

# **Libertarian National Judicial Committee**

**Petitioner: Caryn Ann Harlos**

**vs**

**Respondent: Libertarian National Committee**

**Re: Motion Authorizing the LNC to Enter Into a Joint Fund-Raising Agreement with the Robert F. Kennedy, Jr. 2024 Campaign**

**Amicus Curiae Brief in opposition of Petitioner**

**by**

**Jonathan M. Jacobs,  
Sustaining Member<sup>1</sup>**

**July 22, 2024**

## The Bait and Switch Arguments

The Judicial Committee of the Libertarian Party is established in the Bylaws and has a specific role. The role is also established in the Bylaws, specifically Article 7.14 of the Bylaws, which states, in full:

12. Upon appeal by ten percent of the delegates credentialed at the most recent regular convention or one percent of the Party sustaining members the Judicial Committee shall consider the question of whether or not a decision of the National Committee contravenes specified sections of the bylaws. If the decision is vetoed by the Judicial Committee, it shall be declared null and void.

The Judicial Committee is a body to determine, in this instance<sup>2</sup>, if some action of the Libertarian National Committee (LNC), violates a specific section the Bylaws.

Many of the amicus briefs in support of this are asking the Judicial Committee to make a decision on if the actions violate some government fundraising regulation, not a bylaw; the petitioner, Caryn Ann Harlos, has supported these efforts in various filings after the fact. It should be noted that, as a function of the parliamentary authority of the Libertarian Party<sup>3</sup>, the 12<sup>th</sup> edition of *Robert's Rules of Order Newly Revised* (RONR), such actions are not considered to be a “procedural rule of law” as they do not deal with the transaction of business within a meeting (23:6; 2:14).

A second claim made by Ms. Harlos, directly, in her petition, is:

By fundraising for Kennedy (jointly or not), it creates confusion as to who the Official Ticket is because to the average person, rightly, they would find it absolutely inconceivable that one Party would fundraise for its competition unless it was because they thought that competition would defeat their other competition causing the Party's candidate to win.

This “confusion” argument is not a bylaw violation. It is also questionable that an individual donating to avoid personal fund raising limits would not be aware of who the actual nominee is.

The “average person” will not be looking to give more than the individual limit (currently \$3,300).

A third claim made by Ms. Harlos in her petition relates to the situation regarding the Libertarian Party of Colorado (LPCO)<sup>4</sup>. That claim is:

The Contested Decision gives explicit cover and a nod/wink for the LPCO's conduct, for how in the world can it be wrong to aid and abet fundraising for an opposing candidate with express and numerous anti-libertarian views (despite LPCO's own Bylaws) if the LNC is doing the same? This makes the LNC a political “beard” for the illegitimate actions of the LPCO and any other state party that follows in its footsteps.

Again, this claim is not supported by the bylaws. An affiliate may be disaffiliated for violating the national bylaws, for example, Article 14.1. The LNC has the discretion to pursue that matter, the Joint Fundraising Committee (JFC) has no bearing on it. The LNC may take action without regard to if this committee exists or not. A bylaw violation may exist, but not due to the JFC; it would exist without the JFC existing. The actions of the LPCO are not germane to is issue.

Of these three items, two are completely outside of the bylaws. This is effectively a “bait and switch” and, as such, the amicus strongly encourages the Judicial Committee to reject these arguments.

The third may deal with a bylaw violation, and one that may eventually be before this committee, but it is not so now. The amicus encourages the Judicial Committee to reject this as not germane to the complaint. This will leave the issue open for future adjudication.

#### The Bylaws

Ms. Harlos has, in her petition, put forward an argument that the JFC violates the bylaws, i.e. that it violates Article 14.1, which states, “Nominations of candidates for President and Vice-President of the United States may be made only at the regular convention immediately preceding a Presidential election.” The JFC nominates no one. The motion authorizing it<sup>6</sup>,

which was adopted by the LNC, is to “Approve the joint fundraising agreement so long as Chase Oliver and Mike Ter Maat remain the nominees.” (Emphasis added.)<sup>7</sup> This affirms that they are the nominees, and, if they should lose that status, the agreement would end.

In this regard, the petitioner and certain amicus have made the claim that this action should have gone to the LNC and not the executive committee. Because the LNC has considered the action, and has adopted an amend form of it, this argument is moot.

Ms. Harlos also cited Article 14.4 and the “full support” clause. The JFC increases the revenue of the party, at least some which will indirectly help the presidential ticket. It could very easily be argued that not entering into the JFC will make this a failure to provide “full support.”

One LNC member, Jonathan McGee, noted, correctly, that “full support” is an ambiguous term<sup>5</sup>. The LNC has joined a suit, by Kennedy, in New York, relating to ballot access; if successful, both he and Oliver will be on the ballot in that state. Under the interpretation posited by the petitioner, such an agreement would violate the “full support” clause, and deprive the Libertarian of ballot access.

Further, the bylaws do permit action short of endorsement of a candidate that is not the nominee. RONR notes that, “A prohibition or limitation prohibits everything greater than what is prohibited, or that goes beyond the limitation; but it permits what is less than the limitation, and also permits things of the same class that are not mentioned in the prohibition or limitation and that are not evidently improper (56:68 6, emphasis added).” Article 14.1 sets a limit on when a nominee can be chosen; it does not limit other, lesser actions, such as a joint agreement, that falls well short of an endorsement.

Ms. Harlos list a number of points where she disagrees with Kennedy’s policies. The amicus may agree with her assessment, as may many members of the Judicial Committee. These

are not violations the bylaws however. As noted, the Judicial Committee only has jurisdiction only if the LNC “contravenes specified sections of the bylaws.” This has not happened.

In conclusion, for the reasons stated above, amicus strongly encourages the Judicial Committee to reject this appeal.

#### End Notes

<sup>1</sup> The amicus has been a bylaw sustaining member of the Libertarian Party on June 14, 2024 and had signed the NAP December 11, 2023, upon joining the Michigan affiliate.

<sup>2</sup> The Bylaws, Article 8.2, grant jurisdiction to the Judicial Committee on a number of other issues as well, but they are not germane to this issue.

<sup>3</sup> Article 16

<sup>4</sup> The amicus has been contracted by the LPCO to provide parliamentary advice on a different matter.

<sup>5</sup> <https://groups.google.com/g/lnc-business-list-public/c/9hCGr1bxW6c>

<sup>6</sup> This motion was a substitute for a motion to rescind. While Ms. Harlos has made representations otherwise, a motion to Rescind is fully amendable as per RONR (35:2 6). When amended it becomes the motion Amend Something Previously Adopted. Rescind and Amend Something Previously Adopted are “two forms of one incidental main motion governed by identical rules (35:1).”

<sup>7</sup> Adopted 7/21/24 by a vote of 7 in favor, 1 against, 2 expressed abstentions and 7 members not voting.  
<https://docs.google.com/spreadsheets/d/1yPeQmj1CzHh4gvSZV7ZoDfXOU3kcdgy2/edit?gid=488680917#gid=488680917>