

IN THE SUPREME COURT OF THE
STATE OF MICHIGAN

ANGELIC JOHNSON, et al.
Petitioners,

v.

JOCELYN BENSON, et al.,
Respondents.

No. 166286

**PETITIONERS' OPPOSITION
TO PROPOSED INTERVENORS
MOTION TO INTERVENE**

Petitioners Angelic Johnson and Dr. Linda Lee Tarver (collectively, "Petitioners"), by counsel, file this opposition to the Services Corporation/Democratic National Committee and Michigan Democratic Party (collectively, "Proposed Intervenors") motion to intervene.

Petitioners are minorities and members of Black Voices for Trump. They legally voted in Michigan for Donald J. Trump for President of the United States and John James for the U.S. Senate. Petitioners object to having their votes diluted or voices silenced by *illegal* votes.

In their petition, Petitioners seek nothing less than a fair, honest, and transparent election. Respondents have a duty to ensure accuracy and integrity. Proposed Intervenors, who oppose this petition, apparently want the opposite. Petitioners do not want to be disenfranchised by having *illegal* votes counted. And while this case is about process, not party, Proposed Intervenors apparently care little about process or whether all *legal* votes count equally. Petitioners have submitted to this Court many sworn affidavits setting forth *eyewitness* accounts of serious election law violations, irregularities, and malfeasance, and expert opinions that confirm these irregularities through statistical analysis. Petitioners included an admission from Respondents' Head of Elections who did not follow the statutes as written. Proposed Intervenors offer straw men of what ostensibly happened in other courtrooms without the benefit of evidentiary hearings or without allowing for presentation of actual evidence.

Proposed Intervenors invite this Court to ignore the *evidence* and simply rubberstamp this lawlessness by denying the Petition. Respectfully, this Court should focus instead on the vital separation of powers and delegation of duties between Respondents and the legislature and engage in the heavy-lifting required to apply the now existing laws as raised in the actual Petition and thus decline Proposed Intervenors' hasty, emotional invitation.

Indeed, Proposed Intervenors want this Court to play the role of the famous television character Sergeant Schultz in the situation comedy Hogan's Heroes by claiming to "see nothing" when the malfeasance is apparent and in plain view. Petitioners believe that this Court has a paramount role in upholding the rule of law, requiring statutes to be followed as written, and protecting Petitioners' rights under the United States and Michigan Constitutions, including the Court's first application of Michigan's recent constitutional amendments in the context of an election conducted in Michigan. Proposed Intervenors apparently believe that the rule of law does not apply and thus the Court has no role to play.

Nonetheless, because Petitioners and Proposed Intervenors are diametrically opposed to each other does not mean that the Court should grant their motion to intervene. And the main reason is this: Respondents are all on the same side as Proposed Intervenors. They want precisely the same result: a rubber stamping of the 2020 general election with no independent investigation into the election malfeasance set forth in the Petition and without a fair, honest, and transparent audit of the election (specifically including an audit of the unsolicited and "vote by mail" ballots that flooded the election process and thus determined its current outcome). In other words, Proposed Intervenors add nothing to this litigation except more parties, more attorneys, and excessive (and no doubt redundant) briefing.

MCR 2.209 permits intervention as of “right” and “permissive” intervention. As for “intervention of right,” there is no “Michigan statute or court rule [that] confers an unconditional right to intervene” for these Proposed Intervenors, nor do they argue that one exists. MCR 2.209(A)(1). And the parties have not stipulated to the intervention. *Id.* at (A)(2). As a result, Proposed Intervenors must show:

an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, *unless the applicant’s interest is adequately represented by existing parties.*

Id. at (A)(3) (emphasis added). They cannot make the required showing. Even assuming an “interest related to the . . . transaction which is the subject of the action,” Proposed Intervenors are not “so situated that the disposition of the action may as a practical matter impair or impede [their] ability to protect that interest” precisely because of the next qualifier set forth in the Rule: “unless the applicant’s interest is adequately represented by existing parties.” *Id.* There is no legitimate argument that Respondents’ interests are not adequately represented in this case.

Respondents are represented by the Michigan Department of the Attorney General and its small army of lawyers. Michigan Attorney General Dana Nessel is a registered Democrat, as are Respondents Benson, Bradshaw, and Whitmer. Contrary to Proposed Intervenors’ suggestion, there is no partisan separation between Proposed Intervenors and Respondents. Indeed, there is no separation between their interests and objectives at all. The interests and *ultimate* objective of Proposed Intervenors and Respondents are *precisely* the same. Proposed Intervenors will present no separate arguments unique to them. None. In short, Proposed Intervenors’ are adequately represented by existing parties. *See generally United States v. Mich.*, 424 F.3d 438, 443-44 (6th Cir. 2005) (affirming denial of request to intervene under similar federal rule and stating that “[a]pplicants for intervention bear the burden of proving that they are inadequately represented by

a party to the suit. . . . This burden has been described as ‘minimal’ because it need only be shown that there is a *potential* for inadequate representation. . . . Nevertheless, applicants for intervention must overcome the presumption of adequate representation that arises when they share the same *ultimate* objective as a party to the suit. . . .”) (internal quotations and citations omitted) (emphasis added). In sum, “intervention of right” is inappropriate.

The Court should likewise exercise its discretion and reject “permissive intervention.” There is no “Michigan Statute or court rule [that] confers a conditional right to intervene” in this case. MCR 2.209(B)(1). And no matter if Proposed Intervenors’ “claim or defense and the main action have a question of law or fact in common,” those questions of law and fact are precisely the same as those currently at issue with the existing parties. Accordingly, there is no question that when this Court considers, as *required* by MCR 2.209 (“shall consider”), “whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties,” the answer is unequivocally “yes, it will.” All that Proposed Intervenors will offer is more parties, more lawyers, and redundant briefing, which will only delay the proceedings and place undue burdens on Petitioners (such as the time, cost, and burden caused by responding to this motion to intervene). This case presents exigent circumstances. The Court has before it the claims and evidence. The circumstances require swift action. The Court should dedicate its finite resources on the substantive claims and not on motions to intervene and all the excess baggage Proposed Intervenors will bring with them to this case. The motion should be summarily denied.

On this 30th Day of November, 2020,

Respectfully submitted,

**AS SPECIAL COUNSEL FOR THOMAS MORE SOCIETY
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/s/ Ian A. Northon

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PROOF OF SERVICE

I, Ian Northon, hereby affirm that on the date stated below I delivered a copy of the above Petitioners' Response to Proposed Intervenors' Motion to Intervene upon the State of Michigan, Attorney General's Office and specifically to Assistant Attorney General Heath Meingast, and all attorneys of record, by electronic mail via the MiFile electronic filing system. I hereby declare that this statement is true to the best of my information, knowledge, and belief.

Dated: November 30, 2020.

/s/ Ian A. Northon

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