JACOBS V. LIBERTARIAN NATIONAL COMMITTEE

In re: Resolutions Adopted at June 9, 2025 Special Meeting

AMICUS REGARDING THE MEANING OF DEEMS IN CONTEXT OF CONTESTED RESOLUTION

Date: August 13, 2025

I will strive not to unduly repeat the arguments of Mr. McGee and Mr. Ponty to which I concur but rather to give additional information.

This Amicus deals with the appealed Resolution 1:

> Whereas the Special Investigatory find that former Chair Angela McArdle violated her fiduciary duty to the Libertarian Party by concealing conflicts of interest and misusing donor funds, be it hereby resolved that the Libertarian National Committee deems Angela McArdle unfit to serve on the Libertarian National Committee, as an affiliate leader, or as a candidate representing the Libertarian Party.
>
> Be it further resolved that the Libertarian National Committee encourages the Bylaws Committee to review and propose bylaws changes that would codify the handling of members found to have engaged in financial malfeasance and/or other egregious actions."

1. INTENT OF AFFIRMING MEMBERS

I can affirm that I, and every person I spoke to that also voted in the affirmative, absolutely understood this to be the LNC's *opinio*n at that time and not binding. There was an executive session at that meeting, but I cannot disclose whether this was or was not discussed. I would suggest a question be posed to the Party Chair on that topic.

Further, Jacobs' continual reference to the fact that three members have resigned as if that has some significance in knowing their intent is, to use his words, ridiculous. As far as I know, none of us three **have died.** The LNC did not flash an intense white light in our eyes that wiped our memory. The JC could email the other two and ask them. Lastly, though I no longer have access and cannot say this with one hundred percent certainty, I believe we three and others discussed

briefly by email. I don't believe such a discussion would be privileged, and I would suggest that Mr. Darr produce it with any confidential information (if any) redacted.

2. ADDITIONAL EVIDENCE FROM RESOLUTION

Mr. McGee's Brief provided great contextual detail to the SIC's recommendation which was simply:

> Recommendation that the LNC adopt a resolution finding Angela McArdle unfit to serve as an officer of the Libertarian Party in the future.

And although this was covered as well by Mr. McGee, I wish to supplement his response with this question: Why did the LNC amend that recommendation and add the following?

> Be it further resolved that the Libertarian National Committee encourages the Bylaws Committee to review and propose bylaws changes that would codify the handling of members found to have engaged in financial malfeasance and/or other egregious actions.

There is only one answer that makes sense, and that is, and I personally know the answer. How? I had discussions with Mr. Darr after the report was released that it needed to be over-the-top clear that the LNC's opinion was not binding, but should the delegates in convention wish it to be binding, it would need to be codified in the bylaws. Jacobs would have the JC believe that the LNC illegitimately modified the bylaws via resolution (in essence if not in fact), but if that were the case, there would be no need for that addition. In fact, in recommending that addition to Mr. Darr, I was following this JC's very own example in its decision in the *Phillies* matter in recommending bylaws changes if the members liked or did not like the finding of the JC. Jacobs is tilting at windmills.

3. WHAT DOES "REASONABLE" MEMBER MEAN IN JACOBS' ASSERTIONS

Jacobs asserts that some hypothetical reasonable member could interpret the LNC's resolution wrongly. In determining a reasonable interpretation, just like with the law, a person is presumed to have a basic knowledge of the law. Analogizing here, a reasonable member would know that qualifications/eligibility for office can only be laid out in the bylaws, and if something outside the bylaws might appear to be adding or subtracting from those qualifications, that interpretation, is *by definition of reasonableness*, incorrect, and the one that does not conflict with the bylaws (if such an interpretation exists, as it certainly does here) must be the correct one.

4. DEFINITIONS AND JACOBS' MISREPRESENTATION

Jacobs first citation of a definition supports the LNC, that being the online Merriam-Webster Dictionary, "to come to think or judge."

Jacobs' misrepresents Wikipedia as "noting that the term is a 'legal' one." Wikipedia does no such thing. What Wikipedia does note is that it can have a legal use and that its entry is limited to its use as a legal term. It does not claim it is inherently a legal term. Since the LNC is not a court and was not even acting in a quasi-judicial function as it might in a trial, or as this Committee does, that whole portion of Jacobs' argument is a complete red herring and cherry-picking (to mix metaphors).

If Jacobs wanted to rely on Wiki definitions, he would have done well to consult Wiktionary, a sister project of the Wikimedia Foundation and he would have found this:

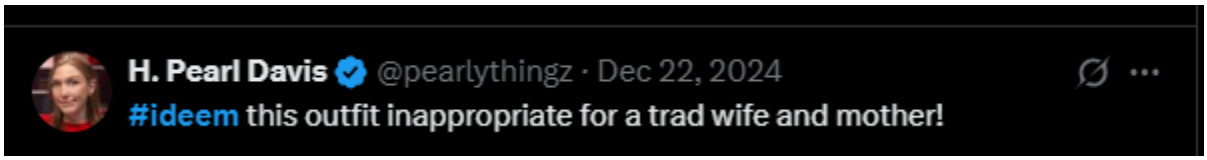
4. (*ditransitive*) To hold in belief or estimation; to adjudge as a conclusion; to regard as being; to evaluate according to one's beliefs; to account. [synonyms ▲] [quotations ▼]

Synonyms: consider; *see also* Thesaurus:deem

*She **deemed** his efforts insufficient.*

a. Pop Culture Use of Deem

Jacobs is further showing his complete unfamiliarity with current pop culture where, until Elon Musk declared war on hashtags, "#ideem" was a frequent hashtag used by infamous internet manosphere influencer H. Pearl Davis, such as in the following:



This is how regular people use that word, as a personal judgment, not as a legal one. Pearl is fairly well-known in Mises Caucus circles which I deem (see what I did there?) is the only group in which McArdle would ever find further support to be anywhere in any position in this Party, and in that group, I believe there is not majority support.

5. THE COUP DE GRACE - THE RESOLUTION NEVER MENTIONED ELIGIBILITY

Even with all the prior submitted arguments, and this amicus, it ultimately does not matter because the Resolution never stated that Ms. McArdle was not "eligible" to serve on the LNC, as an affiliate leader, or as a candidate. Fitness is not the same as eligibility. This is a lesson America learned well during the Biden presidency. President Biden was eligible under the provisions under Article II, Section 1, Clause 5 of the U.S. Constitution, but he certainly was not fit due to declining mental acuity. Many would claim the same of President Trump, but instead his unfitness would be due to alleged moral turpitude. Jacobs' arguments deal with eligibility (as synonymous with qualifications), not fitness. Lethal to Jacobs' case is that RONR in fact does deal with fitness, in such a case fitness to *continue* in office, in dealing with disciplinary actions. In such an action for a sitting officer, the Bylaws on eligibility/qualifications for office are not abrogated, and there is no claim they are no longer eligible. Even though such an action could

certainly be prejudicial for a future election and such prejudice is allowed. In fact, in my 2021 case, the prejudice was soundly in my favour as it is pretty indisputable, the mood of the room was that I was not only eligible/qualified under the bylaws, but fit.

The LNC was acting fully within its authority to issue an opinion recognizing, as proven above and by the other filings, that the resolution was its own opinion, and the delegates in convention can express their approval or disapproval if they wish.

6. THE JC'S RECENT PRECEDENT HELD THAT IF A DECISION CAN HAVE BOTH VIOLATIVE AND NON-VIOLATIVE INTERPRETATIONS, THERE IS NO BREACH UNTIL VIOLATION OCCURS AND THAT MERE ADOPTION OF A VIOLATIVE "RULE" IS NOT A BREACH OF THE BYLAWS

Jacobs just asserts without any justification that the LNC cannot even give any member a "reasonable" interpretation that it is issuing a binding order. As shown above, that would not be reasonable, but assuming his assertion *arguendo* as was stated by the JC in the *Kosin* matter, if there is a possible non-violative interpretation, then there is no breach until a violative interpretation is attempted to be enforced and even that merely adopting a violative "rule" (which under Mr. Jacobs' argument, this resolution would be a species of rule, a quasi-bylaw, if you will) is not a violation of the Bylaws, the enforcement of it is. Quoting Mr. Kinsella writing for the majority:

…I am not persuaded that the mere adoption of a rule by the LNC itself contravenes the Bylaws even if a later decision or action by the LNC based on that rule would itself contravene the Bylaws.

And Quoting Mr. Tarnoff in his concurrence:

… Where the application of this particular rule 5 would conflict with the Bylaws, it is certainly inoperative. And, in cases where it does not conflict with the Bylaws, it appears to grant no additional authority to the LNC that it does not already possess.

The case can be viewed here with all the filings which is necessary to get the full context of these isolated quotes:
https://lpedia.org/wiki/In_Re:_Adoption_of_Revisions_to_Policy_Manual_Provision_1.01.4_in_Email_Ballot_Ending_January_2,_2025

That certainly has not happened, and will not happen as the LNC is well aware that its opinion is not enforceable and would expose them to legal liability if that was attempted. I would once again point out that there was an Executive Session with counsel present prior to these votes, but I cannot discuss whether or whether or not this was discussed. I would once again suggest that the Party Chair address this either through direct questioning by the JC or through a supplemental filing of the LNC.

Mr. Ponty dealt with the alleged application of the *Wrights* opinion. The JC is also free to invite Mr. Sarwark (who authored the *Wrights* decision) to attend and answer questions or submit an amicus.

7. JACOBS SHOWS IGNORANCE OF HISTORICAL WORDING OF LNC RESOLUTIONS TO AVOID PRECISELY SUCH CONCLUSIONS AS HE CLAIMS

If one were to look through the history of LNC resolutions, and the debate in crafting them, unless one inadvertently slipped through the cracks, they are never resolved as "Be it hereby resolved that the **Libertarian Party**…" but rather, "Be it hereby resolved that the **Libertarian National Committee**…" Why? Because LNC and the membership are aware that Party resolutions are the province of the delegates assembled in convention as they are binding– LNC Resolutions are not. The resolution in dispute in the instant matter follows the correct verbiage.

CONCLUSION

At most, I would urge the JC if it were to even consider there to be any merit to Jacobs' argument to rule that the resolution wording is proper to the extent that it is not binding on any affiliate or Party member nor imposes an additional eligibility requirement.

Caryn Ann Harlos, Lifetime Member