

Report to the Executive Council

Rebuttal to the Committee-of-Three

Introduction: Martin Luther King once said, *“Any rules of justice will depend on the particular state or condition in which people find themselves”*.

Unfortunately, today we find our Union divided amongst ongoing controversies regarding collective bargaining, conduct of our National President, and ongoing issues with truthfulness and transparency of our National Leadership. These are self-inflicted wounds and directly related to leadership failures. We are here today not because of the charging party but because of the undisputed conduct and neglect of duty of Brian Renfroe.

As the charging party we find ourselves in a bit of a role reversal acting as the agent of our employer...the membership of the National Association of Letter Carriers. Therefore, in this specific case when we refer to the membership it is intrinsically the same as referring to the employer.

As such, the membership has the same rights as any other employer to establish policies that are applicable to all employees and ADA guidelines that allow employers to hold their employees to the same standards of conduct that are set for other employees.

We concur with the prevailing sentiment that the National President is entitled to the same rights and responsibilities as a Letter Carrier. The NALC arbitration database establishes Letter Carriers for favorable consideration clause after rehabilitation in their contract only enjoy a 30% success rate for an Alcoholism based defense. We are all experienced Officers of this Union and are fully cognizant that no Letter Carrier would be let off with a mere Letter of Warning for similar offenses.

There are several leadership failures that have led us to this point, but the decisions of past leaders are not at issue. It is the actions of Brian Renfroe, who is demanding the benefit of an alcoholism defense by insisting he not to be held accountable for any acts of neglect of duty, misconduct, and deceit

...all characteristics which a reasonable person would believe makes him unfit for leadership.

While it may be true some of the acts were performed while under the influence, the Weir Report and the findings of the Committee did not discover any evidence that every act of neglect of duty or deceit was performed while in a drunken state. While rehabilitation may grant some favorable consideration for those acts committed while under the influence, those acts done while sober are subject to the same standards of conduct as any other Letter Carrier.

As agents of the membership, we will show that the Committee made errors in judgement and omitted relevant evidence established within the Weir Report and testimony at the hearing.

The Committee committed to following the guidelines normally respected at arbitration. However, there is one glaring omission which is that of the *dissenting* Committee member. The Committee Chair simply paraphrased and even mocked the dissenter's alleged view. Normally on a Tri-Panel Arbitration proceeding, the dissenter's views are published and each panel member signs off they concur or dissent with the majority opinion. This omission deprives the Executive Council of the benefit of diverse reasoning associated with the charges and penalty. It is also an inference of the Committee Chair's bias.

Charge #1 Neglect of Duty

As it pertains to Charge #1 the Committee committed the following errors in judgement and omitted several facts from consideration. With respect to the preliminary matter addressed by the Committee, President Renfroe's defense that he cannot be charged with anything except neglect of duty is a farcical splitting of ends. As arguendo would have there's nothing in the constitution that specifically establishes a duty not to steal. So, does that give the President license to steal? Of course not, such acts of misconduct are implied by law to be a neglect of duty whether specifically cited or not. Simple logic dictates that the Committee erred in judgement when it agreed with President Renfroe's flawed defense.

Regarding President Renfroe neglect of duty prior to his rehabilitation:

The President of the NALC is not omnipotent and is answerable to the Executive Council and membership. The NALC President is subject to the same standards to duty and accountability as a Letter Carrier. Article 9 Section 11 (1) of the National Constitution places responsibility on the Executive Council to supervise the activities, affairs, and functioning of the Union. Under federal law, the President --like any other Letter Carrier-- is required to request FMLA and/or request to be provided a reasonable accommodation under ADA guidelines from his employer, i.e. the Executive Council. There is no evidence that President Renfroe requested FMLA or a reasonable accommodation from his employer. Further, Letter Carriers are not granted FMLA retroactively. And, the courts have ruled consistently that retroactive leniency is not a reasonable accommodation as defined by the ADA.

The Committee erred in judgement and exceeded its authority by granting retroactive FMLA protections that were not requested by President Renfroe, such authority rests exclusively with the Executive Council. It is also true that the Committee erred in judgement when it granted retroactive leniency for President Renfroe's neglect of duty prior to entering rehabilitation.

The Committee omitted the charging parties' objections during the hearing regarding the appearance of bias concerning the Chair's proffering an ADA and FMLA defense for the accused. The objections are significant because

the committee's report infers that both parties were in acceptance of its rulings and determinations. While the Committee Chair is a polished wordsmith, it is inaccurate to say both parties agreed with his findings regarding ADA and FMLA.

The Committee erred in judgement when it used flawed reasoning to grant FMLA retroactively and ADA considerations not requested by President Renfroe as a technique to avoid a penalty for his neglect of duty prior to his rehabilitation. We therefore request that the Committee recommendation be set aside, and the Executive Council consider an appropriate penalty.

The Next Component: The Committee erred in judgement and acted inconsistently with the National Constitution when it replaced the Executive Council's supervisory authority with that of the President's Chief of Staff --who is not a Letter Carrier or an elected officer-- and a was center of controversy within Charge #2. She is the President's at-will employee and has no administrative authority within the National Constitution. As arguendo would have it, even if what she says is true about her claim that President Renfroe reported to her every day, there is nothing in the record to reflect that she kept the Executive Council or the economic bargaining team informed.

The Committee erred in judgment when it accepted Renfroe's claim that the President has no reporting authority. The Committee has no authority to amend or modify the National Constitution by disregarding the Executive Council's obligation to supervise the activities, affairs, and function of the Union. Therefore, the committee conclusion that the President has no reporting authority should be set aside.

Next Component of Charge #1, President Renfroe's continual absence and no-shows during a critical time of negotiations. The Committee erred in judgement when it determined the burden of proof wasn't met. Their summation of this component of Charge #1 is analogous to saying, "***no big deal the Letter Carrier was absent and the route eventually got delivered anyway***". Letter Carriers are not afforded such a defense, and neither should the National President of the Union.

There is no dispute that bargaining on the economic package was late starting --not until April 2023. There is no dispute that the bargaining team of Executive VP Barner and Former President Rolando had to start from scratch. It is undisputed that Former President Rolando has concerns that USPS Lead Negotiator Tulino would use the late start as a procedural argument against the Union in interest arbitration. The calculus behind negotiations isn't always the results or when the contract is ratified --it is the appearance that the Union was prepared to be in the fight. Just because the last few contracts took months past the termination of the agreement doesn't mean that the membership's expectations for a timely resolution are misplaced. While the average Letter Carrier doesn't negotiate a National Agreement for 270,000 active Letter Carriers, they are expected fulfill their duties and so is President Renfroe.

With this particular set of circumstances, we ask that the committee's recommendation be set aside and that President Renfroe be found guilty and removed from office.

Charge #2 Circulating false or Misleading Statement about a NALC officer. Sharing Referencing Confidential Information about an Employee Matter.

As a preliminary matter, the Committee made an error in judgement when it assumed this charge was filed on behalf of Brother Henry. This charge was filed on behalf of the membership as a means of halting the spread of vicious and salacious rumors against any officer of the NALC.

The majority of the Committee erred in judgement when it determined that President Renfroe did not intend to spread vicious and salacious rumors about Vice President Henry. Intent (*mens rea*) goes to the state of mind of the perpetrator at the time when the event occurred. Since there is no way to crawl inside someone's mind, intent is therefore established by inference.

Chiefly one must ask why would President Renfroe call so many people allegedly for advice? Here's why:

The Committee Report in this matter omitted the testimony of two of President Renfro's staffers who made the claims. First the Chief of Staff

claimed she was on tour of the Marietta facility with approximately 26 others in a hallway when she felt her rear end being “grazed”. The second staffer claimed she was at the end of the line for lunch when VP Henry come up from behind her and stood too close. Both women allegedly took their complaint to President Renfroe and did not file a complaint with HR. At Brother Henry’s insistence, EVP Barner referred the matter to HR who investigated and determined the evidence to be inconclusive. Based on all the evidence, neither claim establishes anything other than perception based on what can be best described as benign incidental contact. President Renfroe never gave a reasonable explanation of why he needed advice from a minimum of 7 different people for such a benign incident instead of just turning the matter over to HR. President Renfroe never offered an explanation why he didn’t seek VP’s Henry’s side of the story before he sought advice from others.

While all denied spreading the rumor, it is obvious that someone talked and President Renfroe told more than seven people. It’s more than likely more than one or even all talked because it’s just human nature to spread salacious gossip.

It’s important to note that all those who approached VP Henry about the rumors were NALC members and Branch Officers from around the county. A non-Letter Carrier Chief of Staff is unlikely to have NALC contacts sufficient to spread rumors and it just as unlikely that the other member of President Renfroe’s staff had the ability to circulate the rumor nationwide. Neither staffer admitted to circulating the rumor, so the only remaining possibility is it came from President Renfro. The fact that three testified they were contacted by the President claimed that the incident --as described by Renfroe-- was groping/grabbing/rubbing ass. Their testimony establishes that the story was unnecessarily embellished.

There is only one plausible explanation for embellishing the incident, and that was to inflect harm on VP Henry. The only possible explanation for talking to so many over incidental contact is to ensure the rumors would spread. It is simply not reasonable to believe that the President Renfroe needed advice from others over a benign incident when he didn’t even have VP Henry’s side of the story. Every Executive Council Member is aware of the NALC’s policy on

sexual harassment. There is no reasonable plausible explanation for not turning the matter over to the NALC HR professional to investigate the matter unless the intent was to spread salacious rumors about VP Henry.

The ponderance of evidence establishes the majority Committee findings regarding this issue were an error in judgement. The majority Committee omissions appear to be a willful act of ignorance. The fact the majority paraphrased the dissenting opinion and withheld it from the report establishes a bias.

Charge #3: Impaired Driving after Hours in a NALC Vehicle. The facts are not in dispute Brian Renfroe drove a NALC Staff car while impaired and was arrested. He hid this fact from his employer, the NALC. When discovered, he lied and told the Executive Council it didn't happen even in the face of irrefutable evidence. This act of deceit establishes a consciousness of guilt which occurred while Renfroe was sober. The fact that Renfroe never came clean waves any consideration of mitigation for an offence for which a Letter Carriers would face the most severe form of discipline. Ironically the fact that Renfroe concealed the arrest for over six years and carried out his normal duties nullifies any requirement for the NALC to grant retroactive ADA protection for his dereliction of duty.

It is beyond reasoning to believe that a Letter Carrier would receive only a Letter of Warning for similar conduct, which is analogous to the penalty suggested by the Committee. Therefore, we ask that the Executive Council set aside the penalty recommended by the Committee and remove President Renfroe from office.

Charge #4 Abandoned Position and Dereliction/Neglect of Duty: The facts are undisputed President Renfroe was scheduled to attend 3 Regional Training Sessions and went MIA. The Committee made an error in judgement when it recommended to set aside the abandonment charge. There is no dispute that President Renfroe stopped showing up for work prior to him entering a rehabilitation facility. President Renfroe admitted he was home drinking and suffering from the effects of his alcoholism. There is no specific period that one can miss work before one can be lawfully charged with abandoned of

position. Since there is no dispute over the facts and circumstances of this charge and its neglect of duty, this is a penalty issue. Letter Carriers are subject to discipline and discharge for failing to report as scheduled. The fact that “the route got delivered anyway” or the training session proceeded without him is irrelevant. Given the circumstances and out-of-pocket expenses incurred by Branches and individual members sent to hear the President, they deserve equivalent reciprocity. Therefore, we ask that the Executive Council impose a more fitting penalty than a meager censure.

In closing, as it pertains to the penalty recommended in this case, the committee has been inconsistent by granting Renfro the same rights as a Letter Carrier when it favors him, and then granting him special status as NALC President when being a Letter Carrier does not. Such natural biases are common to social groups such as police officers and former & current National Officers. We understand the pressure is great, many Executive Council Members have been visited and asked where they stood. We ask you to stand with the membership and be the leaders you were elected to be. You must remove a President who lost his moral compass to lead. The word tells us, “*Without wise leadership, a nation falls*” --Proverbs 11:14. We pray that the Executive Council acts as wise leaders and brings justice to the membership and ends this controversy.