Hi Bridget,

As you know, Mark Kafantarais and I represent Steven Linnabary in his efforts to have his name restored to Ohio's ballot as the Libertarian Party candidate for Ohio Attorney General. Mr. Linnabary is not a party to the ongoing federal proceeding; rather, he proceeded to Ohio's Supreme Court.

Professor Smith, as you know, testified yesterday that while he was adjudicating Mr. Linnabary's removal from Ohio's ballot, he was also representing Mike DeWine, in his personal capacity, in a proceeding before the U.S. Supreme Court. DeWine is running for re-election as Ohio's Attorney General as the Republican Party candidate. Putting all this together, Professor Smith revealed that while he represented DeWine in a legal proceeding (an attorney-client relationship), he was also taking adverse action against Steven Linnabary, a political opponent of Mike DeWine. Linnabary's removal was for DeWine's benefit. Professor Smith's testimony about Republicans wanting to see Libertarians removed makes that fact unassailable.

Professor Smith did not disclose at the hearing or thereafter his conflict of interest. Indeed, this conflict of interest is so fundamental -- it goes well beyond simple perception -- that it violates Fourteenth Amendment Due Process. See Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009).

There is only one way to correct this patent violation of Due Process, and that is for the Secretary to restore Mr. Linnabary's name to the 2014 general election ballot as the Libertarian Party candidate. I ask that you immediately confer with the Secretary about this and demand that the Secretary immediately take this action.

In the absence of corrective action, Mr. Linnabary will have no choice but to pursue his lawful remedies in courts of law.

I cannot emphasize how bad this obvious conflict looks and is. I only hope that the Secretary is prepared to do the right thing.

Best,

Mark

Mark R. Brown
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