

## COURT DISMISSES NEW YORK'S AG'S DEMAND TO DISSOLVE NRA

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In a partial, yet still significant, victory for the National Rifle Association, a state trial court has dismissed the New York Attorney General's demand that the venerable advocacy group be dissolved. While no doubt an appeal shall be filed, and the AG's other claims against the organization and certain of its principal officers remain standing, an existential threat to the NRA has been removed, at least for now.

As is widely known, in 2020 New York State Attorney General Letitia James commenced a lawsuit charging the NRA and its top leadership with conflicts of interest, mismanagement, and other wrongdoing. Notably, the first sentence of *People of the State of New York v. National Rifle Association*, 74 Misc.3d 998, 165 N.Y.S.2d 234 (March 2, 2022), acknowledges that the allegations, *if proven*, "tell a grim story."

As for the law, New York state judge Joel M. Cohen found that "State-sponsored dissolution...is not something to be taken lightly or without a compelling need." Legal precedents nearly as old as the NRA itself instruct the courts of New York to apply "rigorous standards" to government demands for dissolution, attaching "paramount importance" to a demonstration by the Attorney General that the entity charged is injuring the "public interest."

Here the AG's case fell remarkably short of meeting those standards: 1) the complaint failed to assert that any of the alleged financial misconduct benefitted the NRA; 2) it could not be alleged that the organization exists primarily to carry out any wrongdoing; and 3) the Attorney General

failed to establish that the NRA is incapable of carrying out "its legitimate activities on behalf of its millions of members." In sum, the AG had failed to demonstrate that the NRA "produced, or tends to produce, injury to the public."

The tribunal made two other, notable points: there was an implicit contradiction in how the Attorney General portrayed the organization "as the victim," yet her "boldest claims target the NRA itself," and even if someday a remedy might be called for, then "targeted, less intrusive relief" would be far more just than terminating the NRA's very existence.

Lastly, J.S.C. Cohen decreed that the AG's demands "warrant particularly careful scrutiny because they implicate First Amendment concerns." The judge warned that eliminating an advocacy group such as the NRA might chill, even indirectly, free expression; therefore, dissolution was "disproportionate and not narrowly tailored" to address the AG's allegations of financial improprieties. Indeed, in a pithy footnote, the bench archly declared that dissolution could never be employed "to police or penalize the expression of political beliefs."

Ultimately concluding that "the Complaint does not allege the type of *public* harm that is the legal linchpin for imposing the 'corporate death penalty,'" the court dismissed the AG's demand to dissolve the NRA.

In closing, it must be cautioned that *People of N. Y. v. NRA* is far from concluded, and bears close monitoring. Nonetheless, with the draconian threat of abolishing the NRA removed for the moment, advocates for the Second Amendment can rest a bit easier. ■