

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LEAGUE OF WOMEN VOTERS OF OHIO
AND JENNIFER KUCERA,

Plaintiffs,

v.

FRANK LAROSE, in his official capacity as
Ohio Secretary of State; DAVID YOST, in his
official capacity as Attorney General of Ohio;
MICHAEL O'MALLEY, in his official
capacity as County Prosecutor of Cuyahoga
County,

Defendants.

Civil Action No. 1:23-cv-02414

Judge Bridget Meehan Brennan

Magistrate Judge Jonathan D. Greenberg

**REPLY IN SUPPORT OF MOTION TO INTERVENE BY
THE REPUBLICAN NATIONAL COMMITTEE AND
THE OHIO REPUBLICAN PARTY**

No party opposes the Court granting Proposed Intervenors permissive intervention, and Defendants Secretary LaRose and Attorney General Yost agree that “the Court should grant” Proposed Intervenors’ motion to intervene. LaRose And Yost Resp. To Motion To Intervene, Doc. 22 at 1; *see also* O’Malley Resp. To Motion To Intervene, Doc. 21 at 1; Plaintiffs’ Resp. To Motion To Intervene, Doc. 23 at 1–2. The Court therefore should grant intervention for this reason alone. *See* Proposed Intervenors’ Memo. In Support Of Motion To Intervene, Doc. 16-1 at 11–12.

To the extent the Court also wishes to address intervention of right under Rule 24(a), it should grant Proposed Intervenors’ motion on that basis as well. *See id.* at 4–11. Although Plaintiffs confirm that they “do not take a position on whether the motion [to intervene] should be granted,” they suggest that the Court should deny intervention of right on two bases. *See* Doc. 23 at 1–3. They are mistaken on both counts.

First, Plaintiffs argue that because they do not harbor “partisan interests in electing candidates from one party or another,” Proposed Intervenors’ interest in electing the candidates of their choice is not an interest “relating to the . . . transaction that is the subject of the action.” Doc. 23 at 2 (quoting Fed. R. Civ. P. 24(a)(2)). Plaintiffs are incorrect: Proposed Intervenors need not have the *same* interest as, or even the mirror-image interest of, the named parties to satisfy Rule 24(a). *See* Doc. 16-1 at 6–8. Plaintiffs seek to change the rules under which elections in Ohio are conducted—and that alone makes it beyond “dispute that the Ohio Republican Party ha[s] an interest in the subject matter of this case, given the fact that changes in voting procedures could affect candidates running as Republicans and voters who are members of the Ohio Republican Party.” *Ohio Democratic Party v. Blackwell*, No. 2:04-cv-1055, 2005 WL 8162665, at *2 (S.D. Ohio Aug. 26, 2005). Indeed, courts across the country routinely recognize that political party committees have an interest sufficient to support intervention of right in cases seeking changes to election rules or procedures, even where those cases are brought by nonpartisan plaintiffs. *See, e.g.*, Doc. 16-1 at 6 n. 1 (collecting cases).

Second, Plaintiffs contend that Proposed Intervenors have failed to establish entitlement to intervene under Rule 24(a) because, in Plaintiffs’ view, the named Defendants “adequately represent Proposed Intervenors’ interests in the lawsuit.” Doc. 23 at 1–2. Of course, the named Defendants *disagree* with Plaintiffs’ view on that point and *agree* with Proposed Intervenors that they do not represent Proposed Intervenors’ interests. *See* Doc. 21 at 1 (Defendant O’Malley “does not claim to represent the interests of the Proposed Intervenors”); Doc. 22 at 1 (Defendants LaRose and Yost support intervention “[f]or *all* the reasons set forth in the motion”) (emphasis added). The named Defendants’ own positions are more than sufficient to discharge Proposed Intervenors’

“minimal” burden on Rule 24(a)’s inadequacy-of-representation prong. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *see also* Doc. 16-1 at 9–11.

Nor is it of any moment that the named Defendants may seek to “defend the challenged provisions of HB 458.” Doc. 23 at 3. Rule 24(a) examines whether the named parties “adequately represent [the proposed intervenor’s] *interest*,” Fed. R. Civ. P. 24(a)(2) (emphasis added), not whether the named parties and proposed intervenors share litigation objectives, *see, e.g., La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 308–09 (5th Cir. 2022) (granting intervention of right to political party committees even though named defendants shared the committees’ goal of defeating the lawsuit); *see also* Doc. 16-1 at 9–10. Because the mere “*potential* for inadequate representation” of Proposed Intervenors’ interests is enough, *Grutter v. Bollinger*, 188 F.3d 394, 400 (6th Cir. 1999), Proposed Intervenors are entitled to intervene, *see* Doc. 16-1 at 9–10.

WHEREFORE, the Court should grant Proposed Intervenors intervention of right, or in the alternative, permissive intervention.

Dated: February 6, 2024

Respectfully submitted,

/s/ John M. Gore

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CERTIFICATE OF SERVICE

I certify that on February 6, 2024, a copy of the foregoing Reply in Support of Motion to Intervene was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

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