

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

FIFTH DIVISION – SIXTH CIRCUIT

**JANET C. BAKER, SUSAN INMAN and
OLLY NEAL**

PLAINTIFFS

v. Case No. 60CV-20-3565

**JOHN THURSTON, in his official capacity
as the Secretary of State of Arkansas**

DEFENDANT

**MOTION FOR INTERVENTION BY
DOYLE WEBB CHAIRMAN OF THE REPUBLICAN PARTY
OF ARKANSAS AND REPRESENTATIVE
DOUGLAS HOUSE**

Chairman Doyle Webb on behalf of the Republican Party of Arkansas and its collective membership and Arkansas State Representative Douglas House respectfully move this Court for leave to intervene in the instant Action. Filed simultaneously with this Motion is their proposed Motion to Dismiss this Action for failure to state a legal claim pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure and failure to join indispensable parties pursuant to Rule 12(b)(7).

Representative Douglas House is a citizen of the State of Arkansas and a member of the Arkansas House of Representatives. As an elected representative, he has experienced the problems that arise when election materials are entrusted to

the U. S. Postal Service for delivery. As a private citizen he is also concerned about the dilution of his vote by the participation of persons who are not registered voters.

This Motion to Intervene is made on the grounds that the voters of the State of Arkansas and in particular those who are members of the Republican Party have a vital interest in having full and fair elections and cannot be adequately represented in this Action by the Secretary of State because they have additional interest in line with Representative House.

I

BACKGROUND

Plaintiffs' Action is predicated on the unfounded assumption that voters who have concerns about potential exposure to the COVID-19 virus through in-person voting will be unable to qualify as absentee voters. Plaintiffs, by their own admissions, could easily qualify to receive absentee ballots. Instead, they have manufactured a pretext for eliminating all of the statutory rules governing the administration of absentee ballots in the State of Arkansas.

II

RULE 24 OF THE ARKANSAS RULES OF CIVIL PROCEDURE

This Motion is brought pursuant to Rule 24 of the Arkansas Rules of Civil Procedure. Rule 24 permits intervention either as:

- (a) A matter of right; or
- (b) By permissive intervention.

Rule 24(a) permits intervention as a matter of right when:

- (1) A timely application has been filed;
- (2) The party claiming an interest which is subject of the action
Cannot as a practical matter protect that interest because of inadequate
representation of the existing parties to the litigation.

Permissive intervention under Rule 24(b) is allowed when:

- (1) An applicant's claim or defense and the main action have a question
of law or fact in common.

III

THE LEGAL BASIS FOR INTERVENTION BY THE REPUBLICAN PARTY

The only named defendant is the Secretary of State. As Plaintiffs allege, he is charged with insuring that voting is conducted pursuant to current law and the

State and Federal Constitutions. His functions are essentially executory and ministerial. He does not, for example, originate laws for absentee ballots or voter registration. Those laws come from the Legislature. His function is to insure that those laws are followed not only by his office but also by local election officials.

The policies on who can qualify as an absentee voter are set by the Legislature. The Secretary of State and local election officials are responsible for executing those policies.

One of the rationales for those policies is to preserve voter integrity, minimize voter fraud and insure that only qualified electors vote. Plaintiffs would abolish those policies by permitting anyone to vote on an absentee basis without providing any reason for doing so.

Voting permitted by unqualified persons directly dilutes the votes of those who are qualified electors. That is not an interest the Secretary of State is charged with protecting. Only qualified voters can adequately represent that interest. That is why the Republican Party acting on behalf of many of those electors is a necessary and indispensable party in this Action.

By contrast, the major impact of unsound voting policies falls on the voters. If those policies can be used in such a way as to permit voter tampering, fraud or voter harvesting, the adverse impact primarily falls on legitimate voters as opposed to the Secretary of State.

Those interests will be directly impacted by this litigation. Moreover, Plaintiffs are asking this Court to invalidate absentee voting rules that were enacted by elected representatives of the people of the State of Arkansas. Paragraph 91 of their Complaint provides:

Alternatively, Plaintiffs request the Court to issue a declaratory judgment finding that Arkansas Code Annotated sections 7-5-402 and -405 violate Arkansas' fundamental right to suffrage in article 3, Section 2 of the Arkansas Constitution and, therefore, *issue a declaratory judgment that the State of Arkansas shall not require any excuse or reason for a qualified elector to vote absentee.* [Emphasis added.]

IV

CONCLUSION

For all of the reasons set forth in this Motion and the accompanying Brief filed in support, Doyle Webb on behalf the Republican Party of Arkansas and its collective membership respectfully request that this Court grant them leave to intervene in this Action.

Respectfully Submitted,

RITTER LAW

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CERTIFICATE OF SERVICE

I, George P. Ritter, do hereby certify that on June 29, 2020, I electronically filed the foregoing MOTION FOR INTERVENTION BY DOYLE WEBB CHAIRMAN OF THE REPUBLICAN PARTY OF ARKANSAS AND REPRESENTATIVE DOUGLAS HOUSE with the Clerk of the Court using the CM/ECF System which will automatically send notice to David A. Couch attorney of record for Plaintiffs in this Action.

I also served the foregoing MOTION FOR INTERVENTION BY DOYLE WEBB CHAIRMAN OF THE REPUBLICAN PARTY OF ARKANSAS AND REPRESENTATIVE DOUGLAS HOUSE electronically by emailing a copy to Preston Tull Eldridge at preston@caprocklaw.com., one of the named attorneys for the Plaintiffs.

By /s/ George P. Ritter
George P. Ritter