

STATE OF MINNESOTA
IN SUPREME COURT
A23-1354

FILED

October 10, 2023

OFFICE OF
APPELLATE COURTS

Joan Growe, et al.,

Petitioners,

v.

Steve Simon, Minnesota Secretary of
State, et al.

Respondents.

**DONALD J. TRUMP FOR PRESIDENT 2024, INC.'S
REPLY MEMORANDUM IN SUPPORT OF INTERVENTION**

Petitioners acknowledge that the Campaign possesses the same interests in this action as President Trump. As their opposition concedes, the Campaign exists “to persuade the electorate to cast their votes” for President Trump. (Opp. at 3.) Petitioners identify no purpose for which the Campaign’s arguments in this case would differ from President Trump’s.

Petitioners, nonetheless, oppose the Campaign’s intervention because they desire to turn this Court’s proceedings into a political spectacle by forcing President Trump to personally appear. That is unnecessary, unwarranted, and irrelevant to the issue at hand. The Campaign clearly meets the criteria to intervene and should be allowed to do so.

I. The Campaign Meets the Criteria For Mandatory Intervention.

The Campaign exists to support President Trump’s campaign to be elected President in 2024. It is President Trump’s designated principal campaign committee registered with the Federal Election Commission pursuant to 52 U.S.C. § 30102(e).¹ It therefore has an obvious interest in the subject of this action: whether President Trump may appear on Minnesota’s ballot. Contrary to Petitioners’ bare argument, the Campaign’s intervention is neither novel or improperly “strategic.” Other courts routinely allow presidential campaign committees to sue or intervene in litigation without a candidate’s personal participation in proceedings regarding ballot and election procedures.²

Petitioners do not dispute that the Campaign has an interest in the outcome

¹ See filings available at <https://docquery.fec.gov/pdf/249/202211159546802249/202211159546802249.pdf> and <https://docquery.fec.gov/pdf/549/202212059547134549/202212059547134549.pdf>.

² See, e.g., *State ex rel. Bush-Cheney 2000, Inc. v. Baker*, 34 S.W.3d 410, 411 (Mo. Ct. App. 2000) (“Bush–Cheney 2000, Inc.” intervened in action filed by “The Gore and Lieberman 2000 Committee, Inc.”); *League of United Latin Am. Citizens of Iowa v. Pate*, No. CVCV081901, slip op. at 7, (Iowa Dist. Ct. Sept. 25, 2020) available at <https://electionlawblog.org/wp-content/uploads/IA-LULAC-20200925-TRO-decision.pdf> (“Donald J. Trump for President, Inc. [and others] were granted leave to intervene ... based on their interest in voters having the opportunity to participate in fair elections and ... in allocating their resources throughout the election season.”), *aff’d*, 950 N.W.2d 204 (Iowa 2020); *Feldman v. Ariz. Sec’ of State’s Office*, 208 F.Supp.3d 1074, 1078 (D.Ariz. 2016) (in action filed by presidential campaign committee “Hillary for America,” committee “Bernie 2016, Inc.” intervened without the involvement of either candidate personally); *Campaign Legal Ctr. v. Fed. Election Comm’n*, 31 F.4th 781, 783, (D.C. Cir. 2022) (Hillary for America intervened as defendant); *Nader v. Me. Democratic Party*, 41 A.3d 551, 554 (Me. 2012) (candidate Ralph Nader filed action against “Kerry–Edwards 2004, Inc.” campaign committee, among others); *Obama for America v. Husted*, 697 F.3d 423, 425 (6th Cir. 2012)(campaign committee “Obama for America” and democratic party filed action regarding voting procedures).

of this case. Nor do they disagree that the outcome may impair that interest. Indeed, Petitioners acknowledge that the Campaign's essential purpose is "to persuade the electorate to cast their votes" for President Trump. (Opp. at 3.) If the electorate is deprived of the chance to "vote[] in his favor," the Campaign could not fulfil this purpose. (*Id.*) And, of course, Petitioners do not attempt to suggest that any party represents the Campaign's vital interest in this action.

Where an action threatens to eliminate or at least dramatically impair an entity's fundamental purpose for existence, there can be no question the entity may intervene as of right. So too here. Petitioners have no serious argument to the contrary, and do not attempt one. That the prospective intervenor is affiliated with President Trump does not change fundamental principles of Minnesota law.

II. Arguments Regarding Discovery and Personal Jurisdiction Are Irrelevant to the Campaign's Request to Intervene.

Petitioners' arguments regarding discovery and personal jurisdiction are misplaced. These issues have no bearing on the Campaign's intervention. Even if they did, Petitioners are simply wrong.

As the Campaign's response to the Petition explained, permitting civil discovery in a 204B.44 eligibility challenge would be unprecedented. Petitioners' opposition to intervention confirms this: try as they might, the best they can come up with is one occasion when a referee allowed two witnesses to pre-record their testimony for the referee's evidentiary hearing. *See Fischer v. Simon*, A22-1112, Order at *2 (Minn. Aug. 23, 2022). There is no indication that any 204B.44 proceeding in this Court has ever allowed parties to utilize any normal discovery mechanism. But all this is beside the point. Even if discovery *were* available, trying to coerce an absent party to produce discovery simply is not a recognized basis for denying

intervention. Petitioners cite not a single case suggesting the contrary.

Even further afield is Petitioners' insistence that President Trump is subject to this Court's personal jurisdiction. Here again, Petitioners' arguments are notably weak on their face, since Petitioners identify nothing to support their contention that President Trump is currently "[a]vailing himself of the State's electoral process" with respect to the upcoming primary election. As the Republican Party of Minnesota has explained, primary elections in Minnesota are run by parties; individual candidates do not file any paperwork with the State or take other formal action to participate in a Minnesota primary. And Petitioners point to no 2024 campaign activity by President Trump personally that was directed to Minnesota. They seem to anticipate that President Trump *plans* to direct such activity toward Minnesota in the future. But that cannot support personal jurisdiction now.

But again, Petitioners' arguments are simply beside the point. Whether the Court has personal jurisdiction over President Trump simply has no bearing on whether the Campaign meets the criteria for intervention. It does.

CONCLUSION

For the reasons stated herein, Donald J. Trump for President 2024, Inc. should be allowed to intervene.

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