

December 10, 2024

Response to December 4, 2024 request by Angela McArdle for clarification of Phillies v. LNC decision

1. Is your interpretation that the JC can rule on any decision of the LNC, not just what is specified in the Bylaws?

This question may be taken two ways. Here are answers to both:

Article 8.2.d of the Bylaws grants the LJC jurisdiction to "void[] National Committee decisions". Our interpretation is that encompasses *any* decision of the LNC except, perhaps, those specifically listed in the other "matters" listed in Article 8.2.

We believe the LJC has the authority to rule whether decisions of the LNC brought before the LJC were made within the authority of the LNC per the Bylaws and all other rules adopted pursuant to the Bylaws, such as Robert's, the Policy Manual, and any other binding rule.

2. 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?

The Bylaws grant the LJC jurisdiction over specific actions of the LNC, or of the convention, not over specific issues. In accepting the Phillies petition, we determined that the LJC had jurisdiction to hear the case. Once jurisdiction has been established, we believe we are authorized to consider the totality of the rules explicitly stated in the Bylaws or authorized pursuant to them.

3. 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?

We ruled solely on each of the eight LNC decisions of October 6 identified in the majority opinion.

4. 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.

Yes, specifically the eight LNC decisions of October 6 identified in the majority opinion.

5. 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.

We only granted relief on the first item requested; we do not believe it is within our jurisdiction to grant the requested relief on the remaining items.

6. Is it your contention that Harlos is suspended?

Our ruling is that the eight LNC decisions of October 6 identified in the majority opinion are null and void.

7. [H]ow can you rule on the policy manual . . . ?

The rule in question was within the authority of the LNC to promulgate pursuant to Bylaws Article 7.1 ("The National Committee shall adopt rules of procedure for the conduct of its meetings and the carrying out of its duties and responsibilities.") and RONR (12th ed.) 2:3. As such, it is binding on the LNC, its authority originating from the Bylaws, albeit indirectly.

8. 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"?

The majority opinion holds that "[n]o Party Officer or At-Large Member shall be subject to removal from office except for failure to perform the duties of office or gross malfeasance", in

addition to "some standard of 'cause' to remove an officer as expressed in Robert's." Our interpretation of the first quote may be found in the "Analysis" section.

9. Is this opinion based solely on your interpretation of the Policy Manual?

The majority opinion is based on the first sentence of Section 1.01 (4) of the Policy Manual. We appealed to the sources indicated in the majority opinion as to the meaning.

10. Is there an authority that you relied on in order to come to this decision?

We measured the four Specifications preferred by the LNC on October 6 against the standards in the Bylaws, Robert's, and as promulgated by the LNC, as stated in the majority opinion.

11. Do the time limits specified for appeals within the bylaws no longer apply?

All time limits specified in the Bylaws must be respected by the LJC. This appeal was prosecuted pursuant to Article 7.12 of the Bylaws, which does not appear to be time-limited.

12. Will all future untimely appeals be heard?

We intend always to respect all time limits specified in the Bylaws.

13. By what authority does the JC supplant its judgment for the LNC's as to what constitutes gross malfeasance?

We do not believe the LJC has supplanted its judgment for that of the LNC in this case but the Bylaws may grant the LJC the authority to do so in appropriate circumstances.

14. 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?

The meaning of the ruling is that the eight LNC decisions of October 6 identified in the majority opinion are null and void, as if ruled out of order by the LNC. We cannot advise the LNC as to what steps to take next beyond those stated in the opinion. We are holding another hearing on the LNC's November 9 vote to suspend Ms. Harlos because we believe we are authorized and bound to do so per the Bylaws and Rules of Appellate Procedure.

15. 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.

Presuming this statement was intended as a question, we do not contend that the eight LNC decisions of October 6 identified in the majority opinion were akin to a removal from office.

We members of the LJC who joined the majority opinion believe these answers accurately reflect the decision in this case.

Blay Tarnoff  
Stephan Kinsella  
Mike Seebeck  
Marc Montoni  
Rob Stratton