

Minnesota Voters Alliance; Mary Amlaw; Ken
Wendling; Tim Kirk;

Petitioners,

v.

Tom Hunt, in his official capacity as elections
official for Anoka County; Steve Simon, in his
official capacity as Secretary of State; Anoka
County; the Office of the Minnesota Secretary
of State; Shannon Reimann, in her official
capacity as chief executive officer of the
Minnesota Correctional Facility – Lino Lakes,

**ORDER GRANTING MOTION
TO INTERVENE**

Respondents,

and

Jennifer Schroeder, an individual; and Elizer
Eugene Darris, an individual;

Court File No. 02-CV-23-3416

Proposed Intervenor-
Respondents.

The above-entitled matter came for hearing on October 30, 2023, before the Honorable Thomas R. Lehmann, Judge of District Court, Anoka County Courthouse, Anoka, Minnesota, on Petitioners' June 29, 2023 Petition for Writ of Quo Warranto or Declaratory Judgment (Doc. No. 1), Respondents Tom Hunt and Anoka County's July 20, 2023 Motion to Dismiss (Doc. No. 10), Respondents Steve Simon, the Office of the Minnesota Secretary of State, and Shannon Reimann's (hereafter "State Respondents") October 2, 2023 Amended Motion to Dismiss (Doc. No. 32), and Proposed Intervenor-Respondents' August 31, 2023 Motion to Intervene (Doc. No. 25), October

2, 2023 Motion for Leave to File Motion for Judgment on the Pleadings (Doc. No. 35), and Proposed Motion for Judgment on the Pleadings (Doc. No. 36).

James V. F. Dickey, Esq., appeared for and on behalf of Petitioners. Brad Johnson, Anoka County Attorney, and Jason J. Stover and Robert Yount, Assistant Anoka County Attorneys, appeared for and on behalf of Respondents Tom Hunt and Anoka County. Nathan J. Hartshorn and Allen Cook Barr, Assistant Attorneys General, appeared for and on behalf of State Respondents. Craig S. Coleman, Esq., Teresa J. Nelson, Esq., Ehren M. Fournier, Esq., and Cassidy J. Ingram, Esq., appeared for and on behalf of Proposed Intervenor-Respondents.

Based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. Proposed Intervenor-Respondents' Motion to Intervene is **GRANTED**.
2. The attached memorandum is incorporated herein by reference.
3. The Court Administrator shall transmit notice of filing of this Order and a copy of this Order by the designated e-filing and e-service system, e-mail, or mail to every party affected thereby or upon such party's attorney of record, whether or not such party has appeared in the action, at the party or attorney's last known mail or e-mail address. Such transmittal shall constitute due and proper notice of this Order for all purposes.

BY THE COURT:

Dated:

Thomas R. Lehmann
Judge of District Court

MEMORANDUM

Proposed Intervenor-Respondents are individuals with felony convictions whose voting rights were restored as a result of recent amendments to Minn. Stat. § 201.014. Seeking to defend their right to vote, they have moved to intervene in this matter as of right under Minn. R. Civ. P. 24.01.

Rule 24.01 protects nonparties who have an interest at stake in a lawsuit “from having that interest adversely affected by litigation taking place without their participation.” *Miller v. Miller*, 953 N.W.2d 489, 493 (Minn. 2021). A person seeking to intervene under this rule must meet four requirements: “(1) a timely application; (2) an interest in the subject of the action; (3) an inability to protect that interest unless the applicant is a party to the action; and (4) the applicant’s interest is not adequately represented by existing parties.” *Id.* “The spirit behind Rule 24 is to encourage all legitimate interventions, and the rule is to be liberally applied.” *Gruman v. Hendrickson*, 416 N.W.2d 497, 500 (Minn. Ct. App. 1987). Minnesota courts “encourage intervention whenever possible.” *Norman v. Refsland*, 383 N.W.2d 673, 678 (Minn. 1986).

Petitioners do not offer any argument regarding elements (1) and (2). They tacitly concede that Proposed Intervenor-Respondents’ motion was timely, and that they have an interest in the subject of this action.

Element (3) requires the applicant to “show that, as a practical matter, the disposition of the action may impair or impede the [applicant’s] ability to protect its stated interest.” *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197, 207 (Minn. 1986). Proposed Intervenor-Respondents have easily made that showing here. In this lawsuit, Petitioners claim that the restoration of voting rights to certain individuals with felony convictions, including Proposed Intervenor-Respondents, was unconstitutional.

Element (4) requires Proposed-Intervenor-Respondents to meet “the ‘minimal’ burden of showing that the existing parties ‘may’ not adequately represent their interests.” *Faribo Farms, Inc. v. County of Dodge*, 464 N.W.2d 568, 570 (Minn. Ct. App. 1990) (citation omitted).

If the applicant’s interest is similar to, but not identical with, that of one of the parties, a discriminating judgment is required on the circumstances of the particular case, but the applicant ordinarily should be allowed to intervene unless it is clear that the party will provide adequate representation for the absentee.

Costley v. Caromin House, Inc., 313 N.W.2d 21, 28 (Minn. 1981) (quoting 7A Charles A. Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1909, at 524 (1972)).

Contrary to the rule stated in *Faribo Farms*, Petitioners argue that element (4) presents a “high bar.”¹ Based on an Eighth Circuit decision, *N.D. ex rel. Stenehjem v. United States*, 787 F.3d 918 (8th Cir. 2015), they suggest that there is a presumption of adequate representation where one of the parties is an arm or agency of the government, because “the government is presumed to represent the interests of all its citizens.”² That is not the law in Minnesota. Petitioners suggest that this rule was “adopted by the Ramsey County District Court,”³ but district court orders are not binding precedent. Our appellate courts have never adopted the Eighth Circuit standard that Petitioners attempt to import here.

Element (4) is satisfied because Proposed Intervenor-Respondents’ personal interest at stake in this case (their right to vote) is not the same as the government’s general interest in upholding the constitutionality of statutes. Because Proposed Intervenor-Respondents have met each of the requirements for intervention under Rule 24.01 and courts “encourage intervention whenever possible,” *Norman*, 383 N.W.2d at 678, Proposed Intervenor-Respondents’ motion to

¹ Doc. No. 46, Petrs.’ Mem. 11.

² *Id.*

³ *Id.* at 9.

intervene as a matter of right must be granted. It is not necessary to address their alternative request for permissive intervention under Rule 24.02.

TRL



MINNESOTA
JUDICIAL
BRANCH