

TONY D’ORAZIO, ON BEHALF OF APPELLANTS

VERSUS

LIBERTARIAN NATIONAL COMMITTEE

**In re: Joint Fundraising Committee
Request for Voidance Due to Drastically Changed
Circumstances in Standing with Current Bylaws or in the
Alternative, Rescission of Prior Decision**

Appellant: Tony D’Orazio (D’Orazio) and signatories

Appellee: Libertarian National Committee (LNC)

Date: September 11, 2024

Jurisdiction: Bylaws Articles 7.12 and 8.2(d)

Bylaws Alleged to be Violated: Bylaws Articles 2.4, 14.1

Other Relevant Bylaws: Bylaws Articles 6.3, 7.1, 14.3, 14.4

Interested Parties: Appellant, Appellee, Kennedy Victory Fund Signatories, Chase Oliver, Mike ter Maat, Steve Dasbach (Campaign Manager for Oliver/ter Maat "Official Ticket"), Robert F. Kennedy, Jr. (RFK)

This appeal is supported by the signatures of 146 National Libertarian Party 2024 Convention Delegates and 165 National Libertarian Party Sustaining Members thereby easily meeting the threshold of either 10% of the delegates at the most recent convention or 1% of the total national sustaining membership as required by Bylaws Article 7.12. These were gathered in barely 24 hours.

- The maximum number of credentialled delegates reported at Convention was 937.¹ Ten percent of that number would be 94.
- The last report dated July 2024 had a total sustaining membership of 11,892. One percent of that number would be 119.

¹ See draft Convention Minutes page 26,
https://drive.google.com/file/d/1iBO16Z31RHLJ-8JE_zYb1-DzqRZhZXhV/view?usp=drive_link

BACKGROUND INTRODUCTION: As in the prior appeal, Appellants have far exceeded signature requirements no matter which standard is used, but is relying upon the delegate signatures as those can be verified confidentially by the Judicial Committee as precedent has been set. Furthermore, every signatory has been sent a copy of this Appeal with an opportunity to withdraw their name and/or write supplementary arguments.

While the appellants do wish rescission of prior decision, unless necessary for completeness will not repeat arguments already in the record, leaving that potentially for Amici, and refer to the prior argument. But for the drastically changed conditions the Party now finds itself in, with relation to the Joint Fundraising Committee (JFC) and to the candidacy of RFK, this second appeal would not be filed.

JUSTIFICATION AND PRECEDENCE FOR RENEWAL OF MOTION AND/OR RESCISSION OF PRIOR DECISION:

RONR (12th. ed) (RONR) allows rescission as long as an action can be undone. As Chair McArdle (McArdle) stated during her arguments last appeal, this action can be undone. As the Judicial Committee has stated, emotional arguments concerning “what is your solution” and “where else are we going to get money” have no place here. For better or worse, and regardless of whether one believes it is justified, the monetary problems of this LNC are the responsibility of the LNC, whether they believe this to be justified or not.

RONR freely allows rescission in these circumstances (§35) and given the disastrous results, which were deemed theoretical in the last opinion, there is ample justification.

Renewal is also fully in order. Any decision of the LNC can be appealed with the proper signatories under our Bylaws. There is no finality listed in that Bylaw unless a decision is in fact voided. Furthermore, a second appeal, when the circumstances are so dramatically different, is clearly in order.

As stated publicly, Richard Brown, long-time Registered Parliamentarian who has advised the Party officially and unofficially for eight years, “(i)n my pretty firm opinion, the motion [in this case a Harlos motion to rescind the JFC] is not out of order, regardless of whether there have been changed circumstances. But, the fact that circumstances have changed adds credibility to the motion. I’ve already told [Harlos] it is not out of order, but [McArdle] has not asked, and I have not said anything to her. A motion can be renewed (made again) at any future session, regardless of whether there have been changed circumstances. However, if you want to take the position that

it's not in order unless there have been changed circumstances, I believe that requirement has been met by the changed circumstances, namely, RFK suspending his campaign. He not only suspended his campaign, but has endorsed Trump. So I think the motion is in order and is not dilatory. See 8:15 and 38:1 in RONR.”

DECISION BEING APPEALED:

Attached is a screenshot of the appealed decision through petition (all signed petitions submitted separately):

JOINT FUNDRAISING WITH RFK, JR CAMPAIGN UNDER NEW GROUNDS OF CLEARLY BEING ENDORSEMENT APPARATUS FOR DONALD TRUMP

I join in the appeal which I consent to have prepared by Tony D'Orazio of the Executive Committee decision 20240711-01 “Move to authorize the LNC to enter into a joint fund-raising agreement with the RFK, Jr. 2024 campaign” for violating the Party Bylaws, to include **but not limited to** Article 14 (though others may be brought in as support). This appeal is not duplicative of prior denied appeal as the issues raised will be ones that were explicitly not reached in prior majority opinion, primary that of explicit endorsement of major party candidate. I understand that I can withdraw my name or submit my own brief as well.

It is noteworthy that not only was the prior decision made without even seeing the agreement, which requires the LNC to **COORDINATE** spending 90% of any funds rendered over \$6,600 (not “separate and distinct” from all other political parties and movements - see arguments previously made), many on the LNC have yet to see this alleged agreement - nor was there ever any agreement to join with other parties. The decision should be void on those additional joinders **alone**. No accounting has ever been given of how these “coordinated” funds have been used.

ARGUMENT

While the previous decision invoked 'bylaws expertise', we contend that interpreting our Bylaws requires not esoteric knowledge, but rather a good-faith reading grounded in common sense and the foundational principles of our organization. The Bylaws, as the codified will of our membership, must be understood within the context of our Libertarian values and objectives. To interpret them otherwise risks subverting the very purpose of our Party and the intent of its members.

At the time of the first appeal, RFK was a nominal Libertarian, having paid \$25 and signed a pledge that he denies with nearly every policy prescription that would grow government. Contrary to the prior opinion, the fact that the prepositional phrase “to move policy in a libertarian direction” follows another prepositional phrase “to elect libertarians” does not take it “out of the realm of the Party.” It is a Principle of Interpretation in RONR that “(t)here is a presumption that nothing has been placed in the bylaws without some reason for it.” RONR 56:68(4). The Bylaws are the Party Bylaws - so everything in them is in the realm of the Party. If the Party were to be aware that some professed “libertarian” would theoretically move policy otherwise - something that is impossible to know without a reasonable doubt in advance - it would **still** be in violation to promote that candidate. However, that threshold doesn’t need to be reached here.

Bylaws Article 2 is entitled “Purposes” and 2.4 states one of those purposes as: **“nominating candidates for President and Vice-President of the United States, and supporting Party and affiliate party candidates for political office.”** One would be hard pressed to say that renting the Party name and contribution limits to **EXPLICITLY endorse Donald Trump** follows that.

The majority claim that “separate and distinct” is more restrictive than endorsement is simply not logically supported in context. The SPECIFIC is more determinative than the “general” (RONR 56:68 (3), (4), (5), (6)), the Bylaws are SPECIFIC not only in Article 2.4 about who we support but also Bylaw 14 which the prior majority opinion already conceded prohibited the national Party from endorsing (which would include co-endorsing) any Presidential candidate other than the one nominated at convention.

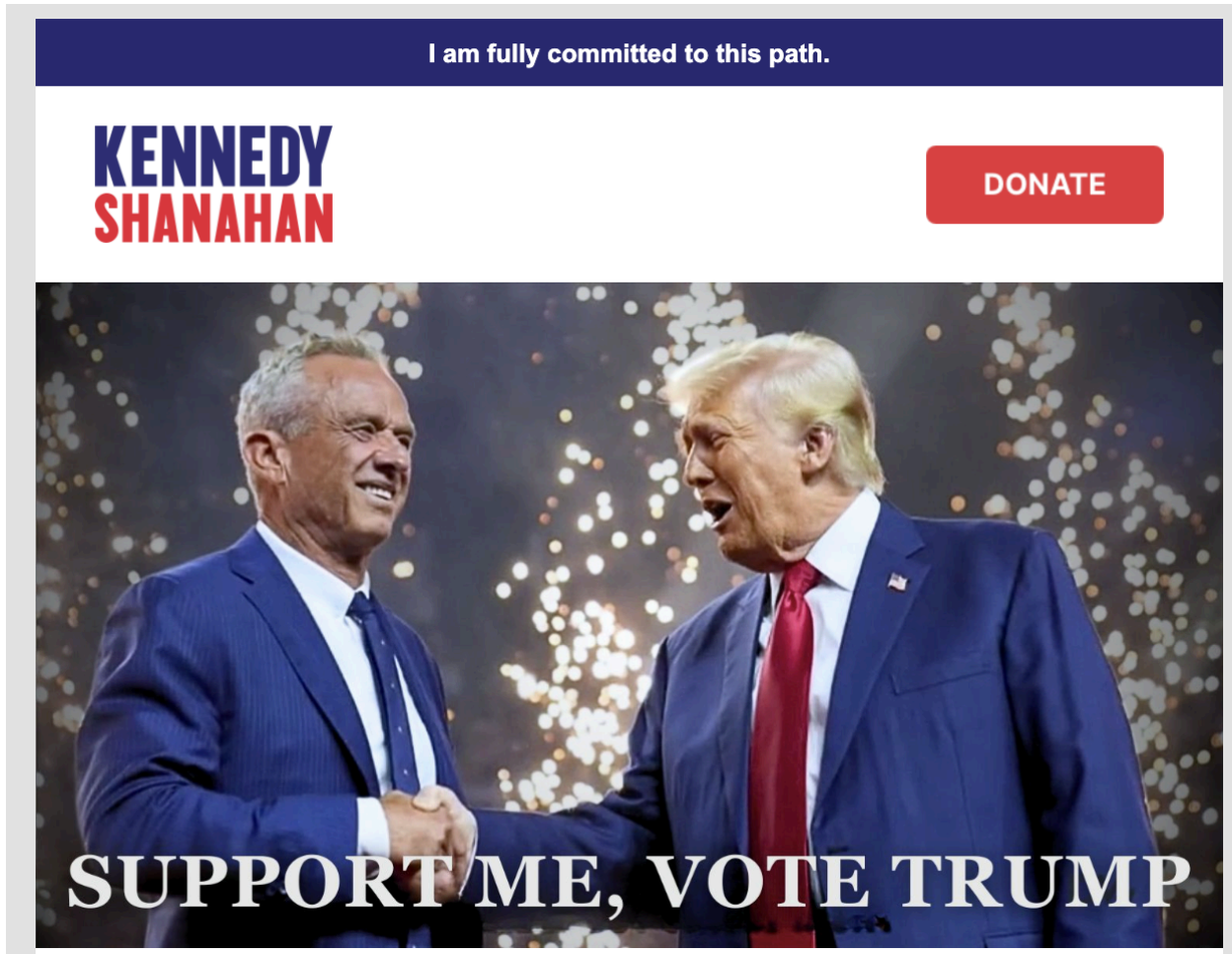
Since the previous appeal, the situation has dramatically shifted. RFK has not merely suspended his campaign in some states - he has effectively terminated his Presidential run altogether. More alarmingly, he is now **actively endorsing** Donald Trump in all 50 states. This endorsement is not a passive act; RFK is leveraging his donation infrastructure, including the very one established through our joint efforts, to funnel support to the Republican candidate. This represents a fundamental betrayal of our Party’s purpose and a clear violation of our Bylaws.

Below is just some of the evidence that the Libertarian Party is now just effectively a pass-through funder (for a commission).

View this page:

<https://emailsnest.com/brands/robert-f-kennedy-jr/who-bobby-wants-you-to-vote-for-623130#>

Here are some pertinent screenshots:



Here's what that means for you:

- **In every state**, if you support me and my vision of a government united around common goals, I encourage you to vote for President Trump.
- This isn't about splitting votes or sending mixed signals. It's about creating a united front that will carry us through these turbulent times and restore integrity to our government.

I am fully committed to this path. Any confusion or division at this stage could undermine the very progress we've fought for. And this means I need your financial support now more than ever.



[DONATE NOW](#)

Email Content Analysis

Content Overview

The main message of the email is to persuade the reader to vote for Donald Trump, as endorsed by Robert F. Kennedy, Jr. The primary goal of the email is to promote Trump's candidacy and raise funds for Kennedy's campaign.

And as eloquently argued by Region 3 South Representative Keith Thompson:

The member who sent it to me was very concerned about it as it asked voters to support Trump in all 50 states and we have an association with the RFK Jr. campaign.

There exist multiple ties binding us to the Kennedy campaign, including:
Our failure to openly condemn affiliates seeking to nominate RFK Jr.
Going after Caryn Ann for assisting the Libertarian candidate over RFK Jr.
Our engagement in a joint fundraising campaign whereby we spend 90% of the donations on Kennedy.
Conditional qualifiers used when voicing support for our candidate.

With Kennedy now telling voters in all states to not vote for the Libertarian candidate, but for Donald Trump, it seemed the body may wish to reconsider our association.

The concern isn't that the email directs people to the JFC, it's that Kennedy is openly supporting Trump and we're in a friendly, monetarily-bound relationship with him and the JFC is listed for those who wish to donate at higher amounts.

And the drop in the bucket of the press coverage was covered by Region 3 South Representative Paul Darr:

Articles on the email can be found at:

<https://pennsylvaniadailystar.com/news/rfk-jr-reverses-course-tells-supporters-in-every-state-to-vote-for-trump/jtnews/2024/09/06/>

<https://headlineusa.com/rfk-jr-tells-supporters-to-vote-for-trump-after-winning-multiple-wing-state-battles/>

<https://headlineusa.com/rfk-jr-tells-supporters-to-vote-for-trump-after-winning-multiple-wing-state-battles/>

You can also find multiple independent reports on social media including:

<https://twitter.com/TexansforRFKJr/status/1831823114780499994>

<https://twitter.com/FarmBoy4203675/status/1832097672796500460>

<https://twitter.com/plantparadise7/status/1831827370581619112>

As the majority opinion noted, Endorsement explicitly violates the “full support” and respecting the will of the delegates clauses in Article 14. Putting up a paper sheet doesn't cover this any more than a gown at a doctor's exam.

At least 12 states representing a significant portion of Party membership condemned this JFC prior to this.

It is patently obvious to the vast majority of the Party that this violates the Party's purpose and Bylaws. It is also patently obvious that some wish us to have a different purpose. Their recourse is **not** to ignore the facts and governance at hand, but to amend the Bylaws.

REQUESTED RELIEF: Given the irrefutable evidence of Bylaws violations and the fundamental shift in circumstances since the JFC's approval, we implore the Judicial Committee to:

1. Declare the LNC/EC approval of the Joint Fundraising Committee null and void.
2. Order the **immediate** cessation of all JFC activities involving the national Libertarian Party.
3. Issue a clear directive prohibiting similar arrangements in the future without explicit safeguards ensuring alignment with Libertarian principles and Bylaws compliance.

The integrity of our Party, the will of our members, and our commitment to Libertarian ideals demand no less than swift and decisive action on these points.

PROCEDURAL RELIEF REQUESTED: Last hearing did not proceed as likely intended. Parties did not get to call witnesses as time as taken up, sometimes repetitively by questions. Please allow Parties to make their cases, followed by Q&A with time limits for JC questions and the subject party to answer.

Thank you for your respectful consideration,
Tony D'Orazio

PS: It has been suggested that it would be an act of 'hubris' for the Judicial Committee to substitute its judgment for that of the Party leadership. D'Orazio emphatically rejects this characterization. The JC does not exist merely to rubber-stamp decisions made by the LNC, but rather to serve as a critical check and balance within our organizational structure.

The JC's primary function is to safeguard our Party's governing documents and protect our membership's interests. Far from being hubris, intervening when the LNC's actions potentially violate our Bylaws or principles is the fulfillment of the Committee's core responsibility. The true hubris lies in suggesting LNC decisions should be beyond scrutiny. It is precisely the duty of the JC to say 'no' when necessary, not to substitute judgment, but to uphold our Party's structure and values. The JC must protect our membership from well-intentioned but potentially damaging decisions that could undermine our organization's credibility, unity, and effectiveness.