

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

LOUISIANA STATE TROOPERS
ASSOCIATION, ET AL

VERSUS

STATE POLICE COMMISSION, ET AL

* SUIT NO.: 672,676 SEC. 24
*
* 19TH JUDICIAL DISTRICT COURT
*
* PARISH OF EAST BATON ROUGE
*
* STATE OF LOUISIANA

JUDGMENT

This matter came before the Court on November 3, 2023 on a trial of the Declaratory Judgment action filed by Plaintiffs, Louisiana State Troopers Association, James O'Quinn, Derek Sentino, Brett Travis, Chris Wright, Larry Badeaux, Jr., Rodney Hyatt, John Heath Miller, Hackley E. Willis, Jr., Andy Stephenson, Dale Latham, John M. Trahan, Mike Neal and Chase Huval. Present in Court were the following:

Mary Ann White and Floyd Falcon, on behalf of Plaintiffs, Louisiana State Troopers Association, James O'Quinn, Derek Sentino, Brett Travis, Chris Wright, Larry Badeaux, Jr., Rodney Hyatt, John Heath Miller, Hackley E. Willis, Jr., Andy Stephenson, Dale Latham, John M. Trahan, Mike Neal and Chase Huval

Lenore Feeney, on behalf of Defendants, State Police Commission and Jason Hannaman.

After considering the pre-trial briefs submitted by the parties, argument by counsel, testimony of the witnesses, stipulated facts, evidence submitted, and the applicable laws, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Declaratory Judgment is denied, with all costs of this proceeding assessed against Plaintiffs, and this Court hereby enters judgment declaring as follows:

1. There is no exception contained in La. Const. Art. 10, §47 that would allow classified members of the state police service to vote for the Louisiana State Troopers Association to endorse or contribute money to a political candidate or party.
2. Any added exceptions to La. Const. Art 10, §47 require a vote of the general public in an election.
3. There is no authority in Louisiana State Police Commission rules or in La. State Police Procedural Orders that provide an exception to the prohibition against

engaging in political activity or that permits a classified member of the state police service to vote for the Louisiana State Troopers Association to endorse or contribute to a political candidate or party.

JUDGMENT READ AND SIGNED in Baton Rouge, Louisiana, on this 27th day of January, 2023.


HONORABLE DONALD R. JOHNSON
19th JUDICIAL DISTRICT COURT

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**I HEREBY CERTIFY THAT ON THIS DAY A COPY OF
THE WRITTEN REASONS FOR JUDGMENT /
JUDGMENT / ORDER / COMMISSIONER'S
RECOMMENDATION WAS MAILED BY ME WITH
SUFFICIENT POSTAGE AFFIXED.
SEE ATTACHED LETTER FOR LIST OF RECIPIENTS.**

DONE AND MAILED ON February 2, 2023


DEPUTY CLERK OF COURT

LOUISIANA STATE TROOPERS
ASSOCIATION, ET AL

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STATE POLICE COMMISSION, ET AL

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WRITTEN REASONS

The Court Adopts the Louisiana State Police Commission (hereafter referred to as "LSPC") and its Executive Director, Jason Hannaman, proposed Findings of Fact and Conclusions of Law as follows:

STATEMENT OF THE CASE

The above-entitled suit was tried before the Honorable Donald R. Johnson on November 3, 2022. The Court having heard the testimony and examined the evidence offered by the parties, now makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

STIPULATED FACTS:

1.

A copy of the Stipulations that were filed with this Court (numbered 1-56) on April 1, 2022, is attached hereto as Exhibit 1 and incorporated herein as though copied *in extenso*.

FINDINGS OF FACT ON EVIDENCE AND TESTIMONY PRESENTED AT TRIAL:

2.

There are no exceptions to La. Constitution Art. 10, §47 which would permit classified members of the state police service to vote for the LSTA to endorse or contribute money to a political candidate or political party.

3.

The only way to add an exception to La. Constitution Art. 10, §47 would be to present a proposed constitutional amendment in an election for the citizens of Louisiana to vote whether or not such amendment should be added.

4.

An amendment to La. Const. Art. 10, §§9 and 20 from the 2021 Regular Session, ACT 156 (HB 315) that would allow an exception to prohibited political activity for classified members of the State Civil Service to allow classified employees to attend campaign related events and appear in campaign advertisements and photographs of immediate family members,

as defined in the proposed amendment, was on the ballot as proposed Constitutional Amendment #3 of the November 8, 2022 election, and the proposed exceptions to prohibited political activity were defeated in the election.

5.

It is a violation of La. Const. Art. 10, §47, Louisiana State Police Commission Rule 14.2 and Louisiana State Police Procedural Order 901 for a classified member of the state police service to endorse a political candidate or party or contribute to a political candidate or party, and there is no exception in these laws for a classified member of the state police service to vote for the LSTA to endorse or contribute to political candidates or parties.

6.

If members of the classified state police service engage in prohibited political activity¹ while also acting as members or managers of the LSTA, the LSPC may investigate and impose discipline on those members in accordance with the powers given the LSPC in Louisiana Constitution Art. 10, §48 (A)(1), (B). There are no exceptions in the prevailing law that would allow a classified member of the state police service to engage in prohibited political activity while wearing the cloak of membership in the LSTA.

7.

Plaintiffs have long been aware of the prohibitions against engaging in prohibited political activity. Before the LSPC was established in the Louisiana Constitution in 1991,² the classified members of the state police service were under the control of the State Civil Service Commission as are most state agencies.

8.

Classified employees of the State Civil Service Commission have been prohibited from engaging in political activity at least since the adoption of the 1974 Louisiana Constitution.³

9.

As early as August 8, 1995, the LSPC issued General Circular No. 48 regarding Permissible and Prohibited Political Activities.⁴

¹ "Prohibited political activity" as defined by La. Const. Art. 10, §47 or LSPC Rule 14.2

² La. Constitution Art. 10, §43

³ La. Constitution Art. 10, §9

⁴ Joint Exhibit u

65.

General Circular No. 48 was sent to, among others, "LSTA Affiliate Presidents" and "Floyd J. Falcon, Jr.," and Floyd J. Falcon Jr. continues to serve as counsel for the LSTA as is evidenced by his presence at this trial.⁵

66.

General Circular No. 48 provides in pertinent part: "You May...(5) Be a member of a private organization which may, under certain circumstances, endorse a candidate for public office just so long as the primary purpose of the organization is other than the support or opposition to candidates, political parties or factions. However, when the organization does support or oppose a candidate or a party, you may not take an active part in the management of the affairs of the organization."

67.

General Circular No. 48 and all General Circulars that have been issued by the LSPC executive director are online on the LSPC website for anyone to review.

68.

Eulis Simien and Jason Hannaman testified that General Circular No. 48 has never been rescinded or superseded and is therefore still in effect.

69.

General Circular #48 permits classified members of the state police service to advocate for or oppose issues, and Colonel Lamar Davis agreed that classified members of the state police service are allow to advocate for, promote or oppose issues before the legislature or anywhere in the public.

70.

On April 18, 2022, Hackley Willis, as president of the LSTA, sent a letter to the Louisiana Senate and Louisiana House of Representatives in which he outlined senate bills and house bills that the LSTA either supported or opposed, and this conduct is sanctioned by the laws governing members of the classified state police service.

71.

⁵ Trial Testimony of Jason Hannaman, Tr. p.119 (lines 28-32), p. 120 (lines 1-12)

Although La. Const. Art. 10, §47 (which prohibited political activity on the part of classified members of the state police service) never changed, at some point, the LSTA began endorsing candidates for office and contributing to political candidates through the votes of its board that was made up of classified members of the state police service with the exception of one retired member.

72.

Those classified members who served on the board of the LSTA and voted to have the LSTA endorse and contribute money to political candidates never sought approval or otherwise notified the LSPC of this activity.

73.

Jesse Scott Perry served as a classified member of the state police service from January 1990 until his retirement in 2014.

74.

Jesse Scott Perry remained a part of the LSTA as a retired member until the LSTA ousted him from membership after he filed a complaint against the classified members of the state police service who served on the board of the LSTA who voted to endorse and contribute to political candidates contrary to law.

75.

Mr. Perry filed a complaint with State Board of Ethics and a request for investigation with the LSPC in January 2016.⁶

76.

Mr. Perry testified that he filed the complaint and request for investigation after he learned by reading the newspaper that the LSTA, through its voting board members who were classified members of the state police service, made a political endorsement of a gubernatorial candidate.

77.

Mr. Perry testified that he had never seen the LSTA make an endorsement before, and he understood such activity by the voting classified members of the state police service to be prohibited political activity.⁷

⁶ Joint Exhibit b

⁷ Trial testimony of Jesse Scott Perry, Tr. p. 135 (lines 31-32); p. 136 (lines 1-4)

78.

Mr. Perry research political contributions online and discovered that LSTA (through the voting of classified members of the state police service) donated \$14,750.00 in campaign contributions to political candidates in 2015 by having its executive director at the time, David Young, write checks for contributions on his own checking account and then obtain reimbursement from LSTA.

79.

As a result of using a straw donor (Mr. Young) to make political contributions, LSTA and Mr. Young were fined and entered a consent decree with the State Board of Ethics.

80.

By having David Young write checks for donations to political candidates and then later obtain reimbursement from the LSTA, the LSTA was able to prevent the public from knowing that it, through its voting board members who were classified employees, had actually made the donations.

81.

Colonel Lamar Davis testified that he was first employed as a classified member of the state police service and a member of the LSTA beginning in January, 1998, and he was unaware that members of the classified police service voted for the LSTA to endorse and contribute to political candidates until he learned of such action in the media in 2016.⁸

82.

The LSPC instituted an investigation of Mr. Perry's complaint and ultimately dismissed the complaint on the grounds that the classified members of the state police service who voted for the LSTA to endorse and contribute to candidates did so on advice of their counsel who said it was okay to do so; however, the LSPC specifically did **not** condone the behavior or rule that there was no violation of the constitution or rules of the LSPC.⁹

83.

Dussan Rando, a retired trooper who served on the board of the LSTA at the time of the 2015 votes to endorse and contribute, happened to be reemployed by the state (not state police) as a classified state employee, and State Civil Service investigated Mr. Rando for the same

⁸ Trial testimony of Col. Lamar Davis, Tr. p. 121 (lines 16-28); p. 125 (lines 26-32); p. 126 (lines 1-5)

⁹ Joint Exhibit f; Trial testimony of Eulis Simien, Tr. p. 149, (lines 22-32); p. 150, (lines 1-5)

behavior that classified members of the state police service had engaged in (i.e. voted for LSTA to endorse and contribute money to political candidates). The State Civil Service Commission concluded that Mr. Rando violated Civil Service Rule 14.1 (e) by participating in prohibited political activity and they agreed to settle the investigation by suspending Mr. Rando for a period of time from his employment.

84.

After the investigation by the LSPC wrapped up without penalty to any classified member of the state police service, the LSPC thought that the classified members of the state police service wanted further clarity of what “political activity” was not acceptable, and to provide further clarity, the LSPC proposed amendments to LSPC Rule 14.2 (via circulation of General Circular 190); however, the members of the LSTA strenuously objected to the proposed amendments and the amendments were ultimately rejected by the LSPC and not adopted.¹⁰

85.

Next, the LSPC sought to provide clarity by issuing General Circular 191 which was almost verbatim a general circular that was issued the State Civil Service.¹¹ This General Circular provided a list of “dos and don’ts” regarding political activity; however, this too was met with an outcry from members of the LSTA, and the executive director of LSPC finally superseded GC 191 with General Circular 202 that basically referenced the applicable constitutional provision and LSPC Rule 14.2.

86.

When the LSTA remained dissatisfied and continued with this lawsuit, Chairman Simien determined that members of the LSTA did not want clarity, they wanted the LSPC to give them permission to engage in prohibited political activity.¹²

87.

Louisiana State Police Procedural Order 235 (Exhibit z) permits classified members of the state police service who are scheduled to be on duty but who attend LSTA meetings in Baton Rouge to be paid by Louisiana State Police while attending that meeting (and while voting for LSTA to endorse or contribute to political candidates).

¹⁰ Joint Exhibit i, Trial testimony of Eulis Simien, page 152 (lines 1-29)

¹¹ Joint Exhibit j; Trial testimony of Eulis Simien, page 153 (lines 1-32)

¹² Joint Exhibit o; Trial testimony of Eulis Simien, page 153 (lines 28-32), page 154 (lines 1-16)

88.

Louisiana State Police Procedural Order 235 (Exhibit z) also allows a classified member of the state police service, whether on duty or not, to drive his state issued vehicle from wherever he lives in the state to attend the meeting. The gas and insurance are also paid by the state.

89.

The LSTA is so intertwined with Louisiana State Police that dues paid by classified members of the state police service are deducted from their state pay checks and delivered to LSTA, and the LSTA website links to the Louisiana State Police website and sells merchandise with the state police logo on it.¹³ As such it would be impossible to extract a classified members of the state police service from his role as a voting member of the LSTA when he votes for the LSTA to endorse or contribute to a political candidate or party.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Court makes the following conclusions of law.

1.

Since 1991, the classified state police service has operated under the same Louisiana Constitutional provision (Art. 10, §47) and LSPC Rule (14.2) that prohibit political activity. Prior to that time, members of the classified state police service were subject to the same prohibitions enacted since at least 1974 while under the State Civil Service Commission (Art. 10, §9 and Rule 14.1).

2.

There is no exception to La. Constitution Art. 10, §47 that would permit a classified member of the state police service to vote for the LSTA to endorse a particular political candidate for office or party or contribute to a political candidate or party.

3.

There is no exception to LSPC Rule 14.2 that would permit a classified member of the state police service to vote for the LSTA to endorse a particular political candidate for office or party or contribute to a political candidate or party.

4.

¹³ Trial testimony of James O'Quinn (misspelled in the transcript as "Aucoin"), page 45 (lines 12-32); page 46 (lines 1-16); Trial testimony of Hackley Willis, page 87 (lines 10-32), page 88 (lines 1-32); page 89 (lines 1-31).

The Louisiana State Police, through its Superintendent, Lamar Davis, enacts, amends and enforces additional rules called “Procedural Orders” that govern the classified state police service.

5.

Louisiana State Police Procedural Order 901, paragraph 46, entitled “Political Activity,” provides a list of prohibited political activity and there is no exception for a classified member of the state police service to vote for the LSTA to endorse or contribute to political candidates or parties.¹⁴

6.

If a classified member of the state police service violates Louisiana State Police Procedural Order 901, paragraph 46, entitled “Political Activity,” Colonel Davis, as the Appointing Authority, can discipline that member.¹⁵

7.

Plaintiffs seek an amendment to a constitutional provision and their only remedy is for the proposed constitutional amendment to be voted on by the public at large in an election in the same way the public voted on November 3, 2022 on proposed constitutional amendment #3 which proposed to add exceptions to the State Civil Service article that governs prohibited political activity (La. Const. Art. 10, §9).

8.

LSPC Rule 14.1 would have to be amended by the LSPC to permit the exception to prohibited political activity sought by Plaintiffs; however, no such amendment has been made.

9.

The LSPC maintains sole jurisdiction to amend its own rules. La. Constitution Art. 10, §48 (A).

10.

Likewise, Col. Lamar Davis has not amended Louisiana State Police Procedural Order #901 to permit the exception to prohibited political activity sought by Plaintiffs.

11.

¹⁴ Trial testimony of Col. Lamar Davis, Tr. page 123 (lines 13-32), p. 124 (lines 1-4)

¹⁵ Trial testimony of Col. Lamar Davis, Tr. page 124 (lines 5-9)

There are no decisions by any appellate court in Louisiana that interpret Art. 10, §47 of the Louisiana Constitution to allow an exception to prohibited political activity which would permit classified members of the state police service to vote for the LSTA to endorse or contribute money to a political candidate or party, and any such exception would require an expansion of the scope of the law not an interpretation of the law.

12.

The cases cited by Plaintiffs from the 4th Circuit, *Cannatella v. Department of Civil Service*, 592 So.2d 1374 (La. App. 4th Cir. 1992, writ denied, 92-0636 (La. 4/10/92), 596 So. 2d 215, *Lake Charles Police Officers' Ass'n Local 830 AFL-CIO v. Roach*, 2016-719 (La. App. 3 Cir. 2/15/17, 211 So.3d 1173, writ denied 2017-0461 (La. 5/1/17 involved interpretation of revised statutes, not La. Const. Art. 10, §47, and the courts interpreted the revised statute to permit classified employees to endorse political candidate. The issue of political contributions was not before the Court.

13.

There are cases in which appellate courts arrived at the opposite conclusion involving the interpretation of revised statutes, not La. Constitution Art. 10, §47. The Fifth Circuit Court of Appeals reached the exact opposite conclusion in *Bruno v. Garsaud*, 594 F.2d 1062 (5th Cir. 1979) involving the interpretation of revised statutes.

14.

In *Kenner Police Dept. v. Kenner Mun. Fire & Police Civil Service Bd.*, 783 So.2d 392 (La. Ap. 5th Cir. 2001), the Fifth Circuit upheld the terminations of classified employees who while acting also as officers of a police association voted to make a \$300 financial contribution to the campaign of a candidate for office. Although this case involved political contributions rather than simply endorsements, this case also involved the interpretation of a revised statute and not La. Const. Art. 10, §47.

15.

Because this Court does not have the jurisdiction to amend La. Constitution Art. 10, §47 to add an exception that would permit members of the classified state police service to vote for the LSTA to endorse or make political contributions to a political candidate or party, the Court must dismiss all of Plaintiffs' claims at Plaintiffs' cost.

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF THE WRITTEN REASONS FOR JUDGMENT / JUDGMENT / ORDER / COMMISSIONER'S RECOMMENDATION WAS MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED. SEE ATTACHED LETTER FOR LIST OF RECIPIENTS.

DONE AND MAILED ON February 2, 2023