

**APPEAL TO THE NATIONAL LIBERTARIAN PARTY JUDICIAL COMMITTEE  
(JC)**

**RE: REPLY TO INQUIRY OF JUDICIAL COMMITTEE**

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**Appellant:** Brittany Kosin on behalf of signatories to appeal

**Appellee:** Libertarian National Committee (LNC)

**Date:** February 10, 2025

**Jurisdiction:** LP Bylaws Articles 7.12 and 8.2

**Bylaws Alleged to be Violated:** Articles 7:14, 7:15, and 16 (incorporating  
RONR)

**Relevant RONR Provisions:** Will be cited throughout as needed

**Interested Parties:** LNC and every national Libertarian Party Member

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**1. QUESTIONS PRESENTED BY JUDICIAL COMMITTEE FOR  
BRIEFING**

*Does a decision by the LNC to adopt a rule itself violate the bylaws if an action taken by the LNC based on the rule would violate the bylaws, even if no action or decision has been made by the LNC based on the rule (assuming such adoption was procedurally valid)? If so, why? Where do the Bylaws prohibit the enactment of rules that, if acted on, would violate the Bylaws?*

**SHORT ANSWER**

**2. MOTION DE FACTO OUT OF ORDER IF IT VIOLATES BYLAWS**

Yes. The questions by the JC first assume that the LNC decision was procedurally valid, and that assumption itself is unclear in its intent. If the intent is to assume that the requisite number of votes were obtained in the proper fashion, then yes, in that narrow sense it was procedurally valid. However, that presupposes the actual motion itself is procedurally valid, and it was not. The reasons for that answer the rest of the JC's questions—since my claim is that the decision violates the Bylaws, it is *de facto* void and requires no further LNC

action to make it so. This is based upon RONR 10:26(1) which states as follows:

**No main motion is in order that conflicts with the corporate charter, constitution, or bylaws....**

The JC cannot resolve *its questions* without dealing with *my assertion* that the decision violates the Bylaws. It is a prerequisite determination for its questions and thus circular. The JC must start pre-circle: do the terms of the PM amendments violate the Bylaws? If so, they are *void ab initio*.

### **EXPANDED ANSWER**

### **3. PARLIAMENTARY LAW AND THE LIBERTARIAN PARTY BYLAWS ARE THE ONLY OPERATIVE STANDARDS**

While I am appreciative of the fact that there are multiple lawyers on the Judicial Committee, the LNC and the Party is a parliamentary society and these questions are not determined under state case law but under parliamentary law using our Bylaws. Thus, it is the language of the Bylaws that must be primary, not any outside doctrines. Although I maintain that using a statist court doctrine is inapplicable here, I do wish to quote a Federal Court judge from the ballot selfie case of *Harlos v. Morrisey* (Colorado 1:16-cv-2649, United States District Court) where the State of Colorado made a similar challenge, and the Judge responded in the below manner in the Order Granting Preliminary Injunction:

*Defendants' resolute belief that the statute is constitutional, in spite of their recent averments, amounts to a Sword of Damocles for Plaintiffs or any Colorado voters living in fear of prosecution.*

Here, the LNC has had ample time to simply amend the PM to something that is unquestionably proper but instead has chosen to “resolutely” defend, using the services of a parliamentarian, no less. The existence of violative language is a “Sword of Damocles” over the heads of duly elected officers and at-large LNC members for certain rights violations if this LNC or a future LNC chose to avail themselves of these provisions. It is irrelevant that this LNC at this time is unlikely to do so. Members and their chosen representatives should not have to worry that it is possible for any LNC as long as this provision exists.

A. We must operate in a Libertarian context

The issue of ripeness to allow a potentially rights-violating “law” to be on the books and unchallengeable until someone is actually prosecuted or harmed by it may be a legal doctrine in some cases in our statist courts, but that is not a Libertarian concept. We are Libertarian and must operate in a Libertarian context. There must be clear and legitimate rules so that everyone knows what their rights, duties, and obligations actually are at the time of acting, not at some future time.

B. I cannot be asked to prove a negative

The Bylaws are absolutely silent on “ripeness” or any requirement for actual harm resulting from an LNC decision to ensue before an appeal can be heard.

LP Bylaws Article 7.12: 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.

I have met the bare requirements. The burden of proof should not be on me to prove why I have not met absent requirements that are imported from the outside. I further note RONR 56:11 for guidance on interpreting this silence in the Bylaws [emphasis added]:

... In bylaws, every punctuation mark may have an important effect, **and what is omitted may carry as much significance as what is included.**

C. Hypothetical

The Bylaws state that the name of the association that is the Party is the Libertarian Party. Suppose one day that the LNC illegitimately passes a motion that the Party shall be called “The Knights that Say Ne Party” but has not yet changed it with the FEC, on the website, or taken any action other than the motion. Is the JC saying that the members would have no right to appeal such a blatantly violative provision outside their authority until they actually did? I would respectfully submit that is absurd. Such examples could be multiplied.

#### **4. FUNDAMENTAL INEQUITY INHERENT IN IMPLIED DELAY**

In this instance we are dealing with provisions regarding removal of an officer or at-large member of the LNC. For someone to attain any either of those positions, they have or had wide swaths of support within the Party and invested at least significant time, and often money, into winning that election. Deprivation of that accomplishment should be securely bounded by guard rails. If, as the JC inquiry seems to imply, that there can only be a violation in this case AFTER someone has already been suspended (removed) pending appeal, then the inevitable conclusion is that someone must be actually harmed in a way that cannot be fully remediated before they are protected. This is akin to some who argue that pointing a gun at someone is not aggression, and that any move to neutralize the threat would be aggression because a bullet has not yet been actually fired.

In this circumstance, a determination that someone must first be removed before these rules can be challenged requires a person suffer first the shifting burden of proof in addition to the potential violation of their rights because, as Bylaws 6.7 and 7.5 stipulate, once a removal reaches the JC, the burden of proof shifts to the accused. So not only do they have to prove the unjustness of their removal under the allegations made against them, they also have to potentially battle violative rules that should never have been in place to begin with. This is fundamentally unfair as it is stacked against the solitary individual who is facing trial by multiple individuals before the determination of the validity of the process even begins. This cannot be correct.

#### **5. “JUDICIAL ECONOMY” FAVOR RESOLUTION AT THIS TIME**

Lastly, practicality weighs in my favor. At the time of any removal, emotions and drama in the Party is high. To my knowledge none have ever been successful.<sup>1</sup> Tensions are eased when the issues are narrow and focused on the facts surrounding any allegations and not procedural rights violations. As a recent example, filings in Harlos' recent appeal were long. They could have been much more narrowly focused if the surrounding due process issues did not have to be addressed. Right now, the JC has ample time in a relatively “boring” analysis to

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<sup>1</sup> Angela Keaton, 2008 (2008, failed LNC vote), Lee Wrights (circa 2008, overturned by JC), Arvin Vohra (circa 2019, failed LNC vote), Caryn Ann Harlos (2021, overturned by Convention), Caryn Ann Harlos (2024, overturned by JC). In my opinion, the Bylaws need to be overhauled to allow for removal/recall by delegates and not the LNC as the present system has been nothing but an occasion for misery in the Party. At other times when there appeared to be very clear cause, the subject officer(s) resigned.

deal with these issues rather than the high drama situation of an appeal on a removal.

## 6. LNC'S RESPONSE

The LNC's response appears to agree with me but brings in the irrelevancy that I did not challenge every line of the Policy Manual amendment in question. That is no revelation. I stated as much in my appeal, but noted that the amendment was passed as one motion and is therefore indivisible. If for some reasons the JC does not agree on the indivisibility, it can just strike the violative portions. If it does strike in full, I will be re-submitting my prior December appeal as the language would revert to the absolutely "violative in its entirety" language passed at the December 7, 2024 meeting. The end result would be to go back to the original language which is frankly where it needs to be. **It should be hard to remove an Officer or At-Large member absent something truly terrible like fraud or things such as the allegations made recently.** Why? Because this is overriding the will of the delegates.

Lastly, I do not understand Mr. Jacobs' repeated references to the fact that the LNC doesn't believe its decision was violative. I mean, that is the whole reason this appeal exists. It is rather obvious. I further hope that this is the end to responses and replies and that the LNC can let our respective answers to this inquiry stand without further briefs.

Sincerely,  
Brittany Kosin