Libertarian National Judicial Committee

Petitioner: Austin Martin

vs

Respondent: Libertarian National Committee

Re: To Declare Invalid the LNC Action Purporting to Void the Region 1 Election of May 10, 2025 and to Clarify the Interpretation of Sustaining Membership Status, Rights, and Regional Autonomy

Amicus Curiae Brief in support of the Petitioner, in part, and in opposition, in part

by
Jonathan M. Jacobs,
Sustaining Member
March 28, 2026

There have been two separate issues, effectively, that have been raised. The first is if the denial of the seating of James Wiley at an in-person meeting of the Libertarian National Committee (LNC) on May 17, 2025 was improper; this was done by a point of order and an appeal. The second isssue, raised by an amicus, is that, ***if*** there was a breach of the rules, has this breach effectively "healed," and be too late to be adjudicated, either by a point of order, and/or by an appeal to the Judicial Committee.

Here the amicus will put the cart before the horse and deal with if there is a possibility of a continuing breach if Mr. Wiley was improperly deprived of his seat.

A Continuing Breach

An amicus, Caryn Ann Harlos, has claimed that, even if there was a breach of the rules, it is now too late to fix the problem, that it is a "dead issue," and that any breach has "'healed'" by either Mr. Wiley's subsequent election or by his ultimate resignation. She also cited an article tied to the 10th (2000 edition) of RONR, while noting that "those sections have not changed and have been referenced by me with current citations. Most importantly, this is a threshold issue." She is in error.

Petitioner Austin Martin has ask as a remedy in part, for the Judicial Committee to "Declare that the LNC action purporting to sustain the Chair's ruling was invalid and of no force or effect." If the chair's action was invalid, then Mr. Wiley was improperly deprived of his right to vote, a violation of RONR 23:6 e, a "a rule protecting a basic right of an individual member," i.e. a members right to vote.

Mr. Wiley was an alternate to Regional Representative Andrew Chadderon, who did attend. However, the practice is that a Representative may yield to his alternate at any point. It

is entirely possible that Chadderdon would have yield to Wiley and that Wiley would vote differently.

RONR, in language that was not included in the tenth edition, deals with a violation of the right to vote (23:7):

> If one or more members have been denied the right to vote, or the right to attend all or part of a regular or properly called meeting during which a vote was taken while a quorum was present, a point of order concerning the action taken in denying the basic rights of the individual members can be raised so long as the decision arrived at as a result of the vote has continuing force and effect. If there is any possibility that the members' vote(s) would have affected the outcome, then the results of the vote must be declared invalid if the point of order is sustained.

In part, because Mr. Wiley could have voted in place of Mr. Chadderdon, Wiley's votes could have affected the outcome, on at least one issue, the election of the Bylaws Committee. The method was approval voting and four candidates were tied at five votes each; Chadderdon only voted for one of those (Minutes, pp. 20-1). Wiley may have voted for one or more of the others, or not voted for the one that Chadderdon did.

The Bylaws Committee still exists and is based, in part, on these results; it will continue to exist until it makes its final report at the Convention. The selection of these members has continuing force and effect at the time. If the refusal to seat Mr. Wiley was improper, the selection of the Bylaws Committee was then improper, at least in part. The Bylaws Committee continues and any breach established in its creation continues.

When Ms. Harlos claimed this as a "threshold issue," she was correct. However, that threshold would be crossed, because of the "possibility" that Wiley's vote "would have affected

the outcome." Of course, if Wiley could not vote in the first place, his vote could not have affected the result.

Eligibility

The amicus will express general agreement with the respondent, Jonathan McGee, however, it appears that he did not raise a key point. At no point does being a sustaining member (or being just a member) confer voting rights. A sustaining member may do certain things, like sign an appeal to the Judicial Committee (Bylaws, Article 7.12)[1], but voting is not one of them. The petitioner has made the argument that a member, under RONR, cannot be deprived of the right to vote without being dropped from the rolls, but a sustaining member has no right to vote because of that status. It is questionable on even if the RONR language is applicable to members that cannot vote.

Mr. Martin has raised the issue of the precedent of the 2009 Wrights decision. However, that suffers from a problem similar to one plaguing Ms. Harlos' "healed breach" argument. The rules have literally changed, if not in the Bylaws, certainly in RONR. The language cited here is from the current, 20th, edition (46:49 (a)): "If an individual does not meet the qualifications for the post established in the bylaws, his or her election is tantamount to adoption of a main motion that conflicts with the bylaws." This language was first included in the 11th edition, published in 2011, more than two years after Wrights was decided.

This rule is binding on the Libertarian Party now, but in 2009, it did not exist and could not be used by Judicial Committee in Wrights[2]. Attempting to apply Wrights, without taking into consideration of the change is like using Scott vs. Sandford to define citizenship without looking at the 14th Amendment to the Constitution. It is like looking at Buck vs. Bell to justify

state mandated eugenics without looking at the Americans with Disabilities Act. Those legislative actions superseded those Supreme Court decisions. The additions in RONR, likewise superseded Wrights.

A third point is custom. As Ms. Harlos correctly noted, the Convention has the established custom of basing the delegate count only on people currently eligible as sustaining members. It does not include people that donated money in prior years, but have not done so in the current year, as a practice. RONR (2:25) notes that "If there is no contrary provision in the parliamentary authority or written rules of the organization, such an established custom is adhered to unless the assembly, by a majority vote, agrees in a particular instance to do otherwise."

Another body, such as a committee of the convention, the LNC, or even the Judicial Committee, should not usurp the function of the convention in this matter. Certainly, a point of order could be raised at the convention that Mr. Wiley was improperly excluded from voting and that the Bylaws Committee has been improperly chosen. For the reasons cited in Mr. McGee's filing, some of those in Ms, Harlos's filings, and those given here, the amicus would recommend that the point of order be **not** well taken.

End Note

[1] The amicus has chosen *not* to exercise this right of membership in this case.

[2] Likewise, had the current rule in RONR been in effect in 2009, the Wrights decision may have been different.