

FILED
08-22-2023
CLERK OF WISCONSIN
SUPREME COURT

No. 2023AP1412-OA

IN THE SUPREME COURT OF WISCONSIN

STEPHEN JOSEPH WRIGHT, GARY KRENZ, SARAH J. HAMILTON,
JEAN-LUC THIFFEAULT, SOMESH JHA, JOANNE KANE, AND LEAH DUDLEY,
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; AND MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS
THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION,
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 in the above-captioned case pursuant to Wis. Stat. § 803.09 should the Court grant the Petition. 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 120-21.

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. Petitioners participated in that litigation and/or related federal litigation as the "Citizen Mathematicians and Scientists" and "Citizen Data

Scientists.” See Clerk’s Letter Order, *Johnson v. Wis. Elections Comm’n*, No. 2021AP1450-OA (Oct. 14, 2021); See Mot. to Intervene, *Hunter v. Bostelmann*, No. 3:21-cv-512 (W.D. Wis.), ECF 65 (filed Sept. 20, 2021); Order Denying Intervention and Inviting *Amicus* Participation, *Hunter*, ECF 103 (issued Oct. 6, 2021).

4. Should the Court grant the Petition, 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 and *amicus curiae* briefs are due.

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

Dated this 22nd day of August, 2023.

Respectfully submitted,

/s/ Kevin M. St. John

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