

Who is Minding the Internal Machinations of Political Parties?

In *Mohn vs. Bucks Cty. Republican Comm.*, 259 A. 3d 449 (Pa. 2021) (Saylor, J.), Appellant was a Republican Committeeperson of the Bucks County Republican Committee. The party removed him allegedly for an ethics violation under Rule VII of the Committee Rules because of complaints claiming he had actively campaigned against an endorsed candidate and had distributed sample ballots featuring the opposing candidate rather than the official Bucks County Republican Committee Sample Ballot. Appellant took the position that the Ethics Code applies only to public officials and not to party officials and the Ethics Committee had no jurisdiction. He filed for an injunction in the Court of Common Pleas which was denied. The County Court agreed with the Appellee Party that the matter was a purely intra-party dispute with no direct or substantial relationship to any state interest and Appellee Party's right to political association under the [First](#) and [Fourteenth Amendments to the United States Constitution](#) prohibited the court from assuming jurisdiction.

On appeal, the parties debated whether *Bentman vs. Ward Democratic Executive Committee*, 218 A.2d 261 (1966), conferred jurisdiction on the common pleas court insofar as the decision reflects that membership on a local party's committee is an important right and privilege not only to the person elected but to the voters who elected the person to act as their representative on the committee. The Commonwealth Court affirmed in a divided, non-precedential opinion. Consistent with Appellee's position, the majority opinion distinguished *Bentman* and stressed Appellee's associational rights in that "the freedom to associate for the 'common advancement of political beliefs,' necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only". *Mohn, supra*, 259 A. 3d at 453.

The Supreme Court in *Mohn*, after discussing *Bentman* and other decisions, and reviewing the scope of that decision, did not rule on how broadly *Bentman* should be applied but simply chose a narrow interpretation. An individual must point to some discrete act or actions entailing state action to establish the required direct-and-substantial nexus, *id.* at 459, such as the nomination of candidates for local judgeships raised in *Bentman*. A political party, through its own internal self-organized apparatus is permitted to construe its own governing rules and to disqualify elected occupants of its offices from participation in its affairs by exercising its own judgment, free from judicial interference. *Id.*

This decision seems to give very extensive authority to a political party to be as arbitrary as they would like. What about the role of the voters as to the disgruntled candidate? The court responded as follows:

We acknowledge Appellant's invocation of the **rights** of the voters who elected him. It is far from certain, however, that those voters would choose to continue to support him in his departure from the will of their own party. Compare *Bentman*, 421 Pa. at 190, 218 A.2d at 263 (presenting a scenario in which several electors join the affected

committeepersons in challenging the party's actions). In any event, we have considered the fact that Appellant was elected as a committeeperson in a public election in the above calculus, relative to respective *rights* and interest involved.

Mohn, supra, at 459 (emphasis added).

Justice Wecht concurred, questioning the sweeping jurisdictional rule announced *Bentman vs. vs. Seventh Ward Democratic Executive Committee, supra*, and its continued viability.

The take away points are as follows:

- Republican Party removed a committeeman for ethics violation.
- *Bentman v. Seventh Ward Democratic Executive Committee*, 218 A.2d 261 (1966) indicates that political party internal organization in terms of committee people is subject to judicial review, where the party actions impact the rights of the public and implicate due process considerations.
- *Mohn*, however, takes a narrow approach in the application of *Bentman* and says that there must be some discrete identifiable acts constituting state action to establish the required direct and substantial nexus with the public interest for purposes of jurisdiction. Appellant failed to meet that test.
- Weighing the respective interests, the Court opined that, on balance, "It is far from certain that voters who elected the committeeperson in this case would choose to continue to support him in his departure from the will of their own party."

While the court should not become ethical review boards for political parties, the integrity of the Democratic process does require that the parties follow their own internal structure in disciplining candidates or the legacy of Tammany Hall will once again rear its ugly head.

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