

MICHIGAN DEMOCRATIC PARTY  
APPEALS COMMITTEE

IN THE MATTER OF THE APPEAL OF  
LIANO SHARON AND OTHERS AND  
MICHIGAN FOR REVOLUTION AS TO  
THE TWELFTH CONGRESSIONAL DISTRICT  
FEBRUARY 11, 2017, CAUCUS AND  
ELECTION OF STATE CENTRAL COMMITTEE  
DELEGATES AND ALTERNATES /

**DECISION**

On February 24, 2017, Liano Sharon and others filed an appeal, for and on behalf of Michigan for Revolution, contending that Twelfth Congressional District Caucus election for State Central Committee delegates and alternates held on February 11, 2017, prior to the Michigan Democratic Party convention, was conducted in violation of Michigan Democratic Party rules 2.A.5, 2.A.8, 2.B.2, 2.B.5, Article 11 and the MDP Directive on Proportional Voting. The Twelfth Congressional District filed a timely response to the appeal.

**1. The appeal**

The appeal was summarized as follows:

1. Congressional District 12 (CD12) failed to comply with MDP Rule 2.A.5 in that CD12 did not publicize a full description of the practical procedures for selection of representation in time for prospective and current members to participate in the process.
2. The chair and the CD12 caucus exceeded their authority to interpret the rules.
  - a. The chair's interpretation of the term 'cumulative voting' deviated from the definition and procedures provided in the MDP Directive on Proportional Voting.
  - b. Robert's Rules of Order was not used to settle procedural disputes. MDP Rule 2.B.5 specifies that Robert's rules of Order (latest edition) be used to settle disputes on questions of procedure. The interpretation of the procedure called "cumulative

voting” proposed by the chair, adopted by the caucus, and defended by the MDP parliamentarian deviates from the definition and procedures provided in Robert’s Rules of Order (latest edition), and from the definitions and procedures *in every other available publication*. (Emphasis in original.)

3. Congressional District 12 failed to use a system of proportional voting. MDP Rule 2.A.8, MDP Rules Article 11, and the MDP Directive on Proportional Voting all require that proportional voting be used in election of delegates and alternates to the MDP State Central Committee.

## **2. The applicable rules**

Article 2 of the MDP Rules, Policy, sets forth, in Section A, the party’s Fundamental Principles. Article 2.A.5 provides:

The Democratic Party in each County/District shall publicize fully and in such a manner as to assure notice to all interested parties a full description of the legal and practical procedures for selection of Democratic Party officers and representation on all levels. Publication of these procedures shall be done in such a fashion that all prospective and current members of each County/District Democratic Party will be fully and adequately informed of the pertinent procedure in time to participate in each selection procedure at all levels of the Democratic Party organization.

Article 2.A.8 provides:

Proportional voting shall be used in the election of delegates and alternates to any County or Congressional District Convention, delegates and alternates of the Democratic State Central Committee, and members of any County or District Executive Committee.

Article 11 and the MDP Directive on Proportional Voting also require the use of proportional voting.

Article 2.B.2 prohibits the adoption of rules by any unit which are inconsistent with the MDP rules while Article 2.B.5 requires the use of Robert’s Rules of Order as to questions of procedure.

### **3. The facts.**

Conventions of the Michigan Democratic Party and of its county and congressional district parties follow a set pattern, established initially by state statute in 1954, and dictated, in part, by the election schedule, with elections for federal and state elective offices occurring in even numbered years.

Every even numbered year there is a fall convention which nominates those candidates for state or national office who are not nominated in primary elections. County parties are required to meet in convention within 20 days following the November election in even numbered years. MDP Rules, Article 5.A. This rule also requires that notice of this county convention be sent to all delegates at least 14 days before the date of the convention.

Every odd numbered year there is a spring state convention at which the state party officials are elected. Congressional district parties are required to hold their caucuses for the purpose of electing their officers at the spring state convention, with the exception of congressional district parties in which the majority of the voters reside in a county having a population over 1,500,000. MDP Rules, Article 6.A. Historically, this exception applied to the two Wayne County congressional districts. These parties have sometimes held their elections a few weeks prior to the spring state convention. The rule regarding congressional district conventions contains no requirement about notice of the date. These provisions, which, as noted, track state law regarding conventions, have been in effect for at least 60 years.

MDP Rule, Article 6.A sets forth the congressional district officers to be elected at the spring convention as follows: a Congressional District Chairperson, a Vice-Chairperson of the opposite sex of the Chairperson, a Secretary, a Treasurer and a committee of at least fifteen (15) members. It further provides that additional officers may be elected at the discretion of the Executive Committee.

On December 4, 2016, the State Central Committee of the Michigan Democratic Party issued the official call to the spring state convention, to be held at 2:30 PM on February 11, 2017, at Cobo Hall in Detroit. The call stated that all congressional district caucuses would meet at 12:30 PM at designated locations in Cobo Hall to elect their officers and delegates and alternates to the State Central Committee. The call further stated that the Democratic State Central Committee would meet immediately following adjournment of the convention. This call went to all members of the State Central Committee and the Executive Committee, to all statutory officers, to the heads of all congressional and county parties, and to the heads of all caucuses and clubs.

On December 12, 2016, the Michigan Democratic Party began notifying members of the upcoming spring state convention, by email to those members for whom the party had email addresses and by regular mail for members whose email addresses the party lacked. The email notice contained a link to the convention schedule and set forth the agenda and the requirements, from MDP rules 4.B and 4.C, regarding eligibility to vote and to hold party office. Shortly

after, the MDP created a facebook event and also placed this information on the party website.

MDP Rule 4.B provides that in order to vote at any convention, caucus or meeting a person must be a member of the party for at least 30 days. On January 9, ahead of the membership deadline, emails were sent to lapsed members urging them to renew their membership in order to be eligible to vote at the convention. Finally, in the week leading up to state convention, the MDP sent several emails to members urging them to attend and providing them with their membership ID number for easier check in at Cobo Hall.

The Twelfth Congressional District Caucus convened, in accordance with these notices, on February 11, 2017, at 12:30 PM in Cobo Hall and elected its officers and state central committee delegates and alternates. The election was conducted office by office, which the convention chair explained at the time was a permissible form of cumulative voting.

#### **4. Analysis**

##### **a. Publication of election procedures.**

The appeal does not contend that the members of Michigan for Revolution or any of the persons signing the appeal were aggrieved by failure to be advised of the convention procedures regarding congressional district caucus elections and, in fact, there is no dispute but that the appellants and other members of Michigan for Revolution were well aware of the convention and the party rules, attended meetings to prepare for the elections, attended the convention, and ran

for election to various positions in a number of congressional district caucuses.

The appeal argues that it matters not that what information was publicized prior to the convention by the state party and by other party units. It contends that the Twelfth Congressional District had an independent obligation under Rule 2.A.5 to fully publicize this information and that it failed to do so.

This same contention was made in *In The Matter of the Appeal of Virginia Williams and Others as to the February 15, 2015, Caucus of the 13<sup>th</sup> Congressional District*. This committee rejected that argument in its 2015 opinion as follows:

The rules require that county and congressional district parties publicize the ‘legal and practical procedures for selection of Democratic Party officers’ and the ‘legal and practical qualifications for all officers.’ The appellants apparently contend that these general statements of fundamental principles impose upon congressional district parties an obligation to send a notice of the officer positions to be elected prior to each spring convention and elections. The rules do not, either explicitly or implicitly, impose that obligation. They do not state when and how this information is to be publicized.

For at least 60 years, since the passage of the Michigan election law, 1954 PA 116, the MDP Rules have required that every congressional district party have a convention to elect officers in the spring of every odd numbered year. In addition, the rules of the MDP have long set forth the congressional district party offices which are to be filled by election at the odd numbered year spring convention. Article 6.A.

...  
The rules upon which the appellants rely do not require that information which has for many decades been adequately publicized be publicized again by the congressional district party prior to each party meeting.

...  
In sum, there is no evidence that any party member or precinct delegate was unaware of the date, time and place of the 13<sup>th</sup> Congressional District Democratic Party convention for the election of

officers or of the officer positions to be elected at that convention. The only contention made in this appeal is that the 13<sup>th</sup> Congressional District party did not give notice of what was publicized by others and well known to all. There is no requirement in the MDP rules that the congressional district party provide such notice. The fundamental principles on which the appeal relies cannot be interpreted to impose this requirement.

This conclusion is equally applicable in the instant case. The Twelfth Congressional District had no independent obligation to publicize election procedures when these are well publicized by the state party. This argument is without merit.

**b. Notice to prospective members**

The appellants also cite language in Rule 2.A.5 stating that publication needs to inform *prospective* members of pertinent procedure and requirements in order that they have the opportunity to participate. They contend that since persons must be party members at least 30 days prior to a convention in order to vote and be eligible for election to office these rules should be interpreted to require notice of more than 30 days, suggesting that 45 days may be necessary. In fact, notice of the convention and the caucus elections was made more than 30 days prior to the convention, as described above. However we will address the argument regarding the requirement of notice to prospective members as the identical argument was made and rejected in a prior appeal, *In the Matter of the Appeal of Asraf Al-Awamleh and Others As to the Call to Convention of the Michigan Democratic Party Youth Caucus*. This committee considered the argument and in its 2007 decision stated as follows:

The appeal contends that because a person must be a party member for at least 30 days in order to vote or hold office, the convention must be scheduled far enough in advance to give prospective members time to join and to be members for 30 days. This argument misreads the rules. This rule does not require that prospective members have the opportunity to fully participate at the *very next* convention. It requires only that the rules be published so that persons who wish to participate know how to do so.

The appellant's argument in the instant case that prospective members did not receive required notices is similarly without merit.

**c. Use of single person slate voting**

Appellants contend that the Twelfth Congressional District failed to comply with the party rules requiring proportional voting. Chair Mark Gaffney responded to the appeal, explaining that based on the experience in voting for delegates to the most recent national convention the caucus found it necessary to amend the MDP rules, and announced at the beginning of the election that each position would be voted on one at a time. The chair stated that this was his interpretation of cumulative voting. Appellants challenged the convention chair's interpretation of cumulative voting, contending that it violated Robert's Rules of Order, but the interpretation was accepted by the caucus.

The State Party Directive on Proportional Voting sets forth a number of voting systems which comply with the directive, including cumulative voting, list or slate voting, and at-large preferential voting. Section II.B of the Directive, on list or slate voting, provides:

When slate voting is used, the rules should describe a nominating process that groups the positions to be filled by title and gender. *It is permissible*



*for such groupings to create single member offices so long as equal division of gender is maintained.* (Emphasis added.)

In a prior appeal, *In the Matter of the Appeal of Johnny Cash and Others as to Elections Held at the November 15, 2006, Convention of the Calhoun County Democratic Party*, this Committee considered an identical contention, that single person slate voting violated the Directive on Proportional Voting. In its 2007 decision the Committee rejected that argument, relying upon the language quoted above, and relying also on an earlier decision issued by this committee in 1996, *In the Matter of the Appeals of Michael R. Shpiece, Ann Harp and Others as to the Officer-at-Large Elections of the Oakland County Democratic party on March 12, 1996*, in which we held that the above-quoted language recognizes the permissibility of voting separately for each position to be filled. We also noted that the Party Affairs and Delegate Selection Committee of the Democratic National Committee, in a letter dated April 15, 1996, had concluded that a separate election for each delegate position was an acceptable slate voting practice consistent with the proportional voting requirement. We concluded, “In sum, a separate election for each individual office to be filled constitutes slate voting within the meaning of the MDP rules.”

In the Johnny Cash appeal, having concluded that a separate election for each office, which the convention had used, constituted acceptable slate voting, we further addressed the apparent confusion which existed about the terms used to describe the voting procedure. We concluded, “There may have been some

confusion caused by the terminology used to describe the method of voting but this did not affect the validity of the method.” It appears that in the instant case there was also confusion about terminology as the convention chair described the method chosen as cumulative voting when it was actually permissible single slate voting. The fact that it was misnamed does not mean that it was in violation of the rules.

As we concluded in these earlier cases, single person slate voting satisfies the party rules and its directive on proportional voting. Accordingly, the contention that the election violated the party rules is without merit.

**d. Meeting of the State Central Committee**

The appeal also contends that the meeting of the State Central Committee held following the close of the convention was violative of the party rules. As the appeal notes, this contention is raised in a separate appeal and is addressed there.

**CONCLUSION**

In conclusion, the allegation that the referenced fundamental principles of the Michigan Democratic Party were violated is unsubstantiated. The Michigan Democratic Party sent adequate notice of the state spring convention and of the congressional district caucuses and elections of officers and delegates. The party rules and long existing practices all provided more than adequate information about the positions to be elected and the procedures to be followed. There is no evidence that any party member was unaware of or uninformed about the caucus

election. The fundamental rules of the party do not require the congressional district party to provide notice already provided.

Further, the state party directive on proportional voting was satisfied by the use of single office slate voting.

**AWARD**

The appeal is denied.

**APPEALS COMMITTEE**

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Dated: March 28, 2017