

Komac Appeal to Full Judicial Panel JP-66

In accordance with the AFSCME Constitution I am appealing the decision of McKenna dated January 8, 2020.

My reasons for the appeal are as follows:

1. Biased Judicial Panel Chairperson:

On, (date) Chair Abelson offered me the opportunity to strike names from a list of Judicial Panel members. I struck McKenna's name from the list. See attached. Abelson assigned McKenna anyway. This action shows his disregard for his own process and personal bias against me.

Article IV, Trials: General Procedures

*Trial Officers shall be selected in accordance with the procedures set forth in Article XI, Section 8, of the International Constitution. The Judicial Panel Chairperson shall send a list of the names of the Judicial Panel Members to the accuser and the accused. Within fifteen (15) days thereafter, each party shall be afforded the opportunity to delete not more than two names from the list of Judicial Panel Members, by written notification to the Judicial Panel Chairperson. **From the names remaining**, the Chairperson shall appoint one member of the Judicial Panel to serve as the Trial Officer.*

Abelson has his reasons for his bias against me. Abelson turned down a request from Local 114 to intervene in the Maycock case by informing us that intervening was not allowed. Later he allowed Lee Saunders to intervene in Maycock's case. What rule allowed this? These actions were noted in the federal lawsuit on how corrupt the AFSCME judicial panel process is. Abelson is also frustrated and embarrassed that Saunders made the Judicial Panel reverse itself, twice, in the Maycock case after we filed the federal lawsuit.

2. Biased Judicial Panel Member

As you may recall, it was McKenna's decision to back Chris Dugovich and not allow a Council 2 Executive Board member, Colin Maycock, access to any of the information he requested. The full judicial panel supported this decision. Please be advised it was McKenna's outlandish and wrong decision that set in-motion events that lead to a federal lawsuit against AFSCME, and the eventual filing of a change-in-representation petition that will likely result in hundreds of AFSCME members exiting AFSCME.

What did you expect would happen when you backed Dugovich over your membership and your own constitution? You shame yourselves and insult us.

The assignment of McKenna, who was likely equally embarrassed by her anti-AFSCME Bill of Rights decision was now given a chance to extract revenge on me for my role in the filing the Federal lawsuit. This is how whistleblowers are treated by AFSCME.

3. Biased Accusers

Libby is a former union officer (Treasurer) who resigned a few years ago from her position due to her being unhappy about the democratic process in our Union. As President, I appointed someone that she didn't like as our Negotiation's chairperson and Libby resigned in a heated rage. Powers was ousted a couple of years before that. As much as our local leaders tried to accommodate their dissenting views, they obviously harbor strong personal resentment and ill-will toward the current leaders as to allow themselves to be used by cunning Council 2 leaders to join them in their effort to discredit me.

4. Alleged Lack of Quorum

If no one in attendance challenges a quorum at the meeting in question, or raises the quorum issue at the next meeting, the decision stands according to Robert's Rules of Order.

Libby and Powers never challenged a lack of quorum at any meeting. Ever. Neither have any of our Staff Representatives. J. Pat Thompson, the Council 2 Deputy Director, who has been in attendance multiple times has never objected to any decision taking place due to an alleged lack of a quorum. According to Robert's Rules, they lost their right to object. Libby and Powers only retroactively objected when Dugovich needed local skills to object to our local hiring a lawyer to sue himself and AFSCME. Stale, retroactive objections are not allowed under Robert's Rules.

There was no dispute that I can see in the decision that the sign in sheets were NOT evidence of a quorum – so how can there be a decision that there was no quorum? That nullifies the part of Robert's Rules that says not having a quorum means any business conducted is invalid. McKenna specifically noted the Chair doesn't need to announce a quorum. How would she know that I didn't establish one by counting members in my head?

Sign in sheets are not required nor are they an accurate representation of how many members are present at a meeting.

Even if an alleged lack of quorum was an issue, why am I the only one being prosecuted for this? I was not the only person holding the office of President during the time period in question. Again, this whole proceeding is blatantly biased against me. Even the AFSCME Financial Standards Code states it's not the Presidents job to note in the minutes that there was a quorum – it's the Secretary's job. Accusing party Powers herself signs the charges as "Past Secretary and Past President" among other things, and she has never by her own admission considered whether there was a quorum, must less noted it in the minutes. A review of the minutes going back through 2008 will show that while Powers was in office as President or Secretary, you will be hard pressed to find a SINGLE mention of a quorum. Yet because she does not agree with the membership on this one expenditure, she is all of a sudden, calling the decision of the members (which has been made and approved multiple times with no question of a quorum, multiple times) into question after the fact.

5. Selective Prosecution

If this retroactive quorum inspection of all meeting minutes by Council 2 locals was held today, there would a long line of presidents waiting for McKenna to bill them for misspent funds. We all know why I was singled out.

Why did Powers & Libby choose these particular people to be “charged parties”? Veitch wasn’t even the Treasurer during this time period. I was not the President during this entire time period. This is selective persecution (ahem, Prosecution) and you know it. It’s wrong.

6. Precedent

In Maycock v Dugovich JP 18-80, McKenna decided that Dugovich could retroactively ask the Council 2 Eboard to approve his hiring of Mr. Stemler – which he did without their permission or consent. Apparently blatantly asking for retroactive permission is okay if McKenna favors you.

7. Authorization to Spend Money

As you know, when our local suspected what Dugovich was up to with Libby and Powers, we presented all expenditures for review, discussion and vote of the membership with a quorum present. All expenditures were approved. This action was not necessary, but we believed it resolved any question about any perceived impropriety and affirmed membership support of our decision to spend our own Local money for legitimate union proposes. This was all explained to you in our letter of July 15, 2019. Which you ignored because of your personal bias.

Why McKenna thinks she can retroactively object to a quorum, but our local can’t act WITH a quorum is twisted logic that insults your process.

8. Cashier’s Check Payment

The Local authorized the expenditures. I executed the wishes of the local by having our credit union issue a cashier’s check. This was not a check issued by the Local Treasurer. All checks issued by our Local Treasurer are signed by two officers. The credit union will not process a check that is not signed by two officers. There is no evidence of any money being diverted to any other purpose other than that authorized by the union members.

9. Repayment

Any demand for repayment I absurd. I was never the recipient of any union funds. I did not personally benefit from the expenditure of \$12,007.

10. Defective Notice

I was given a copy of the decision on Jan 16, 2020 (see attachments) by Abelson. He states at 11:23am, “The decision was sent to the address on the file with the International Union in accordance with Judicial Panel procedures.” And again at 11:42am, “Please be advised that the decision was sent to you pursuant to Judicial Panel procedure. You were not treated differently than any other party by the Judicial Panel.”

The Rules of the Judicial Panel state in part the following:

*RofJP General Provisions ARTICLE XIII, Section 3, Communications required or anticipated by these Rules shall be sent by email if the Judicial Panel has a personal email address for the intended recipient, provided however, that **charges and decisions shall be transmitted by certified mail, return receipt requested, even if an email transmission is made.***

Bill of Rights for Union Members

*8. Charges against a member or officer shall be specific and shall be only on grounds provided in this Constitution. Accused members or officers shall have the right to a fair trial **with strict adherence to due process.** The accused shall be considered innocent until proven guilty.*

RofJP General Provisions Article III, Section 9

*The Judicial Panel Chairperson shall be responsible for reproducing the decisions and for distributing them **as required** by the International Constitution.*

RofJP Article IV TRIALS: GENERAL PROCEDURES

*Copies of the decisions in any trial **shall** be served by certified mail, **return receipt requested, and emailed** to the **accuser** and the accuser's counsel of record, to the **accused** and the accused's counsel of record, and to the secretary of any subordinate trial body or bodies, which have previously heard the case. In addition, copies shall be distributed to each member of the Judicial Panel, the International President and the International Secretary-Treasurer.*

Sister Libby and Sister Powers failed to notify us of the charges they made in a proper and timely manner. The charges were filed with AFSCME International with a letter dated June 13, 2019. According to Article X Section 10, "**Within fifteen days following the receipt of the charges, the person with whom the charges have been filed shall send by certified mail, return receipt requested, an exact and full copy of the charge to the accused party, together with a copy of Article X of this Constitution and an explanation of the trial procedure to be followed**". I was not notified of the charges per Article X and certainly not via certified mail as required. I did eventually see a copy of the charges but it was more than 15 days after the charges were filed. The required copy of Article X of the AFSCME International code was not included as required under Article X, Section 10.

11. Timeliness

The Rules of the Judicial Panel state:

Attached, please find a statement from Henderson Legal Services that states that the finalized hearing transcript was received by AFSCME headquarters on Dec 3. 30 days from that would be Jan 2. She was late.

RofJP Article IV TRIALS: GENERAL PROCEDURES Section 11

For the purpose of applying the time limit for **the issuance of trial body decisions** as provided in Article X, Section 18, of the International Constitution, a trial shall be deemed to be completed

- (1) when the transcript of the trial is received by the Trial Officer after the closing of the hearing,
 - (2) upon the filing of any post-hearing evidence as authorized or directed by the Trial Officer or
 - (3) upon the filing of all post-hearing briefs as authorized or directed by the Trial Officer,
- whichever is later.

I explained my absence from the trial (see attached) and asked if I could submit a written defense. I never received a reply.

Article X Section 12 states that I have a right to file a written answer to the charges. I was not allowed to do so.

12. Procedural Objections

Charges were not filed with Local 114, they were improperly sent to the AFSCME Judicial Panel (JP) chairperson, Abelson. The documents attached to the charges were not forwarded from Abelson to Local 114. The letter from Abelson declining original jurisdiction was not sent to Local 114 but to Andy W. & Tom V. at their homes. Local 114 *still* hasn't been properly served, the Accused have not been properly served and a full copy of the charges with attachments has not been received by any of the Accused. The standard to move forward under our constitutions hasn't been met. Regardless of whether anyone has received anything via email, email alone does not meet the necessary standard of being served either via certified mail or in person.

Sister Libby and Sister Powers filed their charges directly with AFSCME International. According to Article X Section 3 of the AFSCME International code, "Charges against an individual for actions taken in such individual's capacity as a member, a local union officer, or a local union staff employee *shall* be filed with and heard by the local union trial body in the local of which the accused was a member at the time of the alleged actions". By filing charges directly with AFSCME International, Sister Libby and Sister Powers violated Article X Section 3.

AFSCME International Constitution, Article X:

"Section 3. Charges against an individual for actions taken in such individual's capacity as a member, a local union officer, or a local union staff employee shall be filed with and heard by the local union trial body in the local of which the accused was a member at the time of the alleged actions, with the exceptions provided below."

"Section 12. The accused person shall be guaranteed the following rights: The right to be served personally with, or to have forwarded by certified mail to the accused person's current address of record with the local union, return receipt requested, a full copy of the charges within fifteen days after they are filed and to receive a copy at least thirty days before the trial date."

"Section 1. Except as hereafter provided in this Article, any member of the Federation may file charges against any individual for actions taken while a member of the Federation or while a staff employee of the Federation or a subordinate body."

"Section 6. Charges shall be in writing and shall be signed by the member or members bringing the charges. The charges shall be specific, citing in detail the nature, the date, and the circumstances of the alleged offense and, where a violation of a constitutional

provision is alleged, the specific Section shall be cited, along with the specific act or failure to act which constitutes the alleged violation.”

13. Charges not specific enough.

Original documents name people to be charged and goes on to state, “The Officers of Local 114 violated the constitution...” At least one of the accused parties is not an officer. Nor do all of the charged parties compose a complete list of officers during the time period referred to.

Libby and Powers failed to file specific charges, including the nature of the charges and specific dates that the charged activities transpired. In the charging papers, Sister Libby and Sister Powers most specific detail was “since 2018”. I feel that this is not specific enough. *AFSCME International Article X Section 6 states: “The charges **shall be specific**, citing in detail the nature, **the date**, and the circumstances of the alleged offense and, where a violation of a constitutional provision is alleged, the specific section shall be cited, along with the specific act or failure to act which constitutes the alleged violation.”*

The Accused have the right to have charges filed against them as individuals, and to have those charges be as specific as possible including noting which sections of which constitutions were violated by each. Apparently, the accusers seek to have all accused defend against unspecified charges based on a letter from Council 2, which wasn’t included. What charges would you have us prepare for?

These flawed charges, obvious procedural errors and complete lack of disregard for the Constitution and rules of the Judicial Panel have me wondering – what is this really about? Let’s not pretend. This is blatant retaliation for my Local’s role in filing a Federal lawsuit against AFSCME for failure to enforce their own constitution and Member’s Bill of Rights. Of course we need to leave AFSCME, you’ve left us no choice. Our membership refuses to participate in a rigged, corrupt system where bullies are not only tolerated, they are encouraged and rewarded.

Sincerely,



Jael Komac, member
AFSCME Local 114



Jael <jaelraek@gmail.com>

Judicial Panel Case 19-66

Jael <jaelraek@gmail.com>

Thu, Sep 26, 2019 at 11:41 AM

To: judicialpanel@afscme.org, RAbelson@afscme.org

To Whom It May Concern,

Attached, please find my deletions from the panel list. According to the constitution, I have the right to be specifically and individually charged which has not happened yet. Assuming it does, these are my individual choices and I am not speaking for any of the additional supposedly charged parties.

As to the statement on the 9/11/2019 letter that I "must provide" my lawyer and firm's name by a set date. I object. Please provide on what authority you are requiring this information at this time. As an individual, I may or may not decide to have a personal representative. This person may or may not be a "lawyer". Without all the relevant information, I cannot decide whether or not to have representation.

If I ever receive specific charges sent to me as an individual via certified mail, and if the notifications are timely and if this case proceeds, I will put in my information request to AFSCME International, Council 2 and the charging parties. Once it is fulfilled and I have reasonable time to review the information, I will decide whether a personal representative is necessary.

Thank you,
Jael Komac

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"If you want to go fast, go alone. If you want to go far, go together."

~ African Proverb



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JUDICIAL PANEL, AFSCME, AFL-CIO

LIST OF SELECTION OF TRIAL OFFICERS

Article XI, Section 8 of the International Constitution provides:

In any case coming before the Judicial Panel, other than cases in which the accused is an International Officer, the Judicial Panel chairperson shall send a list of the names of the members of the Judicial Panel to the accuser and the accused. Within fifteen days thereafter, **each party shall be afforded the opportunity to delete not more than two names from the list of Judicial Panel members**, by written notification to the Judicial Panel chairperson. From the names remaining, the chairperson shall appoint one member of the Judicial Panel to serve as the trial officer.

The names of the members of the Judicial Panel are listed below:

~~XXXX~~ RICHARD ABELSON, Washington, DC
____ STEVE TULLY, Jersey City, NJ
____ KEITH JANUARY, Detroit, MI
____ DAYTON M. NAKANELUA, Honolulu, HI
~~XXXX~~ THEODORAH McKENNA, Los Angeles, CA
____ MICHAEL DEMARCO, Staten Island, NY
____ SERENA VERGIN, St. Cloud, MN
____ ANDREW WASHINGTON, Washington, D.C.
____ GERARD JOLLY, Grove City, OH
XXXX TIMM TWARDOSKI, Helena, MT

The following member will not serve as the trial officer in this proceeding pursuant to **Article III, Section 6** of the Rules of Procedure of the Judicial Panel: **T. Twardoski**

By: Jaël Komac Accused Party X Charging Party _____
As An Individual
Judicial Panel Case No. 19-66 Date: 9/26/2019

Note: Unless the Judicial Panel chairperson receives your response by 9/26/19, all names will be deemed acceptable. **Return this form directly to the Judicial Panel Chairperson, AFSCME, AFL-CIO, 1625 L Street, NW, Washington, DC 20036; or fax to 202/822-8169**

Note:

I am not submitting this in coordination with the other accused parties.



Jael <jaelraek@gmail.com>

Please forward to Theodora McKenna JP 19-66

Jael <jaelraek@gmail.com>
To: judicialpanel@afscme.org

Tue, Nov 19, 2019 at 8:24 AM

Dear Ms. McKenna,

I apologize for being unable to attend yesterday's hearing. My intention was to attend and vigorously defend myself. I instructed the other accused persons to deliver to you a letter I had written explaining my absence. Apparently, in all the pressure of the day, that was not done.

My job at the City of Bellingham includes serving on the County-wide Emergency Management Team as the City's mapping representative. Unfortunately, the Police chief in the town directly to the North of us (Lynden) was tragically and recently killed in a pedestrian crash. Our emergency management team was activated to handle the memorial service which includes agencies across the State. The service and procession for Chief Knapp increased in complexity due to elected dignitaries who will be present. I am the only GIS mapping support for the event and I simply could not leave for even a moment.

I would appreciate the opportunity to provide written testimony. Again, my apologies for not attending. Thank you for your understanding.

Sincerely,
Jael Komac

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"If you want to go fast, go alone. If you want to go far, go together."

~ African Proverb



Jael <jaelraek@gmail.com>

FW: 19-66

Rich Abelson <RAbelson@afscme.org>

Thu, Jan 16, 2020 at 11:23 AM

To: Jael <jaelraek@gmail.com>

Cc: Judith Rivlin <JRivlin@afscme.org>, Walter Blair <WBlair@afscme.org>, Lee Saunders <LSaunders@afscme.org>

Dear Sister Komac:

Attached please find a copy of the decision in Judicial Panel Case No. 19-66, Libby & Powers v. Francis, et al. The decision was issued on January 8, 2020. The decision was sent to the address on file with the International Union in accordance with Judicial Panel procedures.

Please note that you have been found guilty of certain charges. Part of the penalty requires you to pay certain monies back to Local 114 which were improperly expended in violation of the Local 114 and International Union Constitutions. The required repayment must be made by February 8, 2020, within 30 days of the decision.

In solidarity,

Richard Abelson

Judicial Panel Chairperson



19-66.pdf
1147K

Rich Abelson

to Judith, Walter, Lee, me ▾

Jan 16, 2020, 11:42 AM



Dear Sister Komac:

Please be advised that the decision was sent to you pursuant to Judicial Panel procedure. You were not treated differently than any other party by the Judicial Panel. The 30 days starts from the date of the decision.

In solidarity,

Richard Abelson
Judicial Panel Chairperson



Jael <jaelraek@gmail.com>

Fwd: 11/18 AFSCME 19-66 hearing

2 messages

Shayla Francis <slfrancis11@hotmail.com>
To: Jael Komac <jaelraek@gmail.com>

Thu, Jan 23, 2020 at 12:03 PM

Fyi
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From: Matthew Bieber <mbieber@hendersonlegalservices.com>
Sent: Thursday, January 23, 2020 11:53:12 AM
To: SLFRANCIS11@hotmail.com <SLFRANCIS11@hotmail.com>
Subject: 11/18 AFSCME 19-66 hearing

Ms. Francis,

As discussed, the finalized hearing transcript was first available and received by AFSCME headquarters on Dec. 3.

If you need any additional information, please let me know.

Best,
Matt

Matthew J. Bieber
Director of Operations

P: 202.220.4180

E: mbieber@hendersonlegalservices.com



PROUD
SUPPORTERS OF:



WOMEN IN eDISCOVERY™
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Jael <jaelraek@gmail.com>
To: Dean Tharp Personal <deantharp0@gmail.com>

Thu, Jan 23, 2020 at 1:40 PM

[Quoted text hidden]

10 attachments

