

BEFORE THE JUDICIAL COMMITTEE OF THE LIBERTARIAN PARTY

Date: 10/21/2021

Petitioner: Caryn Ann Harlos

Subject: Appeal of the LNC motion of 9/5/2021 to suspend and remove Petitioner as LNC Secretary, as per Article 6, Section 7 of the Bylaws.

Interested Parties: Members of the LNC, Joe Bishop-Henchman, as he is alluded to in the in the initial complaint against the Petitioner.

Relief requested: Voiding of suspension motion and reinstatement as LNC Secretary.

Committee Jurisdiction: Article 8, Section 2, subsection b, regarding suspension of officers, and Article 8, Section 2, subsection d, regarding voiding of National Committee decisions.

Appearing on Behalf of Petitioner: DL Cummings

MEMORANDUM ON CAUSE FROM JONATHAN M. JACOBS, PRP, CPP

Mr. Moulton asked for a definition of “cause” in removal. In writing this, I will try to delineate what constitutes “cause” from various issues.

In his presentation, Mr. Brown spoke to this, citing RONR 61:3 which noted that, even if not included in the bylaws, a member may be “found guilty of conduct described, for example, ‘tending to injure the good name of the organization, disturb its well-being, or hamper it in its works.’” Actions that fall under these broad categories would be considered “cause” under RONR. I agree with him on these points.

Note, however, that in the wording of what Mr. Brown quoted, these are actions taken against the organization, not against the individual members.

The “Bill of Particulars” which is represented as a complaint, talks about some factors. For example, the Bill claims that the Petitioner “resulted in members of the LNC being unable to engage in respectful and professional public discussion before the body, making the committee dysfunctional for fear of bullying, harassment, and inaccurate characterizations to discredit and disrupt the committee’s work.” This is a claim that some members of the LNC *feel* this way. It is *not* a claim that the Petitioner has actually *engaged* in any of these activities. The members of the LNC supporting this may be accurately expressing their own *feelings*, but they offer no claim about the Petitioner’s actions under than that she posts on social media. It would also be necessary to show that these social media posts disturb the well-being of the Libertarian Party, not some members of the LNC.

The Bill claims that the petitioner “as an officer of the party, of attempting to monetize her position with frequent requests for contributions based on her status as an officer and in support of her attacks on the other members of the LNC are unethical.” This claim at least involves action; the petitioner does accept contributions for her video commentary. However, how does asking for money injure the good name of the Libertarian Party, disturb or hamper it in its work? The Petitioner has not, to the best of my knowledge, encouraged contributing to her

and not to the Libertarian Party. In my particular case, she has encouraged me to join the Libertarian Party, and has not asked me directly for money. While under suspension, the Petitioner has continued to get donations, so it is not based on her officer position.

The Bill claims that the Petitioner claimed, and she vehemently denies this, that “members of the LNC were attempting to compel her to commit suicide.” Even if true, this would be the *feelings* of the petitioner, not any action that she has taken against the Libertarian Party. The Petitioner’s *feelings* about some members of the LNC could not injure the good name of the Libertarian Party, disturb it or hamper it in its work.

The Bill claims that the Petitioner “has slandered multiple members of the National Party who were submitted as candidates for a committee.” The Bill also claims that she “has, via social media, made slanderous and offensive remarks about several LNC members and the LNC as a whole.” The LNC is not the Libertarian Party. Clearly not every LNC member found these alleged remarks offensive. To comply with the cited RONR standard, the alleged remarks would have to show that these remarks injure the good name of the Libertarian Party, disturb or hamper it in its work. They did not do so.

Something else should be noted in regard. Negative comments made in debate about nonmembers of body in session, does not violate decorum, according to none other than Brigadier General Henry M. Robert, the original author of the parliamentary authority. He noted, in his seminal work, *Parliamentary Law* (1923), noted that nominations are debatable, and when the nominee is a nonmember, “the rules of decorum in debate as far as avoiding personalities do not apply. The relative merits of candidates for employment may be freely discussed,(Question 143, p. 465).”

I will add that I have had members of client organizations make negative comments, directed at myself as a nonmember parliamentarian, during a meetings. I have stated that these are not violations of decorum. The rules of decorum in debate are higher than those for standard conversation or social media posts, and comments about nonmember nominees are certainly not a violation of that high standard under *RONR*.

The Petitioner has further indicated that these comments were made in a private email exchange only made public because they were introduced as evidence when the Bill was presented.

There are, however, two cases where it could be claimed that the Libertarian Party’s “wellbeing” was “disturbed” by the Petitioner. In the New Hampshire case, the Petitioner’s action may have disturbed the “wellbeing” of the party, if that wellbeing involved the covering up the improper removal of several state officers. Likewise, the Petitioner disturbed the “wellbeing” of the Party when she supported the creation of the anti-mandate initiative. What the Bill considered disturbing activities in these two, others may find laudable. Sustaining the LNC’s removal from office is, in effect, saying that it is improper to question such actions.

Keep in that is an evaluation of the standard articulated by the parliamentarian of the LNC giving testimony in support of the process for removing the Petitioner. There are other sources as they relate to parliamentary procedure.

One such source is *The American Institute of Parliamentarians Standard Code of Parliamentary Procedure* (2012). It reads “The common *valid* causes for removal from office are... . “ It then providing a list. Most of the things on this list, like being convicted of a felony,

misuse of the society's funds, and intentionally violating the bylaws are not applicable. One that *could* be is the sixth on the list, "Unwarranted attacks on any officer, members of the board of directors, or the board as a whole on an ongoing basis (p. 185)."

The test here is two pronged, there must be unwarranted attacks, and the must occur on an ongoing basis. As to the attacks being unwarranted, is it improper to attack some officers and/or board members for helping with the improper removal of state officers or for not having a policy on vaccine mandates? Sustaining the LNC decision is saying that such actions such actions should not be attacked.

There is also the second prong, an "ongoing basis" of an attack, the Petitioner served on the LNC as a regional member in 2016-18, then as National Secretary, first elected in 2018 and re-elected in July of 2020. The oldest evidence submitted was from November of 2020. There appears to no attacks, warranted or not, on an ongoing basis.

The *AIP Standard Code* also gives "Examples of conduct that are *not valid* grounds for removal from office." The third example given is "A tendency to create friction or disagreements (p. 186)." Just creating friction and disagreements is not sufficient cause to remove an officer.

In terms of the literature, I know of two articles related to disciplinary action. "Disciplinary Procedures by Associations Require Care (Rosenthal, Harry S., *Best of NP*, Volume I, 2010 pp. 95-6¹)," stated that an organization wishing to remove an officer "should have background information on what constitutes cause. This can be gleaned from looking at case law and the use of common sense (p. 96)." It then refers to the *RONR* citations.

The second is "Procedural Aspects of the Penn State Scandal" (*Parliamentary Journal*, October 2014, pp. 138-54)² of which I am the author. It that, it was noted "It is difficult, if not impossible, to claim that a university president, one of its vice presidents and its athletic director covering up (as has been alleged) for a serial child molester, using athletic facilities to carry out that molestation, would not tend to injure the good name of the body regulating athletic activities of that university (p. 146)." Even with this, there were people that disagreed with me that even this activity was serious enough to serve as cause for the NCAA to take action. Obviously, nothing of this level was alleged in the case against the Petitioner.

End notes:

¹ Originally published in *National Parliamentarian*, 4th Quarter, 1997. Note that *National Parliamentarian* is a peer reviewed publication.

² See: https://www.academia.edu/26614831/Procedural_Aspects_of_the_Penn_State_Scandal

Note that while *Parliamentary Journal* is peer edited, it is not peer reviewed. However, this particular article won the American Institute of Parliamentarians' "President's Award for Excellence in Parliamentary Writing" in 2015, that award is given based on the conclusions of a committee of certified parliamentarians. In that respect, it was peer reviewed, and judged to be the best paper printed *Parliamentary Journal* in that time frame.