

STATE OF MINNESOTA
IN SUPREME COURT
A20-1362



Donald J. Trump for President, Inc.,
Senate Victory Fund, House Republican
Campaign Committee,
and Ryan J. Beam,

Petitioners,

vs.

Steve Simon, in his official capacity as
Minnesota Secretary of State,

Respondent.

ORDER

On October 28, 2020, petitioners Donald J. Trump for President, Inc., Senate Victory Fund, House Republican Campaign Committee, and Ryan J. Beam filed a petition under Minn. Stat. § 204B.44 (2018). The petitioners ask this court to direct respondent Steve Simon, in his official capacity as Minnesota Secretary of State, to segregate all absentee ballots received by mail after 8:00 p.m. on November 3, 2020, and to issue guidance to local election officials to similarly segregate all absentee ballots received by mail after 8:00 p.m. on November 3, 2020. Petitioners assert that the Secretary of State's decision to enter into a consent decree that extends the receipt deadline for absentee ballots delivered by mail for the general election violates state and federal law, including the United States Constitution. Thus, petitioners assert, the Secretary of State has committed

a wrongful act, error, or omission and absent the relief requested here, they face a threat of irreparable injury.

The consent decree referenced in the petition was entered into on July 17, 2020, with the objective of allowing sufficient time for election officials to implement changes for the general election on November 3, 2020, and to educate voters about those changes. A hearing on the consent decree was held in Ramsey County District Court on July 31, 2020. The Republican Party of Minnesota, the Republican National Committee, and the National Republican Congressional Committee moved to intervene in that proceeding and presented arguments to the district court in opposition to the request to enter the consent decree. On August 3, 2020, the district court granted permissive intervention and entered the consent decree. *LaRose v. Simon*, No. 62-CV-20-3149, Order (Ramsey Cty. Dist. Ct. Aug. 3, 2020).

On August 10, 2020, the Republican Party of Minnesota, the Republican National Committee, and the National Republican Congressional Committee (“appellants”) filed an appeal with the Minnesota Court of Appeals from the district court’s August 3, 2020 decision, and petitioned for accelerated review by our court; we granted accelerated review on August 12, 2020. *LaRose v. Simon*, No. A20-1040, Order (Minn. filed Aug. 12, 2020). On August 18, 2020, the parties filed a stipulation to dismiss this appeal. Appellants agreed in this stipulation to “waive the right to challenge in any other judicial forum” the district court’s order of August 3, 2020 and the “August 3, 2020 Stipulations and Partial Consent Decrees that formed the basis for” this appeal. Based on the parties’ stipulation, we dismissed the appeal on August 18, 2020.

In addition, as the petition notes, the consent decree is the subject of pending litigation in federal court, including the United States District Court for the District of Minnesota and the United States Court of Appeals for the Eighth Circuit. *See Carson v. Simon*, No. 20-CV-2030, 2020 WL 6018957 (D. Minn. Oct. 12, 2020), *appeal filed*, No. 20-3139 (8th Cir., Oct. 14, 2020).

Also before the court is a motion to intervene, filed by the *LaRose* plaintiffs. The proposed intervenors assert that they are parties to the consent decree referenced in the petition, and as such, their interests in that decree could be impaired or impeded by the relief petitioners seek.

We have said, in the context of election-related challenges brought under Minn. Stat. § 204B.44, that an unreasonable delay in asserting a known right to the prejudice of others may make it inequitable to grant the relief requested. *Martin v. Dicklich*, 823 N.W.2d 336, 341 (Minn. 2012). As petitioners acknowledge, the objections to the consent decree and the deadline for receipt of absentee ballots for the November 3 general election have been asserted in state and federal litigation that has been underway for several months. The Secretary of State issued guidance to election officials on August 28, 2020, regarding the deadline for receipt of absentee ballots delivered by mail for the general election. *See Carson*, 2020 WL 6018957, at *5. In addition, voting in Minnesota has been underway since September 18, 2020, with absentee ballots mailed to voters along with the Secretary of State's instructions to voters about the receipt deadline for absentee ballots submitted by mail.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

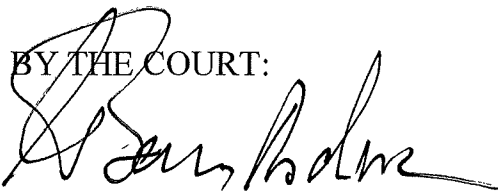
1. Petitioners shall serve and file a memorandum of law that specifically addresses why this petition could not have been filed at an earlier date and why laches should not apply. The memorandum must be filed with the Clerk of Appellate Courts so as to be received by no later than **4:30 p.m., Friday, October 30, 2020.**

2. Respondent Secretary of State may serve and file a response to the petition and to the informal memorandum filed by petitioners. The response must be filed with the Clerk of the Appellate Courts so as to be received by no later than **9:00 a.m., Monday, November 2, 2020.**

3. The motion of Robert LaRose, Teresa Maples, Mary Sansom, Gary Severson, and Minnesota Alliance for Retired Americans Educational Fund to intervene as respondents in this matter is granted. Intervenors may serve and file a response to the petition and to the informal memorandum filed by petitioners. The response must be filed with the Clerk of the Appellate Courts so as to be received by no later than **9:00 a.m., Monday, November 2, 2020.**

4. The motion to admit Abha Khanna as pro hac vice counsel for intervenors is granted.

Dated: October 29, 2020

BY THE COURT:


G. Barry Anderson
Associate Justice

THISSEN, J., took no part in the consideration or decision of this case.