

FILED

08-22-2023

CLERK OF WISCONSIN
SUPREME COURT

No. 2023AP001399-OA

IN THE SUPREME COURT OF WISCONSIN

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO, ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE (DEE) SWEET, AND GABRIELLE YOUNG,

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE BOSTELMANN, AND JOSEPH J. CZARNEZKI, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION; MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; SENATOR ANDRÉ JACQUE, SENATOR TIM CARPENTER, SENATOR ROB HUTTON, SENATOR CHRIS LARSON, SENATOR DEVIN LEMAHIEU, SENATOR STEPHEN L. NASS, SENATOR JOHN JAGLER, SENATOR MARK SPREITZER, SENATOR HOWARD L. MARKLEIN, SENATOR RACHAEL CABRAL-GUEVARA, SENATOR VAN H. WANGGAARD, SENATOR JESSE L. JAMES, SENATOR ROMAINE ROBERT QUINN, SENATOR DIANNE H. HESSELBEIN, SENATOR CORY TOMCZYK, SENATOR JEFF SMITH, AND SENATOR CHRIS KAPENGA, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN SENATE,

Respondents.

THE WISCONSIN LEGISLATURE'S MOTION TO INTERVENE

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** pro hac vice motions forthcoming*

The Wisconsin Legislature, through its counsel, hereby moves to intervene pursuant to Wis. Stat. § 803.09, should this Court grant the Petition in the above-captioned case. For the reasons stated in the accompanying memorandum of law filed in support of this motion, the Legislature respectfully requests to intervene as of right or, alternatively, with this Court's permission.

1. This action challenges the constitutionality of Wisconsin's existing state legislative district boundaries and asks the Court to declare the existing boundaries unconstitutional, draw new boundaries, and order special elections. Pet. at 43-44.

2. The Wisconsin Legislature is the bicameral legislative branch of Wisconsin's government. Wis. Const. art. IV, § 1. It has the responsibility to create Wisconsin's state legislative districts. *Id.* art. IV, § 3.

3. The existing state legislative district boundaries were adopted by this Court in 2022, after being proposed by the Legislature. *See Johnson v. Wis. Elections Comm'n*, 2022 WI 19, 401 Wis. 2d 198, 972 N.W.2d 559.

4. The Wisconsin Legislature has a statutory right to participate in this case to defend its institutional interests in the relief it obtained in *Johnson*, its constitutionally assigned redistricting role, and its lawful composition. The disposition of this case may as a practical matter impair or impede those interests, which are not adequately protected by existing parties. Wis. Stat. § 803.09(1).

5. The Legislature also has a statutory right to participate in litigation because Petitioners challenge the “constitutionality” or “construction” of state law. Wis. Stat. § 803.09(2m); *Democratic Nat’l Comm. v. Bostelmann*, 2020 WI 80, ¶¶ 7-8, 13, 394 Wis. 2d 33, 949 N.W.2d 423.

6. At a minimum, this Court should permit the Legislature to intervene because the Legislature shares defenses with Respondents and intervention would not unduly delay proceedings or prejudice the original parties. Wis. Stat. § 803.09(2).

7. This motion is timely, filed within weeks of the Petition to the Supreme Court of Wisconsin to Take Jurisdiction of an Original Action and the same day that responses to the Petition and non-party *amici curiae* briefs are due.

WHEREFORE, the Wisconsin Legislature requests that this Court grant this motion and allow the Legislature to participate as an Intervenor-Respondent in this matter, should the Court grant the Petition.

Dated this 22nd day of August, 2023.

Respectfully submitted,

/s/ Kevin M. St. John

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