California College Republicans

Judiciary Committee

California College Republicans

v.

Nick Steinwender

Ruling on a Violation of Subpoena 01

Dated: March 04, 2018.

Chief Justice Gandall delivered the unanimous opinion of the Committee.

On February 21st, 2018 the Chairman of the California College Republicans (CCR), Ariana Rowlands, brought petition against Nick Steinwender, alleged former CCR Membership Director, arguing a violation of the CCR constitution.[1] This petition specifically alleged that the defendant violated Art. V §4, which requires all CCR property be turned over within 15 days after an election. The allegations presented in the brief argued that the defendant, during the Allen and Danzek administrations, possessed the CCR membership list as part of his duties as Membership Director. These lists were never turned over, thus allegedly violating the constitution. Such lists, as the Chairman's petition further contended, were vital to the equitable commencement of the credentialing process to offer official charters to chapters, and thus important to effectively run the annual convention.

The Chairman, further arguing that the call to convention must occur prior to March 7th, plead this Committee for injunctive relief against the defendant. This supposed relief would've included judicial intervention involving a preliminary injunction to suspend the defendant's rights within CCR, as well as taking other punitive measures. The

[1] This case is named on behalf of the Chairman's department, whom has been found to hold the right to procedural interpretation prior to the creation of this Committee. *California College Republicans v. Leibiwitz.*

Judiciary Committee, in a response to the Chairman, unanimously ruled that a preliminary injunction was not only unnecessary in light of a reasonable alternative, but that such intervention would've violated the procedural rights of the defendant to due process. Extending on this reason, the Committee found that such a preliminary injunction was not only a violation of the parliamentary rules of the organization, which specify, "[the defendant] has the right to due process – that is, to be informed of the charge and given time to prepare his defense, to appear and defend himself, and to be fairly treated," RONR (11th edition), p. 656, ll. 1 – 5, but that such immediate, and rather coercive action would lay, "the framework necessary for the kritocracy, and thus… doom for our fledgling democracy." *CCR v. Steinwender*, Appendix C.[2]

Next, this Committee, while rejecting Rowlands, did issue a notice to the defendant on February 25th, which included the Chairman's petition, the necessary appendixes, and a subpoena,

---

[2] This does not necessarily imply we find that preliminary injunctions have no place in CCR, just that such a preliminary injunction must meet a very carefully tailored set of criteria, namely that: "(1) there is a substantial likelihood of success on the merits of the case; (2) that the plaintiff faces a substantial threat of irreparable damage or injury in lieu of injunctive relief; (3) that the balance of potential harm weighs in favor of the party seeking the preliminary injunction; and finally, (4) that the grant of the injunction serves the public interest. *Munaf v. Geren*, 553 US 674 (2008)." *CCR v. Steinwender*, response to injunctive relief.

which outlined the time and dates for the preliminary hearing. Appendix A and B. These procedures are in conformity with the Committee's subprocedures, outlined in the Judiciary Charter and CCR Bylaws.[3]

The defendant, however, did not respond to the notice. Nonetheless, the Committee, pursuant to our due consideration offered to the defendant, held the preliminary hearing at 8:30 PM on March 3rd. At 8:28 PM the plaintiff presented herself to the Committee. At 8:30 PM Chief Justice Gandall announced the committee would wait a total of 15 minutes for the defendant. After 15 minutes expired, at 8:45 PM promptly, the defendant had not come before the committee, thus violating his subpoena. At 8:45 PM Chief Justice Gandall called the meeting to order, but as the defendant was not present, and therefore could not be arraigned, the Committee could not begin the process of the hearing. At this time, Chief Justice Gandall dismissed the plaintiff, and the Judiciary Committee excused itself into private deliberation.

The Judiciary Committee, unable to hear evidence, administer procedural rights, and thus, unable to determine the defendant's guilt, was presented with a range of issues, regarding the procedural, legal, and practical considerations of a defiant defendant. As Justice Demos openly noted in

---

[3] We reference, "Bylaws" when providing explanation behind the CCR Bylaws. When using the term, "bylaws," as lowercased, we are referencing the situation of a regulation or statute existing.

Judiciary Brief 01, this case was to define the necessary parameters and jurisdictions of the Judiciary Committee; such a case, we find, is indeed to cover such grounds, and encompasses the practical solvency of this committee.

Upon extensive deliberation, this Committee finds the following: first, that the Judiciary Committee fulfilled its obligation of providing the defendant's procedural rights; second, that the defendant's procedural rights are not violated by the issuing of a subpoena and the subsequent enforcement of such; third, that the Judiciary Committee can impose injunctions against the defendant, and can mandate relevant CCR agencies to act as such.

Finally, a number of members, including those on the Executive Board, have voiced active concerns regarding the extent of this authority; specifically, these individuals echo the fears of Madison in Federalist 78, that unchecked judicial power would soon be indistinguishable from a dictatorship. As this Committee found prior in our response to the Chairman's plea for injunctive relief, these concerns are not unwarranted. And, as this Committee will find, these concerns may actually be correct in merit; however, such facially drawn lines of authority are but inherent to the nature of any organization, and thus, omnipresent in any hierarchy – whether explicit or not. This Committee finds, therefore, that the extent of judicial intervention, prior to the finding of guilt, cannot, and will not, exceed the realm of enforcing adjective law. Accordingly, while

this Committee cannot comment on the substantive nature of the case, i.e. the situation of the membership lists, we can, and we should, rule on the defendant's procedural behavior. The Judiciary Committee therefore respectfully dissents from these voices, and finds the defendant under our jurisdiction, even at the deprivation of traditional political authority.

I.

A.

Before consideration of the defendant's rights and the violation in question, the Committee must first determine the nature of our jurisdiction. This jurisdiction, we find, is enshrined in the text of the constitution, bylaws, and rules of procedure, and the spirit of such embodied by the fundamental importance of an independent judiciary. Such a jurisdiction, as described by the Judiciary Charter, is to act as the, "governing judiciary." Art. II §1. To describe this governing judiciary, the CCR Bylaws provide three areas of general authority: first, that which permits the investigation of cases; second, that of which permits the hearing of cases; and finally, third, that of which allows this Committee to rule on cases.

The first general area of authority is to investigate cases. While important to the authorities of the Committee, this area in question is simply not relevant to this case; namely, as the investigative authority occurred from the petition submitted by Chairman Rowlands, the Committee was uninvolved

here. Thus, while the authorities granted provide a way for the Committee to operate in an investigative manner, further discussion would constitute dicta, and thus, be inapplicable as a precedent.

Second, and the relevant factor behind this case, is the authority to, "hear." Art. VII §8. The Bylaws provide a thorough interpretation of this area of the jurisdiction, defining this as, "member grievances that arise from violations of the Constitution or Bylaws," but fail to encompass what a hearing practically is, leaving this specification to the Judiciary Committee. Art. VII §8. More specifically, the Bylaws require the Committee to, "Create and maintain a charter and other rules pertinent to the committee." Art VII §8(d). The Judiciary Committee, acting under the CCR Bylaws, thus divided these rules into 3 distinct subsects: first, jurisdictions and authorities; second, evidentiary rules; and finally, third, the actual practical hearing procedures. Firstmost, relevant to this case is Judiciary Rule subsect one, which permits the Judiciary Committee to, "subpoena members." Judiciary Charter, Art VII §3. Secondmost, the act of the place of the meeting designation, namely that of an online hearing, is permitted by subsect three of the Judiciary Rules, which allows the Chief Justice to, "…decide to hold the hearing on-line." Judiciary Hearing Procedures, Rule 1 §1.1.1. Thus, in the application of only but two of three subsects of judiciary procedures, we find that both the issuance of the subpoena and the

designation of an online conference call was within the jurisdiction of the Judiciary Committee.

Next, the Committee must determine the ability to hear the actual allegation.[4] If such allegations are not within our jurisdiction to hear in the first, then this Committee ought to squash the subpoena, and thus not enforce any subsequent violations emerging from the subpoena. We find, however, these allegations to be distinctly within our jurisdiction. As prior argued, the Judiciary Committee retains the authority to hear cases relevant to a violation of the Constitution. The plaintiff, in arguing the defendant violated Art V §4 of the CCR Constitution, provided a self-evident assertion that she met the criteria to be applicable to the realm of the Constitution;[5] indeed, such an argument must be tautologically true, as one cannot argue a violation of the constitution, proceed to cite the constitution, without providing the constitution in some context.[6] Even if the plaintiff was erred in her interpretation, she nonetheless provided all that

---

[4] While the Committee cannot rule on the substantive nature of the case, the Committee can decide whether the allegations presented by the plaintiff fall within our authority to hear.

[5] It should be noted that the Judiciary Committee holds a basic procedural right to determine if these charges are the very least reasonable; a frivolous case, for instance, may include no actual evidence, at which case the Judiciary Committee would return the brief to the plaintiff, with recommendations on meeting the necessary minimum standards of submission.

[6] For instance, if one cites Art 1 §1 of the Constitution, one is citing the Constitution. Simply put, in all cases of x, x will always equal x.

is needed for us to find her petition within our jurisdiction today.

Even under our jurisdiction to hear, however, we have not yet determined our jurisdiction to provide a ruling. Indeed, while it is possible to contend that the Judiciary must provide all parts of due process in all cases, this is simply a misunderstanding in the divisions of the law.[7] More specifically, our analysis of rulings can be divided into two areas: first, substantive law; and second, adjective law. Our definition is derived from a basic understanding of common law, that:

> *The body of law in a State consists of two parts, substantive and* adjective *law. The former prescribes those rules of civil conduct which declare the rights and duties of all who are subject to the law. The latter relates to the remedial agencies and procedure by which rights are maintained, their invasion redressed, and the methods by which such results are accomplished in judicial tribunals."* B.L.D. (10th ed. 2014).

More specifically in distinction, substantive law is that of which, "…creates, defines and regulates the rights and duties of parties and which may give rise to a cause of action." B.L.D 536 ; 192 P. 2d 589." *See also*: *Sacramento State Republicans v.*

---

[7] For instance, as was stipulated in our discussion of the facts, arraignment, an important part to one's due process, was not present, as the defendant refused to show himself.

Daniels. Thus, in the case petitioned by the plaintiff, that the defendant violated the constitution, we would rule on a substantive feature of law; in contrast, with the violation of a subpoena, we deal only with the, "procedure by which rights are maintained," not the rule of behavioral regulation. To make this notion yet more clear, an adjective feature of law is never a question of fact, but a feature of interpretation, and a substantive feature of law can exhibit both.[8]

In summary, we find that while all rulings involving substantive law require thorough due process, as defined in relevant case law and the CCR governing documents, the requirement of providing such due process for adjective rulings does not exist.

Our ruling of this matter, is, in fact, repetitive of that already found in *Sacramento State Republicans (SSR) v. Daniels*.[9,10] In SSR, the Office of the Parliamentarian considered whether the election of Vice Chair Daniels, whom SSR alleged to not be a member, and whose subsequent election

---

[8] It is possible for the defendant to argue he did not violate the subpoena. Such a ruling would then be substantive; however, we find there to be reasonable grounds to rule on substantive features that are obviously self-evident, i.e. that of which holds that of which is to be considered nearly irrefutable proof.

[9] At this point in time, the neither the Judiciary Committee nor the Bylaws existed. Thus, such powers, without appropriation, were inherent to the Chair.

[10] While the Parliamentarian ruled on the case, the Office of the Parliamentarian existed under the Chair. In contrast, the Judiciary Committee exists as an explicit appropriation of powers found in the CCR Bylaws.

was therefore unlawful.[11] Simply put, if one is not a College Republican, he cannot run for office. The parliamentarian's ruling in this matter, relevant in this part of this opinion, found that the ability to, "rule on adjective law…" was in compliance with the permission for the appropriate authority, "to enforce the adjective procedures." Furthermore, while, as the opinion notes, "future bylaws may create a more stringent standard of due process, the status quo permits [the appropriate authority] to unilateral remove…officers."[12] In the context of *CCR v. Steinwender*, we find, as the Bylaws stipulate, that the Judiciary Committee is the appropriate authority to rule on violations of governing documents, of which, a subpoena violation is clearly a construct of. CCR Bylaws Art VII §8.

B.

Having concluded that the Judiciary Committee does indeed have the jurisdiction to independently charge the defendant under an

---

[11] It is both a norm and constitutional rule that all elected officials, during the time of their election, must be a student in good standing with their relevant chapter. More specifically, the constitution asserts that, "Each officer shall be a qualified member of a CCR club in good standing and student of at least half time status at the time of his initial election or appointment." Art V §5.

[12] We understand that the context of this case specifically applies to the Chairman and "explicitly illegally elected officers." However, as the opinion itself asserted, the Chairman was simply them, "appropriate authority," in said situation, found under the right of the Chairman to rule on a point of order. RONR (11th ed.) p. 249, ll. 25 – 30.

adjective violation, a consideration of the defendant's rights must be made. Indeed, there are a large number of rights granted to the defendant under the CCR governing documents and parliamentary rules. Most specifically, these rights manifest in four primary, tangible forms: first, "the right to attend meetings"; second, "[the right] to make motions"; third, "[the right] to speak in debate"; and finally, fourth, "[the right] to vote." RONR (11th ed.) p. 3, ll. 1 – 5. Our organization, in adhering to parliamentary rules, as required by the CCR constitution, must respect these rights. The parliamentary rules specify that, "No member can be individually deprived of these basic rights of membership… except through disciplinary proceedings." RONR (11th ed.) p. 3, ll. 5 – 10. The defendant, whom has been charged by the Committee today, falls under this disciplinary proceeding described by the rules.

There are, however, additions to these rights. These are considered a natural right, or as the parliamentary rules describe them, a concomitant right. RONR (11th ed.) p. 3, ll. 5 – 10. We consider the right to due process to fall under to such basic natural rights. This is both implied and explicitly required by parliamentary rules and CCR governing documents. Firstmost, the rules demand it. We find that the very act of prescribing disciplinary proceedings into the introductory acts of describing a deliberative assembly, and the subsequent members which make up such assemblies, requires some sort of equitable of application; indeed, if disciplinary proceedings required no due process, there would be

little distinction between the judiciary and a tyranny, as judges could simply eliminate bothersome members. We postulate this to be inherently unjust.[13] Finally, even if one was to reject this line of reasoning, these disciplinary procedures are explicitly required under parliamentary rules, as the defendant, "has the right to due process." RONR (11th ed.) p. 656, ll. 1 – 5. Secondmost, the CCR Bylaws require the Judiciary Committee to provide due process. Specifically, Art. VII §8(iv) requires that the Committee, "offer due process to petitioners or defendants." Thus, the defendant, by both the parliamentary rules and the governing documents, has a concomitant right to due process.

C.

In determining that the defendant has a concomitant right to due process, it is important operationally define due process. Our definition is derived from *Mathews v. Eldridge* 423 U.S. 319 (1976). In *Mathews*, the United States Supreme Court deliberated on the specific requirements that the government must portray to show due process.[14]

---

[13] While definitely disputable under many philosophical beliefs, we find basic axioms of law, such as equitably treating all people under the law, to be an inherent good. Simply put, we concur with the Supreme Court of the basic philosophy of, "equality under the law."

[14] Our operational definition, therefore, is not contingent on a specific set of procedures, but a flexible range of options but must simply show a standard was met. This is the best method of analysis for CCR, as it allows for attention to the substantive results rather than a litmus test for zealous parliamentarians.

Specifically, Mathews alleged that his social security disability benefits had been unconstitutionally terminated by the Secretary of health, Education and Welfare. Mathews, in his case, contended that the Secretary had failed to provide him an evidently hearing, thus violating his rights. The court, while finding against Mathews, did create a mandate for interpreting due process, finding that due process is not a legal rule, and is instead, "…flexible and calls for such procedural protections as the particular situation demands." Under this framework of arbitrating arguments of due process, the court found that three distinct factors must be considered:

> *First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.*

This case is clearly applicable to the situation before the Committee today; first, as the Judiciary Committee is an established agency under CCR Bylaws, we ought to, in the pursuit of good governance, comply by due process as described by I(B) of this opinion. Second, as we ought to follow the provided models, of which we postulate the Supreme

Court has created, we can indeed find that the Committee has met the *Mathews* standard, thereby showing there were no violations of due process against the defendant. Specifically:

1. Private Interest. In the consideration that there will be against sanctions against the defendant, at the very least, the harm in question meets a private interest. This includes the suspension of his membership, which would personally affect the defendant's right to vote and participate.
2. Risk of Erroneous Deprivation. In *Mathews*, erroneous is used in a rather ambiguous manner; however, the legal definition of erroneous, which defines the term as something which is, "incorrect," or, "inconsistent with the law or the facts," clarifies the usage of the determine to be a probable determination of an unjust outcome. B.L.D. (10th ed. 2014). In the case of Mathews, the court found that even without a preliminary hearing, there was no substantive evidence of the probability of erroneous impacts, something of which needs to be demonstrated by the contender. The defendant, having contended nothing, thus cannot be found to have faced erroneous deprivation as the Judiciary Committee indeed offered additional procedures from those already required.

> 3. Government Interest. Simply put, the court interpreted this factor in *Mathews* to be related to the cost of administrative burden the government would face by imposing additional procedures to protect the rights of Mathews. In the case today, not only would excessively administering preliminary hearings for a defendant who would never comply be absurd, but, as prior reasoned, the Judiciary Committee offered not less, but more, procedures. Furthermore, by failing to enforce the subpoena today, we would face considerable detriment to the governing body of CCR, as the Judiciary Committee would lose its legitimacy to enforce judicial sanctions and hear cases.[15] Thus, in terms of just the procedures, there is no current, demonstrable violation.

On face, this analysis seems convincing enough to end our line of reason here. However, we find there to be a final element to factor in the second element – that an erroneous result can indeed result from a failure to provide reasonable notification. We find this to be a fundamental part of due process as found in parliamentary rules, as the provisions state, to notify one of an impending trial, there must be a "formal notification." RONR (11th ed.) p. 663, ll. 5 – 10. However, being a preliminary hearing, and thus not an actual trial, it is

[15] This will be argued in depth in part II of this opinion.

unnecessary to yet prescribe concise, extensive rules of notification.[16] This being stated, it is still the duty of the Committee to ensure the defendant is adequately, "informed of the charge." RONR (11th ed.) p. 656, ll. 1 – 10. As we will describe below, we believe this standard to be met.

D.

As we have concluded above, it is within the rights of the defendant to be reasonably notified of his impending charges and hearing. This includes two criteria: first, the method of notice; and finally second, the timeframe of the notice. These criteria are established in both case law and CCR parliamentary procedure, and as we will describe, our work in *Steinwender* clearly meets all regulations.

Specifically, under the Supreme Court opinion *Mullane v. Central Hanover Bank and Trust Co.* 339 U.S. 306, the court considered the constitutionality of reasonable notice for judicial proceedings in the 14th amendment's due process clause. In the context of *Mullane*, the courts reviewed a case in which Special Guardian Mullane, a representative of the beneficiaries of the 113 trusts held by Central

---

[16] While oddly stated, this sentence does not imply that we are strictly adhereing to the rules outlined in the parliamentary procedures, when, and if, the bylaws conflict. For instance, the parliamentary rules don't necessarily allow the Committee to force a subpoena during an investigative stage, but as a permanent committee our charter does. Thus, in the precedence of law, we favor the specifications found in our charter above that of the parliamentary rules.

Hanover bank in an investment fund, sued on the grounds of mismanagement, specifically alleging that the inadequate notice provided by the bank on a judicial settlement violated the due process provided by the 14th amendment. This notice, which came in the form of a newspaper publication that set forth the name and address of the trust company, name and date of the common trust, and the list participating estates specified as adequate by New York law, was argued by Mullane to fail this standard of due process. The court was then called to balance the practical interest of the state in drafting laws that allowed accessible and unburdened finances, with the individual interests protected under the constitution. Most importantly, the court defined the ultimate holding of due process to be the following:

> *The fundamental requisite of due process of Law is the opportunity to be heard.*

This standard seems to be met. However, in understanding this be interpretation to be vague, the court nuanced it's opinion, explaining that to meet this criteria, the notice must only: first, "…be of such nature as reasonably to convey the required information,"; and, second, "…[to] afford reasonable time for the interested to make their appearance." In the case of Mullane, the court's ruled in favor of the defendants, ruling that publication in a newspaper, otherwise in the realm of interpretable modern context as the accessible public, was legal so long as

the interests or addresses of those in question were unknown the institution; alternatively, in the case where such addresses are known, it is not unreasonable, ruled the court, to directly notify them.

In the context of *CCR v. Steinwender*, we are faced with the instance of sending notice through email. At the very minimum, in a modern interpretation of 'address' it seems practical and reasonable to see the address as an official email, which this Committee determined to be his school email, as publically published on the California Lutheran University student government website. The defendant, having no other method of official communication, and refusing to reply to his social media accounts, therefore provided the necessary frame to administer the notice in this manner.[17] Thus, our method of notice is clearly legal. The Supreme Court, however, is more ambiguous on the interpretation of its second criteria, instead referencing to the specifications outlined in *Goodrich v. Ferris* 214 U.S. 71. In *Ferris*, the court considered the constitution of reasonable statutory notice to act

[17] It is important to note our society's Bylaws, and those of the parliamentary rules, here conflict. The parliamentary rules stipulate that trials and hearings are to always be held in absolute confidence, and therefore cannot be made public at any time. RONR (11th ed.) p. 655, ll. 5 – 10. In contrast, the Judiciary Committee Charter requires that, "All members have a right to a public and speedy trial or case." Art III §4. In always preferencing the rules of the society over the rules of parliamentary procedure, we thus favor public notice in the case of having no publically accessible address.

on the accounts of a decedent's estate, finding that 10 day-notice was simply too little time to adequately appeal to the Supreme Court from a Circuit Court. However, one would be wrong to apply this specific case to that of *Steinwender*; indeed, appealing to the Supreme Court of the United States is manifestly different from that of the CCR Judiciary Committee, both in impact and requirement. We hold three arguments of analysis to this claim: first, that this case, in context, is inapplicable in reasonability; second, that the Supreme Court is manifestly different from the CCR Judiciary Committee, at the very least in terms of impact and methods; and finally, third that a 5–day period is normative, accessible, and not imposing on any ability of the defendant.

Firstmost, this case has no contextual applicability. *Ferris* itself deals with a nonresident filing case to account for a decedent's estate, which for purposes of grief, banking documentation, legal assistance, and travel planning, exceeds 10 days; in contrast, the defendant needed little more than to just enter a phoned conference call, and provide evidence. Arguments, case law, and legal analysis was unnecessary for this hearing. This is clearly intended by the CCR constitution, which only requires a 3 day notice be given to remove an executive member. Art VIII §4. Even in removing a currently chartered chapter, to which the California Lutheran College Republicans are not, we would only require a 14-day notice. These notices are, in fact, an attempt to allow for a preparation of a

substantive case, which is not the case in the context of *Steinwender*.

Secondmost, there are manifest, and rather obvious, differences between the necessary preparations for the Supreme Court and the CCR Judiciary Committee. Most obviously, is the impact: indeed, the CCR Judiciary Committee cannot change the law, nor can it arrest or seize the assets of any individual.[18] While the CCR Judiciary Committee can, as we will explain later, act on internal violations of CCR governing documents, these actions cannot constitute force without the involvement of state authorities. In contrast, the Supreme Court, as many political scholars would practically postulate, holds the final ruling on the ultimate law of the land, the US constitution. Secondly, the preparing for the Supreme Court is ultimately different; while CCR has some similar preparatory documents, there is no requirement for representatives to be licensed lawyers, or for plaintiffs to meet carefully tailored legal codes. Simply put, the CCR Judiciary Committee is by no means a legal substitute for the highest court in the land. It is by this reason, in fact, that the Judiciary Committee upholds case law by the Supreme Court; indeed, it is under CCR's constitutional prerogative

[18] It is possible for the defendant to argue that the CCR Judiciary Committee, holding the authority to vitually end the career of any member within CCR, has great authority; as found, this is not untrue. However, such is in the case of a substantive case, of which requires an extraordinary focus on due process. This, being an adjective case, requires far less.

of "good government," that this Committee seeks to act both consistently and within our jurisdiction. Art II §1(e).

Thirdmost, a 5-day period is a reasonable period of time. We derive our methodology to prescribe an adequate period of time needed for a notice from *Roller v. Holly* 176 U.S. 398. This case, featured in the early 1900s, forced the Supreme Court to address the issue of reasonability in terms of practical considerations, which, for our purposes, if the relevant issue of analysis for issue three. In *Roller* the court considered the constitutionality of a 5-day notice for the foreclosure of a property for an out of state resident, and if such a notification was sufficient to constitute reasonable notice under the 14th amendment's due process clause. The court found that to determine reasonable notice, for a common summons,[19] the necessary calculus ought to include: first, time and place; second, an inclusion of consideration for the private schedule of the subpoenaed; and finally, third, a period to prepare defense. In meeting the *Roller* test, appendix A and B clearly show an effort account for these prerequisites. Indeed, by this standard all of the defendant's rights are respected: first, reasonable time and place, as a telephone conference does not require a calculus of distance; second, an inquiry to adjust to his private schedule, as provided for by

[19] A witness summons for a Judicial Hearing, the court found, ought to be immediate. However, as prior noted, this is not the case of CCR, as our authority and jurisdiction does not permit us to seize private property or deprive a man of his liberty.

Judiciary procedures; and finally, third, a period to prepare defense, as a preliminary hearing does not require a defense, and only a portrayal of the facts, we find there be little necessary citation for the collection of emails being excessively time consuming.

Thus, in meeting both the *Mullane* and the *Roller* tests, both of which are necessary to find with certainty a standard of reasonableness, we find that the Judiciary Committee fulfilled its legal obligations of providing due process.

However, even if these arguments were not enough, parliamentary procedures alone provide enough justification for the Judiciary Committee's actions.

These procedures fall under the Judiciary Committee's status as an investigative committee,[20] which allows the committee to, "subpoena members." CCR Judiciary Committee Charter, Art. VII §3. This investigation includes a, "…reasonable attempt to meet with the accused…" RONR (11th ed.), 658, ll. 20 – 25. The parliamentary rules stop here, and do not describe what constitutes a 'reasonable attempt'. Similar to that described by the *Mullane* test, we find that two parts are necessary to a 'reasonable attempt': method and time. The procedures described by the Judiciary Committee, in contrast to the more stringent requires described by the court,

---

[20] Our formal designation, according to the parliamentary rules, is the "Committee on Discipline." RONR (11th ed.), 669, ll. 10 – 35. Thus, while we follow many of these specifications in procedures, our codes can be in the Judiciary procedures.

actually permit an almost immediate reaction to a submitted petition, specifying neither timeframe nor method of delivery. These procedures, while mandating procedures to defend the actual trial of a defendant, simply require that the, "Chief Justice… [convenes] a preliminary hearing…" CCR Bylaws Art VII §10(a). And while the procedures described directly by the Judiciary Committee do not require any specific method of delivery, the CCR Constitution specifies that methods of delivery for other official notifications, such as board meetings or even the call to convention, includes, "electronic mail." CCR Constitution Art IV §10, Art. IX §4. This method of communication, consistent across the entire constitution, allows the Committee to consider email as a reasonable method of notification; and while, many may contend the consistency of this claim, as the Constitution's timeframe shifts per notification, the Bylaws, and the subsequent Charter approved under it, allows for the Committee to decide the standard of time for a preliminary hearing. Therefore, whether or not the defendant feels the timeline set out was just, there is an implied requirement of compliance. Simply put, the Committee cannot commence a hearing without a time, and in lieu of a specified period, it is thus considered a moot point of contention whether any timeframe, outside that specified by this Committee, should be considered.

II.
A.

A final consideration of this case is not to determine if the Judiciary Committee can intervene, but if the Judiciary Committee should intervene. In fact, as noted in our presentation of the facts, several members, both on and off, the Executive Committee have voiced concerns of excessive judicial intervention, and many have demanded an opinion of this. As such, these individuals ask that the Judiciary, in some sort or fashion, issue a binding brief to our purpose.

We will not, however, offer an extensive opinion on such, and thereby find the act of doing so inappropriate. It is not the role of the Judiciary to impose a political opinion, right or wrong, on any populace. Instead, we act on behalf of the populace, simply enacting consistent principles inherent to the constitution. Unlike the actors delegated by the people, such as the Chairman or Vice Chairmen, of whom work towards policies claimed to be advocated for by the people, the judiciary works towards the consistent will of the fundamental foundation of our democracy, that which we call the constitution. In furtherance of this ideal, unlike the legislators and executives of CCR, whom have no boundaries of consistency, the judiciary functions solely for that purpose, that is, to enforce principles, not policies. The purpose of this committee, in our very title of, "Judiciary Committee," is outlined by Madison in Federalist 78:

> *… the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.*

In establishing this power, the Federalist papers would create the outset of our foremost duty, judicial review. This power, as both the spirit created by our forefathers, and the will of our Bylaws, is to rule upon violations of the Constitution or Bylaws. Art. VII §8.

Such an interpretation of the law, of course, is supported by foundational caselaw. In *Marbury v. Madison* 5 U.S. 134. the courts deliberated on the if Marbury, a nominee for the Supreme Court, was entitled to receive his judicial commission signed by President Adams', but refused to be delivered by President Jefferson. Namely, in the case of

Marbury, the plaintiff requested a writ of mandamus, i.e. to compel the executive to oblige by a minstrel duty. The court, while granting that the executive could be compelled in matters that involved nondiscretionary, minstrel duties, found that the case was not in their jurisdiction. More specifically, the Judiciary Act of 1789, which gave the Supreme Court original jurisdiction over writs of mandamus, was in conflict the US Constitution, which specified that the Supreme Court held appellate jurisdiction, not original. In doing so, the court found that:

> *…if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.*

Thus, the purpose and intention of the design of the courts, or in our case the Judiciary Committee, is to simply interpret the law, and when necessary, provide instruction to the compellence of activity to be consistent within that law. Furthermore, in acting in such a capacity, the Judiciary Committee works to offer any agency of CCR such guidance as to fulfill the inherent duty of that power to adhere to

the constitution. Such a duty is the foundation of our power to issue injunctive relief.[21]

It follows, therefore, that as an institution the Judiciary Committee ought to embody these principles, and while acting to strike down unconstitutional procedures, specifically, in the name of pursuing, as our constitutional objective mandates, "good government." CCR Constitution, Art. III §1(e).

Additionally, in interpreting the texts, this Committee has already noted two distinctive forms of law: adjective and substantive. In such places of law, the Committee must decide appropriate action. As such, we have determined the purpose of the Judiciary for adjective law is the binary interpretation, wrong or right. In the case of substantive law, while discretion must be used in the determination of facts, the Committee's purpose is the establishment of an appropriate legal test that can be broadly utilized. These tests, good or bad, reflect a symmetry with the consistent application of a law, not the necessary merit of the law; should individuals within CCR be unsatisfied with the law, or even at that a test for constitutionally appropriate actions, they would best be referred to the General Session or else some other legislative body to hear their grievances. This Committee, so much in applying the law, will not comment on a should,

---

[21] Most modern courts have abandoned the writ of mandamus and instead have favored injunctive relief – either preliminary or in its finality.

outside that of which is required by case law, applicable tests, or the statute.

B.

While it is clear that this Committee ought to intervene in this matter, it is not immediately clear the extent of the sanction that ought to be implemented.[22] Clearly, there are policy implications included in any decision made today; but those whom may ask this Committee for leniency, are asking for a dangerous precedence of Judicial discretion – that, in essence, a court designed for impartial interpretation may offer a lesser ruling simply because of that person's opinions, status, or power. Such authority would violate the very purpose of the Committee to, "ensure equal justice under the law." Judiciary Charter Art I §1. Our calculus thus set forth today ignores practical considerations, and instead favors those of which only value the enforcement of the equitable application of the law.

Our interpretation of this is consistent to the opinion of the Parliamentarian in *Sacramento State Republicans (SSR) v. Daniels*. In *SSR*, as prior stipulated, the parliamentarian considered whether the defendant, whom was an alleged prior member of SSR, could run for office. In finding the defendant was no longer a member, and whose subsequent election was thus illegal, the parliamentarian was faced with the pressure of how to rule against the

[22] Again in the tautology of this situation: should one cite the constitution in a merited grievance, we ought to hear it.

standing member of the Executive Committee, one whom was, by practical means, a voting, active member. To further compound the crisis, the Chairman had attempted to work through a political agreement with the defendant, one which had failed. The parliamentarian, however, ruled that the power, status, and likeness of the official was irrelevant to the impartial application of the law. This ruling, which was specifically adopted on the topic of the procedural correctness of the election, set a standard that adjective law ought to be interpreted to the harshest text. In the wisdom of his opinion, the parliamentarian wrote:

> *While the Chairman clearly created a new spirit of the law, namely extending the enforcement of the law to give the defendant an opportunity to move past political division, this does not excuse the illegal election, and if anything, entrenches the political division sought to be remedied by the chairman… Seeing as this [agreement] was rejected, and the matter now formally presented to the Office of the Parliamentarian, [I] must act as the rules dictate, even if unpopular. RONR makes this standard clear: indeed, unless the parliamentarian has been appropriated, "additional functions… such as teaching classes [or] holding office hours," RONR (11th ed.) p. 466, ll. 5 - 15, he should, "maintain a position of impartiality…" RONR (11th ed.) p. 467, ll. 5 - 15. While a political position was*

> *previously possible with the chair, who has the duty to protect the assembly… the newly appropriated tasks set forth to the Parliamentarian are not so flexible to the Office. RONR (11th ed.) p. 450, ll. 10 -20. This opinion, therefore, reflects to the strictest possible standards the letter and objective of the law [offers]… in contrast to [political expediency]… While the authority and direct word of the Office ought to be used sparingly, the impactful nature of the issue, which includes the lawful removal of an alleged high ranking member must be taken carefully. RONR (11th ed.) p. 466, ll. 30 -35. However, it is now indeed precedent that this opinion, set forth today, will represent a certain power of the law. It is unfortunate that such a removal be in order today, under the explicit appropriated power of the Office, as indeed RONR itself warns that such power be, "avoided if at all possible," but in lieu of a prior decision, a necessary one. RONR (11th ed.) p. 466, ll. 30 -35.*

Thus, in the application of our opinion today we will adopt the strictest letter of the law available.

Finally, even in the possible substantive considerations of the case, we find that the enforcement of adjective wrongs constitutes a compelling government interest. This we hold as a basic axiom of the law: that procedural correctness be implemented in the binary – whether difficult or

not – and enforced as such. The Supreme Court, in ruling against the ambiguous implementation of procedural laws, stated that vagrancy laws, "fail[ed] to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute," and thus violated a constitution prerogative for the equal application of the law. *Papachristou v. City of Jacksonville*, 405 U.S. 156, 171 (1972). The court, in protecting the rights of the minority – and relevant to the case today, a clear political minority – ruled that, "The rule of law, evenly applied to minorities as well as majorities . . . is the great mucilage that holds society together." Similar to that upheld in *Papachristou,* we find that there is a pressing public concern with the equitable application of law, and thus, in administering adjective procedures, must enforce to the closest tee of the text. Without doing so, the fear of a judiciary dictatorship, one of which is predicated on using our authority, not discretion, in seizing power, is likely a real, tangible threat.

C.

Having thus concluded this Committee reasonably served the defendant's rights, and, as the facts reflect the defendant violated his subpoena, our final consideration is on the specific measure to take against the defendant. Such an issue is extensive, and, after a thorough review of the materials, this Committee finds that are two sanctions to be imposed against the defendant: first, that the defendant is to have his good standing suspended;

second, that the chapter the defendant chairs, due to procedures to be described, cannot charter and thus not receive delegates.

Firstly, a surface analysis of the parliamentary rules shows that there are four possible sanctions: first, that of censure; second, that of a fine; third, suspension; and finally, fourth, expulsion. RONR (11th ed.), p. 643, ll. 10 – 15.

Firstmost, we will immediately discount the second, as the Bylaws do not permit that sanction, and such permission is a requirement according to the parliamentary rules. RONR (11th ed.), p. 643, ll. 10 – 15.

Secondmost, while we held that we ought to hold the defendant to the strictest letter, it is not immediately clear to any observer to that extent of which warrants a censure, or, in more extreme circumstances, a suspension or expulsion. This Committee, therefore, is to by the gunpoint of the text to a double bind; in the application of a censure, it is likely to be ignored, and in the application of a suspension, with no specific reason for rejecting the former, we would be faced with accusations of unreasonable severity, and such claims would not be unwarranted.

Indeed, the case law on its face seems to favor a conviction towards a principle of lenity, i.e. censure. In *Staples v. U.S.* 511 U.S. 600 (1994), the US Supreme Court considered a case in which the defendant, convicted for possession of an unregistered machine gun, could have known the weapon he purchased held such characteristics of the

statutory definition of a machine gun – and, more importantly, whether such knowledge warrant a different in conviction. In such, the Supreme Court ruled, "In short, we conclude that the background rule of the common law favoring *mens rea* should govern interpretation of [the statute] in this case."[23]

Simply put, the government had to prove the state of mind the defendant had held a guilty conscience for the crime, should the law be ambiguous. In extensive review, we determined this landmark case not applicable for several reasons: first, the case was criminal, not civil, making it difficult to apply contextually; secondly, the court itself specified in its ruling that, "As in our prior cases, our reasoning depends upon a commonsense evaluation of the nature of the particular device or substance… subjected to regulation and the expectations that individuals may legitimately have in dealing with the regulated items." The defendant, being aware of the nature of the charge and provided notice understood the matter being dealt. Additionally, as the parliamentary rules of our organization stipulate that testimony can be compelled, "on pain of expulsion," it doesn't seem that the law was truly ambiguous. Finally, the

---

[23] *Mens rea* is short for the latin phrase, "actus reus non facit reum nisi mens sit rea," meaning, "the act is not culpable unless the mind is guilty." In common law, this is the general concept that to describe, "The state of mind that the prosecution, to secure a conviction, must prove that a defendant had when committing a crime." B.L.D. (10th ed. 2014).

defendant had already been prior warned that failing to appear the Committee could result in expulsion, as noted in Appendix B. Thus, in such a rejection of the lenity test, we can imply that censure is not necessarily an appropriate option in applying sanctions.

Unfortunately, this is still not enough to certainly provide conviction. For instance, should this have been a substantive case, this Committee would adjust our interpretation based on contextual factors, including a compelling interest to regulate. However, it is not so in this matter; the application of such would be indeed absurd, requiring that all adjective violations be treated under the harsh sanction of suspension. In essence, while understanding the appropriate sanction, we still have not adequately defined the necessary context. Parliamentary nuances would, in essence, become procedural deathtraps; uttering, 'I motion,' instead of, 'I move,' could become grounds for trials, of which, is not only unnecessary but countenance to the purposes of this organization. Thus, it is before this Committee to design, implement, and create a test to meet the necessary parameters of the case while mitigating the threat of a bureaucratic kritarchy.

D.

Understanding such, this Committee, upon through debate, has designated a consistent test to hold accountable procedural violations. This standard, the Gandall test, is derived after the

parliamentarian's opinion in the *Sacramento State Republicans (SSR) v. Daniels*, which mandated our involvement of procedural violations to the, "strictest possible standards [of] the letter and objective of the law." Such test represents a future precedent to the interpretations of these violations. More specifically, we hold that if: first, a violation is adjective; second, the violation contained notice or intent of involvement; third, said violation has no immediate and solvent declaratory or injunctive relief; then the said punishment must always be the suspension of a member's good standing.

To clarify this test, for instance, *Sacramento State Republicans (SSR) v. Daniels*, the defendant would not fall under this standard, as the injunctive relief to remove him from his elected position retained relative solvency. In contrast, in *CCR v. Steinwender*, no such solvency exists; indeed, the defendant neither holds an official position, nor would the holding of such an official position effect the presence of the membership list. Again. If such a theoretical claim were to be made against the Chairman of a Committee, to say, provide a statutorily required report at a final executive, and said statute was violated, the judiciary could simply issue an order, depending on the circumstances, to the remove the Chair or to mandate the report. Neither requires the suspension of membership. Furthermore, in this said case, it may not even be appropriate to issue to the member, but to the agency; as such, the test must require a clear link to a violation from the individual member, not an

institution he is a part of. Again. If such a theoretical claim were to be made against the member of a committee or General Session for an improper motion, such an error would be subject to a declaratory relief by either the Chair or the Committee, and can easily be revised. In the least, such error could be ruled dilatory, and thus, with no further existence and thereby harm, the claim of adjective fault would fall at a third premise of the test. Again finally.

One would not be wrong to observe that falling under this test would be difficult. At the given time, one of the most common ways would be the defiance of an order where agency was individual: through a judiciary injunction on a behavior or personal situation, or, in the case of the defendant here today, a subpoena.

The case presented to us today must therefore be applied to the Gandall test to determine applicable sanctions. Firstmost, we know by the facts presented that this case is adjective; indeed, a subpoena is a procedure found under the judiciary charter. Art VII §3. A subpoena, by definition, is a, "A writ or order commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply." B.L.M. (10th ed. 2014). Being a writ, and thus a procedure, it is by definition adjective. B.L.M. (10th ed. 2014).[24] Secondmost, as

[24] This was already previously noted as, "procedure by which rights are maintained." These rights, such as arraignment, are made and inherent to the subpoena.

already noted in our dissertation of the facts, notice was given, specifically more than 5 days. This, as already prior explained, meets the *Mullane* and the *Roller* tests of reasonable notice. Doing so, we can adequately determine the defendant received notice. Thirdmost, the immediate harm has no declaratory solvency; that harm, being the violation of a subpoena, has no method of this institution issuing an order to solve that wouldn't simply be an implication of agreeing with the plaintiff.[25] We, as already stated, cannot determine the actual substantive guilt of the defendant to the membership lists. Such a determination, as already stated, would be a violation of his due process rights to a trial and an arraignment. We cannot, through judicial action, hold an arraignment for the defendant without his plea, and thus, have no solvent solution. Therefore, in meeting the Gandall test, we hold that this Committee must order the rescinding of the defendant's good standing until he meets the requirements given in this opinion, or such other opinions specifies otherwise.

III.

This Committee has decided, in addition to our ruling, to offer practical guidance. More specifically, a final question to this case involves the legal permissions of a member without good standing. More specifically, if, that the defendant,

---

[25] Usually in a real court setting, a violation of a subpoena would result in an arrest warrant. Seeing as this Committee has no such authority, this coercive measure is not possible.

being the President of California Lutheran College Republicans (CLCR), can still act in his position. We rule he cannot for state matters, and we refuse to comment on chapter matters.

To understand our reasoning, one must understand the CLCR constitution, namely, that the President holds ultimate, "executive discretion," in the management of the organization. CLCR Constitution, Art IV §3(A)(i)(b). Such discretion is related to the function of the organization, as reiterated in CLCR constitution. Art IV §3(A)(i)(a). Such function, as specified in the purpose assertions of the constitution, is the management of, "conventions." Art II §6. Such management of convention, of course, includes the creation of delegates lists, which the President may normatively do so at his discretion. Thus, as the President currently holds this power, and as the President, in this context, cannot submit papers pursuant to the order of this Committee, CLCR shall not, until the removal or appropriation of the defendant's power, be allowed to charter at convention.

Finally, if this was not enough, the CCR Constitution explicitly appropriates this power to the Chair. The Constitution asserts:

> *Each CCR club may provide a method for selecting Convention delegates and proxies in its constitution or bylaws. If no method is provided therein, the presiding officer listed on the club's charter shall appoint all delegates and proxy-holders.*

CCR Constitution, Art IV §5.

Thus, because no explicit method is provided in the CLCR constitution, this power is appropriated to the President. The President, being the defendant here today, and the defendant, no longer in good standing, has thereby put his club into a legal greyzone, with no clear appropriation made so. While the CLCR constitution does allow the Vice President of the club to assert authority over the President, "due… legal [issues]," it is upon that organization's executive board to determine so. For this Committee to rule otherwise, that the defendant is to be stripped of his presidency, provides a dangerous precedent for state authority; that authority being the ability to intervene unilaterally into the business of chapters with the brush a judge's pen. This, we find, to be too dangerous to permit without greater substantive content.

This, however, is simply that of which the Judiciary Committee seeks to intervene, and does not constrain that of the CCR Executive. Specifically, should the CCR Executive Committee wish, they may, as the CCR Constitution allows, "[find]… discrepancies in the materials submitted for chartering," by CLCR, and thus refuse them a charter. CCR Constitution, Art III §5; §6. This specific issue, however, is to be solved at the discretion of first the appropriated power of the Executive Committee, i.e. the Credentials Committee, and second, on appeal, the Executive Committee. Our holding today is therefore only a

general order that the defendant shall not be acknowledged by the Credentials Committee as a member in good standing of CCR, and therefore, the defendant himself cannot submit credentialing materials on behalf of his chapter. His chapter may, upon its own discretion, remove the defendant from power, or appropriate his power to the Vice President, as the constitution allows.

* * *

Since the establishment of our country, the forefathers sought, above all, to protect the procedural rights of all Americans. In doing so, the United States Constitution required that no man shall be, "deprived of life, liberty or property, without due process of law…" This ideal is enshrined in the California College Republican (CCR) constitution, as incorporated through Article II §1(e), that CCR shall, "promote good government at all levels." This good government, as interpreted by the Republican Party here standing today, is predicated on our advent to the political religion of a rule of law outlined in President Lincoln's Lyceum address:

…Yet, notwithstanding all this, if the laws be continually despised and disregarded, if their rights to be secure in their persons and property, are held by no better tenure than the caprice of a mob, the alienation of their affections from the Government is the natural consequence; and to that, sooner or later, it must come.

Here then, is one point at which danger may be expected.

The question recurs, "how shall we fortify against it?" The answer is simple. Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others… Let reverence for the laws… be written in Primers, spelling books, and in Almanacs;--let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation…[and let us] sacrifice unceasingly upon its altars.

CCR, in acting as a democratic institution under the power of our members, a rare experiment in a day and age where many youth organizations function as little more than a political resource extraction for the wealthy and establishment officials, is indeed a cornerstone foundation to this ideal; wherein our experiment, opposed by many, and supported by few, must survive, we can only do so under just and philosophically consistent procedures our forefathers outlined in their own experiment – one that has promoted, protected, and secured the freedoms of people, unlike any other institution in the history of civilization. Indeed, there are practical implications of this ruling: that individuals, seeking endorsement, the facilitation of CCR and Party materials, and to use the name of this organization, must do so under the pretense of the ethical duty of adhering to the

basic rules of the society at hand, i.e. the adjective law. In practical cases, such as the allegations against Roy Moore, where the Republican National Committee opted to utilize political authority to rule upon allegations without offering due process, we find to be an abhorrent and flagrant violation to the furtherance of good government; accordingly, this Committee would find that any sanction against Steinwender, should it come without Judicial consideration, to be equally despicable. However, in this pressing manner, the defendant has chosen to ignore, and thus neglect, his procedural duty to appear upon the issuance of a mandatory subpoena. Simply put, in echoing the sentiments offered by Justice Demos: with great procedural rights, comes great procedural obligations. The defendant, in ignoring these obligations, has therefore forced judicial intervention.

Further practical fears have been considered: indeed, as the defendant occupies the position of President in his chapter, such procedural defiance, under the constitution of the Lutheran College Republicans, constitutes, as we have found, a virtual act of secession. Unless this situation changes, it is under the prerogative of the Committee to, at the very minimum, protect the adjective solvency of the organization, and thus impose a rather stringent sanction. To relate this practical concern: should entities, such as municipalities in California, decide to explicitly ignore the mandate of a higher house of law, it is important for the Judiciary to act in a decisive manner to protect the solvency of the

constitutionally appropriated powers within that institution.

Given the rapid upcoming of the CCR Convention, and the parliamentary requirement of a 30-day notice for a trial, where this now be impossible given the failure of arraignment, we specify the following actions to be taken against the defendant:

> (1). The Credentials Committee is ordered to bar the defendant from registering as a delegate;
> (2). The Credentials Committee is ordered to bar the California Lutheran Republicans (CLR) from chartering until the defendant responds adequately, is removed from the Presidency, or the chapter provides proof of the legal appropriation of power to petition the California College Republicans to a member of CLR other than the defendant;
> (3). The Chairman is ordered to notify the defendant that his status of good standing with the California College Republicans is hereby rescinded, and inform the necessary agencies of such;
> (4). The Judiciary Committee shall appoint a Special Prosecutor to try the violation of the subpoena, should the defendant opt to adhere to the petition specifications we offer below.

With this in mind, the Judiciary Committee does provide the defendant a method of petition.

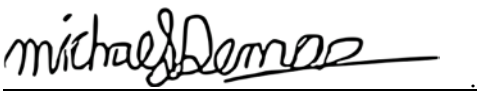
First, to fulfill the requirements of the subpoena, the defendant must notify the Committee of his next reasonably available date for a preliminary hearing, while submitting a response to the Chairman's petition. This, of course, would be met with the defendant attending the practical hearing of both. Upon the publication of this document, Steinwender may earn judicial exemption of the sanctions in this opinion, although not the charge, should he appeal within 72 hours, or prior to the third Friday of March, whichever is earlier. This petition does not have to include arguments on the substantive matter of the case, only the supporting evidence the defendant wishes to provide in defense of the allegations made by the Chairwoman. He may, at minimum, cite evidence to which needs further time to procure in original form. Second, for the charge of the violation of the subpoena, similar to the notice provided, the Judiciary Committee will hold a preliminary trial 5 days within the defendant's response, unless otherwise decided by the majority of the Judiciary Committee. Until the defendant responds, the sanctions in this opinion will remain. Finally, the Judiciary Committee finds this case compelling in both precedent and severity of the sanction. Thus, should the defendant petition it, the Judiciary Committee will provide guidance to the defendant on his procedural rights, as well as method of interpreting the law. Additionally, the defendant, pursuant to the guidelines already established in the Judiciary Committee procedures, may appoint representation.

The decisions and precedents held within the opinions of this case, including the response to the preliminary injunction, as hereby held, and the case is remanded for further proceedings not inconsistent with this opinion.

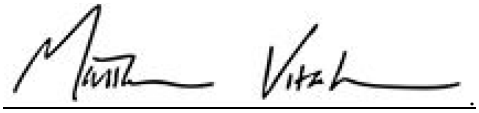
It is so ordered.

Kimo Gandall, Chief Justice

Dominick DiCesare, Vice Chief Justice



Michael Demos, Associate Justice



Matthew Vitale, Associate Justice

Sina Sh Sani, Associate Justice

Appendix A

JU

Judiciary Committee

SUN FEB 25 • SENT

nsteinwender, Ariana Rowlands

Salutations,

Contained in this email, Mr. Steinwender, is the information for CCR v. Steinwender involving your access to the previous CCR Membership list. Included are three documents: First, the Chairwoman's petition, outlining the grievances against you, second, our opinion on issuing a preliminary injunction against you, third, a subpoena for the teleconference preliminary hearing, and forth, an appendix of the alleged evidence against you.

The specifics for the hearing are as follows:

Date: March 3rd
Time: 8:00 PM
Call in number: (712) 432 - 0220
Password: 1234567

Best regards,

Kimo Gandall
Chief Justice

Appendix B

SUBPOENA TO APPEAR BEFORE:

CALIFORNIA COLLEGE REPUBLICANS

JUDICIARY COMMITTEE

THE JUDICIARY COMMITTEE
CALIFORNIA COLLEGE REPUBLICANS

IN THE MATTER OF:
California College Republicans (CCR)
V.
Nick Steinwender

name/address of person being subpoenaed:
Nick Steinwender
nsteinwender@callutheran.edu

name/address/phone number of contact person:
Ariana Rowlands
arowlands@cacollegegop.com

You have been ordered to appear before the California College Republicans Judiciary Committee in order to testify in a preliminary hearing for the matter shown above via a teleconference on Saturday, March 3rd at 8 PM. After your arrival, you must remain at the hearing until the Chief Justice dismisses you. Failure to comply with this subpoena may result in your expulsion as per Roberts Rules [RONR (11th ed.), p. 655, ll. 30 - 35].

You are also ordered to bring the following items with you to the hearing:

Copies of membership information obtained during prior administration.

If you wish to know your rights as a witness, please read over the public documents of the Judiciary Committee located on the California College Republicans website: collegegop.org. You can also obtain more information by contacting the Chief Justice, Kimo Gandall.

Clerk Signature _____ Date _____

Chief Justice Signature Kimo Gandall Date 02.25.18

Appendix C

California College Republicans

Judiciary Committee

California College Republicans

v.

Nick Steinwender

Response to Motion for Injunctive Relief

Dated: February 21, 2018.

Chief Justice Gandall delivered the unanimous opinion of the Committee.

On February 21st, 2018 the Chairman of the California College Republicans (CCR), Ariana Rowlands, brought petition against Nick Steinwender, alleged former CCR Membership Director, arguing a violation of the CCR constitution. More specifically, the petition alleged that the defendant failed to turn over CCR property after the election, such as membership lists, and therefore violated art V. §4, of which requires all property is turned over in 15 days.

While the allegations and context of this case is important, this opinion does not address these issues. Instead, per the request made in the Chairman's petition, the Committee is to rule on the legality of a preliminary injunction against Nick Steinwender, specifically to force defendant to surrender the membership lists, which the Chairman argues is necessary to provide an equitable call to convention as supposedly mandated under the constitution. The plaintiff, therefore, contends that without the intervention by the Committee that the convention, legally, would be unable to move forward.

We find that this Committee cannot determine, upon a lack of current due process and the evident availability of an alternative declaratory judgement, the full extent of the defendant's alleged violations to the prescribed test necessary to issue a preliminary injunction, and therefore cannot provide the injunctive relief the Chairman requests. Simply put, we find the strong speculatory nature of an injunction unnecessary. However, this Board does find that the Chairman can equitably provide a call to convention regardless of this list, and while the alleged list maintains its importance, both in political symbolism and legal procedure, it is unnecessary to move forward. Accordingly, we will clarify the powers of the Committee in these affairs, and the procedure the Chairman is to take to announce the convention.

I

The CCR Bylaws permit the Judiciary Committee to, "Investigate, hear, and rule upon member grievances that arise from violations of the Constitution or Bylaws." Art VII §8(c)(i)(2). This case would be the first, therefore, to shift the normative power of judicial review away from the Chair, a norm created by prior Chairman Danzek, and onto the Committee, as intended by the Bylaws. This interpretation, similar to the powers that the Chair held under a prior capacity, includes, "a preliminary authority… to enforce the constitution without a vote from the General Session or Executive Committee." *California College Republicans v. Leibiwitz.* However, in these cases the preliminary authority referred to the Executive Committee's ultimate authority over good standing, not the ability to issue an injunction prior to the case itself. This power, however, is inherent to the ability of a just institution to function; indeed, without the ability to act, in a manner that at the very minimum restricts harm, the very nature of the due process that protects the rights of some, would become the very demon that haunts others. Therefore, while upholding the Committee's right, upon the necessary circumstances, to issue these injunctions, we do not impose here, as we will clarify.

II

A

To determine whether the plead relief is necessary, the Committee must review relevant case law.

Accordingly, the Supreme Court provides the four requirements of a preliminary injunction: (1) that there is a substantial likelihood of success on the merits of the case; (2) that the plaintiff faces a substantial threat of irreparable damage or injury in lieu of injunctive relief; (3) that the balance of potential harm weighs in favor of the party seeking the preliminary injunction; and finally, (4) that the grant of the injunction serves the public interest. *Munaf v. Geren*, 553 US 674 (2008).

Our interpretation of standard 1 is derived from *Simmons v. United States*, 390 US 377 (1968). In *Simmons*, the US Supreme Court considered whether pretrial identification by means of photo denied the defendants due process of the law. Simply put, the petitioners alleged there had been misrepresentation after FBI officials showed photographs to witnesses before the trial. Even in the admission that it was possible for such photographs to be damaging, the Court found in favor of the government, ruling that, "The danger that use of the technique may result in convictions based on misidentification may be substantially lessened by a course of cross-examination at trial which exposes to the jury the method's potential for error." The Court further ruled that the admission of preliminary evidence to a Judicial body was only inadmissible should the, "photographic identification procedure [be] so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification." This standard of evidence can be easily applied to *CCR v. Steinwender*; indeed, as the

Plaintiff's evidence shows, the defendant had been attached to emails containing CCR property. In lieu of any property being surrendered upon request, we find that there is a reasonable cause to find that the plaintiff's case can succeed on merits. While, of course, the defendant could cross examine, and through due process dismiss or delegitimize the plaintiff's evidence, we find at the very least that this provides a reason to see merit.

Second, our interpretation for standard 2 can be derived from *Winter v. Natural Resources Defense Council, Inc.*, 555 US 7 (2008). In *Winter*, the Court considered whether a preliminary injunction against the United States military concerning the use of sonar during drills, and their corresponding effects on marine mammals, was constituted under the standard of irreparable harm. The courts found that the, "ninth circuit's possibility standard is too lenient," and instead the plaintiff seeking preliminary relief must not only prove that irreparable harm could occur, but, "that irreparable injury is *likely* in the absence of an injunction." This creates a two prong approach to irreparable harm: probability and impact.

On the face, many courts would adjourn their reasoning for standard (2). Indeed, it is clear that without announcing a convention CCR could neither elect new leadership nor move forward as an organization. Thus, the very solvency of our great democratic college experiment would be placed at the end of a light pole in the ocean of uncertainty, similar to the results of the failed 2017 CCR election.

CCR v. Leibiwitz; *Sacremento State Republicans v. Daniels*. However, it cannot, and shall not, be the duty of the Judiciary to be the surgeon of general policy, mending wounds when they are to be sewn by the legislative or executive, unless there is no alternative. Simply put: the judiciary is always to be the last resort. We derive our argument from *Steffel v. Thompson*, 415 US 452 (1974). In *Steffel*, the court's considered several different issues on rights; most specific to our case presented here, the court considered the nature of an injunctive act, i.e. the commonality of its usage.[26] Contextually, *Steffel*, set during the height of the Vietnam war, involved a young man arrested for handbilling anti-war pamphlets, and being subsequently charged under Georgia's criminal trespass law. The plaintiff then submitted two procedural requests to the district court: (1) injunctive action, to the extent he was not to be charged; (2) declaratory action, to the extent the courts were to explain his rights.[27] These

[26] This can otherwise be interpreted as "necessity." It is also important to note these are not necessarily mutually exclusive terms, and are often used together.

[27] These procedural actions were accompanied by several claims of constitutionality, which exceed the scope and relevancy of this opinion. For these purposes, we are primarily interested in the court's opinion of the usage of injunctive relief.

requests were made in the wake of the 1934 congressional legislation giving courts a new method of adjudication: a declaratory judgement, namely, the outlining of rights without their implementation. In the case of *Steffel*, the Supreme Court ruled partially in the plaintiff's favor, explaining that declaratory relief was designed to act, "as an alternative to the strong medicine of the injunction." Contextually, this case, being applied against the state, is flipped in our situation: indeed, in the case of *CCR v. Steinwender*, it is not the individual, but the 'state' pleading for action.[28] This is likely the result of a multitude of procedural blocks,[29] and the unwillingness of the Chair to use her monopoly on violence during or prior to convention to simply enforce an opinion, as is already permitted by the law. *CCR v. Leibiwitz*. However, in this situation, as the Chairman has no real authority (i.e. police authority), we find that the Chairman ought to be treated in a similar to *Steffel*; that, in lieu of a reasonable implementation of the law, and, in the effect of the possibility of an alternative, declaratory judgement is possible solution. This relies, however,

[28] While CCR is not a 'state', it has a few similar functionalities. However, in the usage for this case, we find specific differences in enforcement mechanisms. A true state, for instance, always retains a monopoly on actual violence (not implied force), whereas CCR is largely consensual, and relies on the state of California (or other regulatory body) to enforce rules, demands, etc.

[29] This is not to be implied as necessarily a negative, as procedural blocks were designed to mitigate the potential for abuse.

on the existence of an alternative, which we indeed find there is. Therefore, at this conclusion on itself, we find it unnecessary, and therefore unjustifiable, to oblige by the plaintiff's plea for injunctive relief.

B

Equally important as the negation of the injunctive relief is the understanding of the Committee's reasoning to the alternative. To understand such, one must understand the plaintiff's initial argument that the call to convention must be given out to all members. More specifically, the CCR constitution states:

> …*The Call [to convention must be] transmitted by electronic mail (if any electronic mail address is available) or either mailed or hand delivered to all members of the Board of Directors.*
> Art IX §4.

Under the plaintiff's interpretation, the call has to have two primary features: first, that it is delivered to all members of the Board of Directors (BOD); second, that it is equitable in delivery.

We find there to be two major issues with this interpretation as a means to justify injunctive relief: first, on the technical nature of the call; second, on the policy of the call.

In terms of technicality, the Committee finds, unless schools have already chartered, that the Chairman already has access to all members of the BOD, which would be the Executive Board, as the current interpretation of constitution does not

extend chartership past convention. Furthermore, the constitution provides an exception to this detail: "if an electronic mail address is available." Thus, if not available, so long as the Chair has made a reasonable effort to obtain them, it is unnecessary to email all members. Instead, the call can simply be physically transmitted to members through a school mailing address, which can be found online.

In terms of policy, the chair but must only make a reasonable effort to obtain these emails. Indeed, it is impossible to accurately determine, in a legal frame, who is and who isn't legally a College Republican chapter, as chapters, under the status quo, retain the ability to simply opt out of chartering. It would be unfair of the Committee to force the Chairman, upon pain of Judicial intervention, to refer to every chapters. To some extent, chapters must make a reasonable effort to participate. Furthermore, in no manner does either case law or CCR governing documents require such strict scrutiny in retrieving emails. Thus, so long as the Chairman works with regional vice chairs, attempts to reach out to chapters, and completes her normative duties, we find it unnecessary to further comment on whether or not the plaintiff is engaging in legal action. Such comment would, and could only, be determined upon a full review of a case.

III

Finally, it is important to note that the Committee has not yet offered the defendant an

opportunity to respond to the petition provided by the plaintiff. We find this a violation of his right to due process found under art. VII §8(c)(iv), which mandates the Judiciary Committee to, "offer due process to petitioners or defendants." We specifically find this a violation of the defendant's inherent right to a trial, normatively understood as his habeas corpus rights. This committee, in understanding habeas corpus as only legally applicable to cases of arrest, nonetheless acknowledges the importance of this principle in concept even in the context of our organization. Finally, we find that the defendant has a procedural right to be informed of any pending actions against him prior to any injunctive decision. More specifically, the parliamentary rules of CCR require that, "he has the right to due process – that is, to be informed of the charge and given time to prepare his defense, to appear and defend himself, and to be fairly treated." RONR (11th edition), p. 656, ll. 1 – 5.

These rights, however, exceed beyond the simple ramifications of a direct interpretation of the text: indeed, should we allow an injunctive act now, there is no end to this judicial authority; similar to the fears echoed by Madison in Federalist 74, it is not only good policy to deny such rampant and immediate judicial authority, but our very moral prerogative. Should this Committee extend those powers, at best we immediately solve this issue, never to be revisited again, and at worst we lay on the framework necessary for the kritocracy, and thus, the doom for our fledgling democracy.

Therefore, in the view of the Committee, it is vital that the right to respond to this petition be upheld prior to any injunctive act, at least in lieu of a pressing, immediate, and otherwise unsolvable concern.

* * *

Our review of this preliminary motion, while not a comment on the substantive nature of the case, or a condoning of either the plaintiff or defendant, constitutes an important interpretation of the rules. The law, in effect, is not to unwittingly constrain the action of a society, but to, as we have argued, provide an equitable, just, and fair authority.

In doing such, for the aforementioned reasons, we deny the motion by the plaintiff to issue a preliminary injunction against the defendant. However, we do find there to be a pressing need to the situation presented by the plaintiff, one that involves a clear and demonstrated public benefit. We therefore, instead of the "strong medicine," of injunctive relief described in *Steffel*, offer the plaintiff a declaratory judgement:

1. The Chair shall submit evidence of an attempt to equitably contact chapters;
2. The Chair shall announce on the primary social media accounts held by CCR that chapters should refer their contact information to either the Chair or their respected regional Vice Chairs;
3. The Chair shall implement these instructions within 2 days of the

publication of this opinion. After 2 days of public knowledge of the effort has concluded, the Chair may announce the call;

If the Committee finds the instructions have been followed, then the Convention may move forward. Furthermore, this does not prohibit the Chair from sending future emails regrding the convention, but simply provides a template to release current details to current, active members.

Finally, the rejection of this injunction does not imply that the Committee rejects the case. In contrast, should the plaintiff wish to continue, the Committee will continue with the case pursuant to the procedures defined in the bylaws and the Judiciary charter.

It is so ordered.

_____.
Kimo Gandall, Chief Justice