

MEETING MINUTES  
EXECUTIVE COMMITTEE  
FEBRUARY 20, 2020  
VIA ZOOM



*PREPARED BY CARYN ANN HARLOS, LNC SECRETARY*

CURRENT STATUS:

**FINAL**

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**LEGEND:** text to be inserted, ~~text to be deleted~~, unchanged existing text, **substantive main motions**.

All main substantive motions will be set off by **bold and italics in green font** (with related subsidiary and incidental motions **set off by highlighted italics**) and will be assigned a motion number comprising the date and a sequential number to be recorded in the Secretary's Main Motion/Ballot Tally record located at <https://tinyurl.com/lncvotestally2020>.

All vote results, challenges, and rulings will be set off by **bold italics**.

The LPedia page for this meeting is:

[https://lpedia.org/wiki/LNC\\_Executive\\_Committee\\_Meeting\\_20\\_February\\_2020](https://lpedia.org/wiki/LNC_Executive_Committee_Meeting_20_February_2020)

## CALL TO ORDER

Chairman Nicholas J. Sarwark called the meeting of the Executive Committee (ExComm) to order at 10:35 p.m. (all times Eastern).

## ATTENDANCE

**Executive Committee Members Present:** Nicholas J. Sarwark (Chair), Alex Merced (Vice-Chair), Caryn Ann Harlos (Secretary), Sam Goldstein (At-Large Representative), Jim Lark (Region 5 Representative),

**Executive Committee Members Absent:** Tim Hagan (Treasurer), Bill Redpath (At-Large Representative)

**Other LNC Members Present:** None

**Staff Present:** None

**Other Participants Present:** Oliver Hall (LNC Special Counsel)

**Gallery:** Wayne Harlos

## PURPOSE

Decide on whether or not to file an amicus brief in *Carney v. Adams* (see attached email chain).

## DISCUSSION

Mr. Hall confirmed that the initial estimate of \$1,500.00 for the printing and filing costs remain reasonable. Attorneys' fees depend upon what can be negotiated. There are multiple attorneys willing to provide *pro bono* support but not willing to take the lead on the case. The deadline for filing a brief is March 2, 2020. There are multiple other briefs filed in this case; however, they are in support of the challenged laws claiming they promote diversity in the judiciary (#doublespeak).

***Mr. Goldstein moved that the Executive Committee appropriate no more than \$5,000 from the legal offense budget line to solicit an attorney and file amicus brief with the proviso that the brief be submitted to the EC for review and approval no later than February 28, 2020. [200220-1]***

A roll call vote was conducted with the following results.

EC MEMBER	Aye	Nay	Abst.
Goldstein	X		
Harlos	X		
Lark	X		
Merced	X		
Sarwark	X		
<b>TOTALS</b>	<b>5</b>	<b>0</b>	<b>0</b>

*The motion PASSED with a vote count of 5-0-0. [200220-1]*

## ADJOURNMENT

The meeting adjourned without objection at 10:51 p.m.

Respectfully Submitted,

*Caryn Ann Harlos*

EMAIL CHAIN



Caryn Ann Harlos <carynannharlos@gmail.com>

**Re: [Lnc-business] Proposed Amicus Brief: Carney v. Adams**

4 messages

**Oliver Hall via Lnc-business** <lnc-business@hq.lp.org>  
Reply-To: lnc-business@hq.lp.org  
To: Libertarian National Committee list <lnc-business@hq.lp.org>  
Cc: Oliver Hall <oliverbhall@gmail.com>

Wed, Feb 19, 2020 at 11:34 AM

I am following up on the message below to advise that we have received two offers from Libertarian attorneys who may be interested in working on an amicus brief in this case.

One attorney has requested payment for working on the brief. The other has offered help on a pro bono basis, but cannot act as lead author.

In addition, I can serve as ccounsel of record for purposes of the filing, and I can provide support to the lead author if we are able to find one (assuming the LNC is interested in pursuing this matter).

\*Again,\* \*the filing deadline is March 2, 2020.\*

Thank you,

Oliver

Oliver B. Hall  
Special Counsel  
Libertarian National Committee  
202-280-0898

On 2/5/2020 11:34 AM, Oliver Hall wrote:

Greetings:

I am writing to provide further information about /Carney v. Adams/, No. 19-309, to assist the LNC in determining whether to file an amicus brief in support of the Plaintiff-Respondent in this case.

\*The deadline for filing such a brief is March 2, 2020.\*

The case arises from a decision of the Third Circuit, which held unconstitutional certain provisions of the Delaware Constitution that disqualify independents and minor party members from serving as judges of the Delaware Supreme Court, the Delaware Court of Chancery or the Delaware Superior Court. As applied, these provisions guarantee that such judges shall be members of "one major political party" or "the other major political party."

The Plaintiff-Respondent, James Adams, is an independent who wishes to serve as a judge in the Delaware courts but is prohibited by the challenged state constitutional provisions. The Defendant-Petitioner is John Carney, Governor of Delaware.

Both the District Court and the Third Circuit ruled in the Plaintiff-Respondent's favor, holding the provisions unconstitutional. The Third Circuit held that the

provisions are unconstitutional on two grounds:

1. Use of political affiliation as a qualification for a judgeship violates the First Amendment; and
2. Disqualification of non-major party members from serving as judges violates the First Amendment.

After losing in the Third Circuit, the Defendant-Petitioner filed a petition for certiorari. The Supreme Court granted the petition on December 6, 2019. The Supreme Court will hear oral argument on March 25, 2020.

The proposed amicus brief would be in support of the Plaintiff-Respondent, on the merits of the case (not in opposition to the petition for certiorari, which was already granted).

\*\_Reasons the LNC May Wish to File an Amicus Brief\_\*

1. The LNC has an interest in challenging state laws that categorically exclude Libertarians from serving in public office;
2. If the Supreme Court upholds the law, it may set a precedent that negatively affects the Libertarian Party in ballot access and other cases;
3. The Supreme Court's acceptance of the petition for certiorari appears to be an indication (or at least raises the risk) that it will reverse the Third Circuit's decision.
4. Many amicus briefs have been filed in this case already, including from well-known "good government" groups, most of which argue that the challenged provisions should be upheld as promoting "diversity" in the judiciary;
5. A brief filed by the LNC could be valuable in arguing that exclusion of its members from holding judgeships in Delaware plainly violates their First Amendment rights, and in any event, such a categorical exclusion is not narrowly tailored to promote the state's purported interest in promoting "diversity" among the judiciary;
6. The LNC (and other minor parties) is uniquely positioned to file such a brief.

Again, the proposed amicus brief is \*due March 2, 2020 \*

Please let me know if I can answer questions or provide further information.

Thank you,

Oliver

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Oliver B. Hall  
Special Counsel  
Libertarian National Committee  
202-260-0898

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**john.phillips---** via **Lnc-business** <lnc-business@hq.lp.org>  
Reply-To: lnc-business@hq.lp.org  
To: Lnc business Email <lnc-business@hq.lp.org>  
Cc: john.phillips@lp.org, Oliver Hall <oiverbhall@gmail.com>

Wed, Feb 19, 2020 at 11:58 AM

Deadline fast approaching do we need a motion to give Mr Hall a go ahead? Or a quick EC meeting since time is a factor?  
I support going ahead with it and would suggest an EC meeting as the most expeditious path.

John Phillips  
Libertarian National Committee Region 6 Representative  
Cell 217-412-5973  
[Quoted text hidden]

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**Nicholas Sarwark via Lnc-business** <lnc-business@hq.lp.org>  
Reply-To: lnc-business@hq.lp.org  
To: LNC-Business List <lnc-business@hq.lp.org>  
Cc: Nicholas Sarwark <chair@lp.org>

Wed, Feb 19, 2020 at 1:21 PM

This will require an Executive Committee meeting to move forward. I will contact the Executive Committee to schedule a meeting before the end of the week.

-Nick  
[Quoted text hidden]

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**Sam Goldstein via Lnc-business** <lnc-business@hq.lp.org>  
Reply-To: lnc-business@hq.lp.org  
To: lnc-business@hq.lp.org  
Cc: Sam Goldstein <sam.goldstein@lp.org>

Wed, Feb 19, 2020 at 1:23 PM

Can we get an estimate of the total cost (attorney cost if any and printing filing) before the EC meeting?

Thanks,

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Sam Goldstein  
Libertarian National Committee  
317-850-0726 Cell  
[Quoted text hidden]