

December 4, 2024

Via Email

Re: Appeal of Phillies

Members of the JC:

We are seeking clarification regarding your recent ruling in the Phillies appeal. We found the majority opinion difficult to follow, with its many lengthy footnotes and parts that seemed contradictory or unrelated to the issues Phillies raised. Further, we are advised that the JC has scheduled a hearing for December 14 to rule on an appeal from the LNC's decisions to suspend and remove Ms. Harlos as Secretary. As that is the case, it is unclear what, if anything, the majority opinion in the Phillies appeal decided.

If we understand your opinion correctly, it appears to have far-reaching effects. Is your interpretation that the JC can rule on any decision of the LNC, not just what is specified in the Bylaws?

Among other things, your decision stated, "We find no support for this interpretation either in the letter or spirit of the Bylaws, which more appears to embrace the notion that all decisions by the LNC should be subject to review by the LJC."

In fact, however, the Bylaws clearly specify the areas where the JC has jurisdiction to rule:

The subject matter jurisdiction of the Judicial Committee is limited to consideration of only those matters expressly identified as follows:

- a. suspension of affiliate parties (Article 5, Section 6),
- b. suspension of officers (Article 6, Section 7),
- c. suspension of National Committee members-at-large (Article 7, Section 5),
- d. voiding of National Committee decisions (Article 7, Section 12),
- e. challenges to platform planks (Rule 5, Section 7),
- f. challenges to resolutions (Rule 6, Section 2), and
- g. suspension of Presidential and Vice-Presidential candidates (Article 14, Section 5).

Article 7, Section 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.

Your decision says: ““In essence,” it is better characterized as an appeal as to the sufficiency of charges brought against an officer, in the nature of a motion to dismiss for failure to state a claim.”

This indicates that you are ruling on an issue that Phillies did not raise, and equally important, over which the JC may have no jurisdiction. Is that the case? Can you please clarify if you are ruling on Ms. Harlos’ suspension, or on a decision the LNC made on October 6, 2024, from which Phillies appealed? Or is it another issue entirely?

Did you provide a ruling on the Phillies appeal, which is stated as follows:

George Phillies, on behalf of Appellants, appeals to the Judicial Committee to void the decisions of the Libertarian National Committee made during its Special Meeting of October 6, 2024 for violation of the Libertarian Party Bylaws.

Did you provide a ruling on the following requested relief?

The requested action of the Judicial Committee is that the decisions of the LNC shall be overturned by the Judicial Committee and found to be null and void for violation of the Bylaws, that in consequence Caryn Ann Harlos shall be restored to her authorities, rights, and duties as Secretary and all other positions within the party from which she was suspended, that National Committee actions consequent to these decisions such as a trial are invalid, and that a statement should be inserted in party minutes preceding each voided decision, each motion and vote, stating that the decision has been overturned by the Judicial Committee.

Is it your contention that Harlos is suspended?

If you are limited to ruling on the Bylaws and the decisions of the LNC, then you are not able to rule on suspension. If you are ruling on the Phillies appeal and whether or not the LNC violated the Bylaws, how can you rule on the policy manual, which is a living document and not under the jurisdiction of the JC?

Is your opinion that in the future, an officer can refuse to perform part of his or her job to the point of great damage, but cannot be removed for that refusal unless he or she is guilty of failure to perform “all duties”? Is this opinion based solely on your interpretation of the Policy Manual? Is there an authority that you relied on in order to come to this decision?

The appeal filed by Phillies was untimely. Do the time limits specified for appeals within the bylaws no longer apply? Will all future untimely appeals be heard?

Gross malfeasance is not defined in the Policy Manual or Roberts, or the Bylaws. By what authority does the JC supplant its judgment for the LNC's as to what constitutes gross malfeasance?

What is the meaning of this ruling or the desired next directions of the LNC if the JC intends to hold another hearing on the removal of Harlos?

Bylaws Section 6.7 states,

The National Committee may, for cause, suspend any officer by a vote of 2/3 of the entire National Committee, excepting the officer that is the subject of the vote who may not participate in that vote. The suspended officer may challenge the suspension by an appeal in writing to the Judicial Committee within seven days of receipt of notice of suspension. Failure to appeal within seven days shall confirm the suspension and bar any later challenge or appeal. The Judicial Committee shall set a date for hearing the appeal between 20 and 40 days of receipt of the appeal and shall notify all interested persons, which persons shall have the right to appear and present evidence and argument. At the hearing the burden of persuasion shall rest upon the appellant. The Judicial Committee shall either affirm the National Committee's suspension of the officer or order the officer's reinstatement within 30 days of the hearing. Failure of the Judicial Committee to rule within 30 days shall constitute an affirmation of the National Committee's suspension of the officer. At such time as the suspension is final, the office in question shall be deemed vacant.

If your contention is that this was akin to a removal from office, Ms. Harlos did not appeal this decision to the JC within 7 days.

We will appreciate any clarification you may provide of the questions and issues raised herein.

Respectfully,

A handwritten signature in black ink, consisting of a stylized capital letter 'A' followed by a series of connected, wavy lines that suggest the letters 'M' and 'A'.

Angela McArdle

Chair

Libertarian National Committee