

No. 50367-1-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

CHUCK HAUNREITER, Appellant

v.

LEWIS COUNTY DEMOCRAT
CENTRAL COMMITTEE, et al, Defendants

REPLY BRIEF OF APPELLANT

By Chuck Haunreiter

Appellant, Pro Se

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I. REPLY TO STATEMENT OF THE CASE

Just as in the trial court, Mr. Enbody's strategy is to denigrate Haunreiter. (RP p. 5, l. 4-10, p. 17, l. 3-5; CP 134, l. 4-17)

First, Mr. Enbody brought up Haunreiter's Motion for Change of Venue. Haunreiter admitted that he made a mistake when he filed his first Motion for Change of Venue and paid the sanction. After Haunreiter filed his second Motion for Change of Venue, Mr. Enbody wanted him to brief it. So Haunreiter prepared a brief and took it to a real lawyer. The lawyer said it looked good, but a judge is not likely to admit that he is a crook (his words, not Haunreiter's) so Haunreiter dropped his efforts for a change of venue. That lawyer could not represent Haunreiter because of a conflict of interest.

Haunreiter did file a claim in federal court. On November 14, 2016, Haunreiter asked the Court to withdraw his Compliant

with prejudice based upon *Johnson v. Knowles*, 113 F. 3d 1114 (9th Circuit 1997). Haunreiter's request was granted on November 15, 2016. None of that has anything to do with this appeal.

Mr. Enbody points out that Haunreiter filed and served his Motion for Reconsideration on February 17, 2017, before the order on injunctive relief was signed. That was because Mr. Enbody changed the date for signing the order from February 17, 2017 to February 24, 2017. He did not inform Haunreiter of the change until February 21, 2017.

II. Civil Rule 11

Respondents did not argue CR 11 in their Response. (CP 66-70). They argue CR 11 for the first time on appeal.

Haunreiter stands by his argument against CR 11 sanctions in

his Motion for Reconsideration. (CP 87, l. 8-CP 134, l. 17)

Remember, Respondents never made these arguments in the trial court.

Haunreiter argued irreparable harm in his Motion for Reconsideration. (CP 137, l. 4-15)

Haunreiter argued that not only were his rights violated while he was a PCO, but even after he was a PCO. (CP 129, l. 1-CP 130, l. 11)

Haunreiter addresses his argument for a declaratory judgment in his Motion for Reconsideration. (CP 125, l. 11-19) This is a case of first impression. Haunreiter does not believe there is any case law on an elected official being denied an opportunity to vote on issues important to his constituents.

Haunreiter addressed each and every one of his requests listed by Respondents in his opening brief.

Haunreiter addressed each and every one of his claims that were denied in the trial court in his opening brief.

Respondents claim that all the issues Haunreiter raised in his Motion for Injunctive Relief had to wait until trial. Haunreiter repeatedly argued in his opening brief that if Respondents had fully responded to the issues he raised in his motion, there might not be a need for trial. And any issues remaining could have been narrowed down before a trial.

III. Payment of Sanctions Before Filing Any Further Affirmative Relief

Respondents cite no authority for ordering a litigant to pay sanctions before filing any further affirmative relief.

Respondents cited no evidence that Haunreiter would not pay any sanctions.

Respondents claim that Haunreiter's motion had no legal argument or factual basis. Haunreiter refers the Court to CP 87, I. 8-CP 111, I. 9.

IV. Motion for Injunctive Relief

Respondents argue RCW 7.40.020 for the first time on appeal.

The reason Haunreiter filed for injunctive relief is because he wanted to enjoin Respondents from locking him out of the Central Committee meetings. Haunreiter has argued that Respondents have no authority to lock him out of the Central Committee meetings, whether he is a PCO or not.

Haunreiter argues that even though he is no longer a PCO,

there must be some sort of equitable remedy for when he was unconstitutionally locked out of the Central Committee meetings while he was a PCO. The trial court had plenty of information before it from Haunreiter to make a decision. There was nothing more that could be learned from a trial. (CP 89, l. 7-18; CP 111, l. 11-CP 117, l. 4)

Haunreiter argues in favor of injunctive relief in his Motion for Reconsideration. (CP 127, l. 18-CP 130, l. 11; CP 131, l. 16-CP 132, l. 4)

V. Authority to Ban Haunreiter From Central Committee Meetings

This is the crux of this whole case. If the trial court had forced Respondents to provide their authority for banning Haunreiter from the Central Committee meetings, this case would have been over a long time ago.

The Court will note that Respondents devoted a majority of their attention to this appeal on CR 11 sanctions but not one sentence on where Respondents got their authority to lock Haunreiter out of the Central committee meetings.

First, Respondents claim that this issue cannot be settled without trial or summary judgment. The trial court judge kept referring to a jury trial. (RP 15, l. 12, 15; RP 23, l. 3) First, if Respondents were ordered to fully respond to his motion, there might not be any need for trial. Second, if the trial court ordered the Respondents to fully respond to Haunreiter's motion, that would narrow any issues for trial. Third, a trial is not the place to teach a jury statutes, case law, and regulations. These are the issues that need to be fleshed out before any trial.

Haunreiter provided the trial court with the facts of this case. (CP 21, l. 1-CP 30, l. 11) Respondents chose not to address

those facts in their Response. (CP 66-70)

Respondents claim that Haunreiter cited no case law or legal analysis. Haunreiter refers the Court to CP 30, l. 13-CP 45, l. 4; CP 72, l. 20-CP 83, l. 16; CP 90, l. 18-CP 93, l. 11; CP 102, l. 4-CP 107, l. 11; CP 113, l. 16-CP 114, l. 1; CP 121, l. 6-10; CP 130, l. 16-CP 131, l. 14; CP 132, l. 6-13; CP 138, l. 8-11.

Haunreiter cited *City of Woodinville v. Northshore United Church of Christ*, 139 Wn. App. 639, 162 P.3d 427 (2007), which held that the trial court did not abuse its discretion by consolidating the hearing on an application for an injunction with the trial on the merits of the issues that were properly before the court. (CP 118, l. 11-17)

Respondents argue the issue of whether they had the authority to ban Haunreiter from attending the Central Committee

meetings is a factual issue that must wait for trial. But the Respondents could have provided the trial court with any authority to ban Haunreiter from attending the Central Committee meetings.

On the other hand, in his motion (CP 19-48), Haunreiter cited the United States Constitution, United States case law, the Washington state Constitution, Washington case law, Washington state statutes, the Charter of the Democratic Party of the State of Washington, the Bylaws of the Democratic Party of the State of Washington, and the Lewis County Democratic Central Committee Bylaws. If Respondents had addressed those issues, this case would have been over a long time ago.

It does not make any difference if Haunreiter is a PCO or not. He should still be allowed to attend the Central Committee

meetings. (CP 40, l. 2-6, 10-14; CP 42, l. 4-9; CP 44, l. 16-20)

Respondents still argue that since Haunreiter lost his seat as a PCO before this case was fully litigated, there should be no consequences for nullifying his election while he was a PCO.

The bottom line is that the trial court had the facts and the law before it. Respondents chose not to address the facts or the law in the trial court.

VI. The Lewis County Democrat Central Committee Is Not a Private Organization

Respondents claim that the trial court judge did not find that the Lewis County Democrat Central Committee is a private organization. The trial court judge did find that the Lewis County Democrat Central Committee is a private organization and tailored its decision based upon that. (RP 14, l. 5-13)

VII. Equitable Relief

The Respondents claim that the trial court could not have fashioned some sort of equitable relief. Haunreiter stands on his analysis of equitable relief in his Motion for Reconsideration. (CP 111, l. 11-CP 117, l. 4)

Respondents believe that since Haunreiter lost his bid for re-election as a PCO before this case was fully litigated, they should suffer no consequences for nullifying his election as a PCO. There would be nothing stopping them from doing it to Haunreiter again or anyone else who disagreed with the way they run the Central Committee. They would know that all they had to do was run out the clock and they could get away with it.

Respondents argue against injunctive relief for the first time on appeal.

Respondents claim that Haunreiter failed on all three prongs of the test for obtaining injunctive relief. Respondents never argued that in their Response. Haunreiter stands on his analysis of the three-pronged test in his Motion for Reconsideration. (CP 128, l. 12-CP 130, l. 11; CP 137, l. 4-17)

Haunreiter would like to add that according to *Tyler Pipe Indus. v. State*, 96 Wn.2d 785, 638 P.2d 1213 (1982):

It is necessary, however, to clarify that since injunctions are addressed to the equitable powers of the court, the listed criteria must be examined in light of equity including balancing the relative interests of the parties and, if appropriate, the interests of the public.

Considering the ridiculous premise of this case – the Lewis County Democrat Central Committee retaliating against Haunreiter for criticizing them, as described at CP 23, l. 4-CP

30, l. 11, this Court should consider the interests of both parties.

Haunreiter is harmed by not being able to attend the Central Committee meetings to learn about candidates and issues.

Respondents would not be harmed by allowing Haunreiter to attend the Central Committee meetings.

Respondents argue that Haunreiter chose to wait until he was no longer a PCO before filing his Motion for Injunctive Relief.

Haunreiter became a PCO in December 2014. Haunreiter was locked out of Central committee meetings in February 2016.

Haunreiter filed his Complaint in Superior Court on March 16, 2016. He filed a Motion for Default on April 11, 2016. He filed a Motion for Change of Venue on April 27, 2016.

Haunreiter hired attorney Joseph Thomas PLLC from Renton, Washington to negotiate with Respondents on June 4, 2016.

Mr. Thomas specializes in constitutional and civil rights issues.

Haunreiter lost his bid for re-election for PCO on August 2, 2016. After unsuccessful negotiations with Respondents, Mr. Thomas encouraged Haunreiter to file a Complaint in the United States District Court on October 3, 2016 based upon freedom of speech. Haunreiter asked the District Court to dismiss his case with prejudice based upon *Johnson v. Knowles*, 113 F. 3d 1114 (9th Circuit 1997). Haunreiter's case was dismissed with prejudice on November 15, 2016.

It is important to note that Respondents did not know about *Johnson v. Knowles* until it was argued in District Court by one of the best law firms in the United States, Perkins Coie LLP, according to Mr. Thomas.

Mr. Thomas does not do appeals but he did provide Haunreiter with “WHEN COUNSEL SCREWS UP: THE IMPOSITION AND CALCULATION OF ATTORNEY FEES AS SANCTIONS” by Philip Talmadge, Emmelyn Hart-Biberfeld, and Peter Lohnes.

So Haunreiter moved his case through the courts as fast as the courts would allow.

VIII. Declaratory Relief

While Haunreiter was a PCO, due to the fact that he was unconstitutionally locked out of the Central Committee meetings, he was not allowed to vote on any motions, resolutions, elections or any other party business performed in his absence. Therefore, any motions, resolutions, elections or any other party business performed in his absence should be declared null and void.

Respondents argue against declaratory relief for the first time on appeal. Haunreiter addressed declaratory relief in his Reply to Response to Plaintiff's Motion for Injunctive Relief (CP 82, l. 4-10) and in his Motion for Reconsideration (CP 125, l. 11-19).

Respondents claim that this issue must wait for trial. But if Respondents had fully addressed this issue in their Response (CP 66-70), there might not need to be a trial.

Respondents argue that Haunreiter provided no legal basis for declaratory relief, but Respondents provide no legal basis for allowing votes on issues, motions, resolutions, elections or any other party business performed in his absence while he was a PCO.

IX. Haunreiter Suffers Immediate and Irreparable Loss or

**Damage By Not Being Allowed to Attend Central
Committee Meetings**

Haunreiter should have been allowed to attend the Central Committee Meetings while he was a PCO (CP 35, l. 6-CP 37, l. 13) Haunreiter pointed out that as a politician, he needs to attend the Central Committee meetings to keep up to date on issues and candidates even when he is not a PCO. In fact, the night Haunreiter was locked out of the Central Committee meeting, their guest speaker was David McDevitt, who was running for Congress. (CP 119, l. 11-19; CP 129, l. 20-CP 130, l. 11)

**X. The Issues Haunreiter Raised Did Not Have to Wait For
Trial**

If Respondents had fully responded to Haunreiter's motion, there might not need to be a trial. Any issues remaining could have been narrowed down before trial.

XI. The Trial Court Should Have Ordered Respondents to

Fully Respond to Haunreiter's Motion

Respondents claim that Haunreiter never complained about Respondents not fully responding to his motion in his brief.

Haunreiter complained in his brief that the trial court never forced Respondents to provide where they got the authority to lock him out of the Central Committee meetings, page 23.

Haunreiter complained in his brief that the trial court never forced Respondents to address their long history of retaliating against him for exercising his First Amendment right to freedom of speech, page 27.

Haunreiter complained in his brief that the trial court never forced Respondents to address that by retaliating against him for exercising his First Amendment rights to free speech, they

violated the United States Constitution and the Washington State Constitution, page 27.

Haunreiter complained in his brief that the trial court never forced Respondents to address their violation of Haunreiter's First and Fourteenth Amendment rights of free speech, page 28.

Haunreiter complained in his brief that the trial court never forced Respondents to address their violation of Haunreiter's due process rights of free speech under the Fourteenth Amendment to the United States Constitution, page 28.

Haunreiter complained in his brief that the trial court never forced Respondents to address RCW 29A.80.030, page 29.

Haunreiter complained in his brief that the trial court never forced Respondents to address RCW 29A.80.04, page 30.

Haunreiter complained in his brief that the trial court never forced Respondents to address RCW 29A.80.051, page 31.

Haunreiter complained in his brief that the trial court never forced Respondents to address RCW 29A.56.110, page 31.

Haunreiter complained in his brief that the trial court never forced Respondents to address the fact that Respondents were not acting under the Charter of the Democratic Party of the State of Washington, the Bylaws of the Democratic Party of the State of Washington, or the Lewis County Democrat Central Committee Bylaws, page 32.

Respondents argue that there is no authority requiring them to fully respond to Haunreiter's Motion. Since Respondents did not fully respond to Haunreiter's Motion, the trial court should

have accepted everything Haunreiter said as true.

XII. Civil Rule 11 Sanctions/Brief

Respondents claim that Haunreiter submitted an improper brief.

In his brief, Haunreiter referred the Appellate Court to his Motion for Injunctive Relief, his Reply to Response to Motion for Injunctive Relief, and his Motion for Reconsideration.

There is no sense reinventing the wheel. Those documents were before the trial court. They cited facts and law. They cited case law and Haunreiter's legal analysis. That is what the trial court based its decision on. Haunreiter is asking the Appellate Court to review those documents and decide if the trial court made the proper decision based upon those documents.

For example, when Haunreiter cited the United States Constitution in his Brief, he referred the Appellate Court to

how the Constitution applied to his case in the documents that were before the trial court.

Respondents never presented anything to the trial court for this Court to review.

Respondents complain that Haunreiter's Assignments of Error do not correspond to the same numbers in argument of his brief. Just as here, Haunreiter consolidated some issues to make it easier to understand. Each argument was clearly titled. There should be no question as to what Haunreiter was arguing about.

Respondents complain that Haunreiter used too large of font. Haunreiter declared war on small type a long time ago.

Haunreiter believes that larger type makes it not only easier for him to read, but also the judges who have to read tons of this stuff every day. The Court will note that Haunreiter's motion,

reply, and Motion for Reconsideration were all in larger type.

Haunreiter filed his Brief in a timely manner pursuant to RAP 10.2(a). The Report of Proceedings was filed with the Appellate Court on May 17, 2017. Forty-five days from there was Saturday, July 1, 2017. Haunreiter mailed his Brief to the Court of Appeals on Monday, July 3, 2017. Mr. Enbody's office was closed on July 3rd, so he was served on July 5th.

Respondents complain that Haunreiter offered no explanation as to why he thought the trial court erred when it ruled that Haunreiter could not file anymore motions until he paid the CR 11 sanctions. But Respondents did not take the opportunity to cite any authority for the trial court to rule that Haunreiter could not file anymore motions until the sanctions were paid.

XIII. CONCLUSION

Haunreiter is asking this Court to find that Respondents had no authority to lock him out of the Central Committee meetings, that CR 11 sanctions are not proper because Haunreiter provided facts and law to support his case, that the trial court could have fashioned some sort of equitable remedy for when Haunreiter was unconstitutionally locked out of the Central Committee meetings while he was a PCO, that Respondents should have fully responded to Haunreiter's motion, that the Lewis County Democrat Central Committee is not a private organization as it pertains to Haunreiter, a lifelong Lewis County Democrat, that party business of the Central Committee in Haunreiter's absence while he was a PCO should be declared null and void, that Haunreiter should be allowed to attend Central Committee meetings even if he is not a PCO.

Respectfully submitted this 30th day of August, 2017.

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