agreed with a majority becomes rampant. That turns liberty on its head and is completely contrary to what the Party and the movement stands for. It would enable using the NAP as a cudgel to implement the cancel culture of censorship and the politics of personal destruction that libertarianism by definition opposes. It effectively turns the NAP on itself (and the Party membership) by making it a tool of coercive force instead of a denial of coercive force.

That's contrary to what the NAP stands for and what the Party stands for, and it is a gross overreach of power by the LNC, who were not elected to (nor do they have the power or right to) fundamentally change Party ideology.

Yet that is exactly what the Complainants propose: that speech critical of them and their actions is to be silenced and its makers removed because the majority doesn't approve of it, and justifying that action by claiming that it is a NAP violation. The majority in charge would subjectively determine what is acceptable speech and what is not, based on their own biases and how it affects them politically and emotionally. Purges and infighting, as bad as they are now, would get far worse, and that would greatly damage the Party, even fatally.²

² It has begun already. A Libertarian Party of Massachusetts member who goes by the Twitter handle of Rothbirdian was expelled from the state party on September 12, 2021, with one of the grounds being that Twitter

Is this libertarianism, or is this *1984*? The NAP is not Doublespeak, nor should it be. The LNC is not The Ministry of Truth, nor should it be.

If the NAP is allowed to be redefined and perverted by the Complainants and Respondents to label speech that is disagreeable to a majority to be considered force and a violation of the NAP, then the Libertarian Party might as well disband and shut down since it will be in the position of abandoning its core tenet. If speech is force, then everything is force.

That may sound overblown and extreme, but that is literally what is at stake here if this precedent is allowed to stand. **It is that important.**

Without the freedom to speak, we have no freedom at all. Complainants seek to squelch and chill that speech because its content makes them uncomfortable and unhappy. That's both improper and unacceptable since they do not have any right to not be offended by someone else's free expression, be it the Secretary or a regular Member.

Conclusion

The Judicial Committee should overturn the suspension of Ms. Harlos because the alleged grounds for that suspension not only are contrary to libertarian principles, but if upheld would destroy everything that the Party stands for and has worked for. Fifty years of work would be destroyed because of a perversion of the NAP that is allowed to be made because a majority of the LNC had their feelings hurt and retaliated by trying to remove a duly elected officer. That's not something anyone in the Party wants to have happen. This needs to be stopped here and now.

Respectfully submitted,
Michael Seebeck, *Amici*

trolling was a violation of the NAP (there was never any accusation of threats of violence by this member). This member keeps her real name private on Twitter, but it can be given in confidence to the Judicial Committee upon request. And that doesn't even mention the past attempts on Angela Keaton and Arvin Vohra, both for speech upsetting to the majority of the LNC.