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SUPREME COURT

April 18, 2024

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Circuit Court Judge
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You are hereby notified that the Court has entered the following order:

No. 2024AP164

Priorities USA v. Wisconsin Elections Commission,
L.C.#2023CV1900

The court having considered the motion to intervene as an appellant, along with a brief in support of the motion, filed by Governor Tony Evers, as well as accompanying motions to admit Attorneys Christine P. Sun and Zack Goldberg pro hac vice;

IT IS ORDERED that the motion to intervene is granted. The opening merits brief and appendix accompanying the motion are accepted as filed; and

IT IS FURTHER ORDERED that the briefing schedule previously established by this court's March 12, 2024 order is hereby modified as follows: By no later than 5:00 p.m. on April 24, 2024, defendant-respondent, Wisconsin Elections Commission, and intervenor-respondent, Wisconsin State Legislature, must each file a response brief not exceeding 60 pages if a monospaced font is used, or 13,200 words if a proportional serif font is used. By no later than 5:00 p.m. on May 6, 2024, plaintiffs-appellants, Priorities USA et al., and intervenor-appellant, Governor Tony Evers, must each file either a single reply brief or a statement that no reply brief will be filed, with the length of any reply brief conforming to the length limit set by the Rules of Appellate Procedure. See Wis. Stat. § (Rule) 809.19(8)(c)2; and

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IT IS FURTHER ORDERED that the motions for pro hac vice admission are granted. A copy of SCR 10.03(4), setting forth the requirements for attorneys appearing pro hac vice, can be found at the following link: <https://www.wicourts.gov/sc/rules/chap10.pdf>. A copy of SCR 10.03(4) is also attached to the newly admitted pro hac vice attorneys' copies of this order; and

IT IS FURTHER ORDERED that, within five days of the date of this order, all attorneys representing Governor Evers shall register for access to the Wisconsin appellate court electronic filing system and shall opt in as attorneys on this case. Wis. Stat. § (Rule) 809.801(3).

BRIAN HAGEDORN, J. (*dissenting*). Governor Evers moves to intervene in this case—that is, become a party—to offer his "unique perspective" on the legal questions we are considering. But to become a party, he must have some cognizable interest in its outcome. This means the Governor must "either gain or lose by the direct operation of the judgment." Helgeland v. Wisconsin Municipalities, 2008 WI 9, ¶45, 307 Wis. 2d 1, 745 N.W.2d 1 (quoting another source). He offers nothing along these lines, however. Rather, the Governor asserts that his interest arises from his general constitutional responsibility to "take care that the laws be faithfully executed"¹—though he has no direct role in election administration at the state or local level. He also points to his commitment to "free and fair elections, the cornerstone of our democratic government." I have no doubt the Governor is "interested" in the policy issues in this case, in the colloquial sense of the word. But personal public policy views do not create the kind of legally protected interest one must have to become a party to litigation.

The Governor should not receive a complimentary entry pass into any case he cares about just because he is the Governor. Nor should we ignore basic principles of standing for elected officials who wish to weigh in on matters before us. And although the Legislature has been given broad powers to intervene in certain types of cases,² the Governor has no such statutory right. Put simply, the resolution of this case will not affect the Governor at all.

The Governor's views on the issues before us are welcome. But since he has no legally protected interest in this litigation, his arguments should come as an amicus, not as a party. I respectfully dissent.

I am authorized to state that CHIEF JUSTICE ANNETTE KINGSLAND ZIEGLER and JUSTICE REBECCA GRASSL BRADLEY joins this dissent.

Samuel A. Christensen
Clerk of Supreme Court

¹ Wis. Const. art. V, § 4.

² See Wis. Stat. § 803.09(2m).

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