

No. 20-1961

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

**LIBERTARIAN PARTY OF
ILLINOIS, ET AL.,**

Plaintiffs,

and **KYLE KOPITKE,**

Intervenor,

vs.

J.B. PRITZKER, ET AL,

Defendants.

Case No. 1:20-cv-02112

Honorable Charles R.
Norgle, Sr. , Judge Presiding

**INTERVENOR KOPITKE'S RESPONSE IN OPPOSITION
ALEXANDER (AJ) RUGGIERI'S MOTION TO INTERVENE**

NOW COMES THE INTERVENOR, KYLE KOPITKE, and for his
Response in opposition to Alexander (AJ) Ruggieri's Motion To
Intervene, states:

Introduction

The question before the Court has already been briefed by other parties in this case. So as not to be repetitive, Intervenor Kopitke will address only how the instant putative intervenor differs from his intervention

I. RUGGIERI DOES NOT MEET THE CRITERIA FOR INTERVENTION AS OF RIGHT

Federal Rule of Civil Procedure 24(a)(2) provides for intervention as of right if “the subject action is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” Fed.R.Civ.Pro. 24(a)(2)

Instantly, the subject action had nothing to do with the movant’s interest. The subject action concerned the ability, in light of COVID-19 restrictions, of independent and new political party candidates to gather numbers of signatures that greatly exceeded the numbers of signatures required of established political party candidates, such as Ruggieri. All the plaintiffs and the intervenor were either independent or new

political party candidates subject to a 90-day filing period, ending June 22, 2020, and signature requirement greatly in excess of established party candidates.

For example, according to the State of Illinois 2020 Candidate's Guide attached to Defendant Governor Pritzker's Objection as Exhibit A, a statewide candidate for President, such as Intervenor Kopitke, needed 25,000 signatures; whereas an established party candidate, like Ruggieri, would only need 5,000.

The instant case is already basically disposed of, and nothing in the disposition impairs or impedes the putative intervenor's ability to protect his interest. If his constitution rights as a putative established party candidate were infringed by the Governor's Executive Orders on COVID-19, he is free to file an action to protect his interest. The instant case has nothing to do with very different requirements for established political party candidates.

II. RUGGIERI DOES NOT MEET THE CRITERIA FOR PERMISSIVE INTERVENTION

Rule 24(b)(1)(B) allows a court to permit a party to intervene if the party has a claim or defense "that shares with the main action a common question of law or fact." Fed.R.Civ.Pro. 24(b)(1)(B). But Ruggieri's claim

does not share a common question of law or fact because established political party candidates, such as Ruggieri, are subject to a completely different system for getting on the ballot than independent and new political party candidates under the Illinois Election Code. 10 ILCS 5/1-1, et seq. *See Also Gill v. Scholz*, U.S.C.A. 7th Cir. No. 19-21125 (June 18, 2020) The requirements for independent and new political party candidates are designed to be much more strenuous because they do not have to go through a primary process. In the instant case, the putative intervenor's requirement to get on the ballot was even less strenuous than the usual established political party candidate because he did not even have to go through a primary. He simply had to be appointed by a party committee and then get the number of signatures he would have needed to run against potential opponents in a primary. 10 ILCS 5/7-61. Here, Ruggieri completely avoids a primary contest as long as he files the much smaller number of signatures he would have needed to run in the primary, compared to the number required for the class of candidates granted relief in this case

Further, comparing the signature burden of appointed established political party candidates, who filed May 29th and June 1st to that of new

political party and independent candidates is like comparing apples and oranges. Sec. 7-8 of the Illinois Election Code provides that established political parties have a network of Ward and Township committeeman in Cook County, and precinct committeeman in the rest of the state available to help established political party candidates get the signatures they need to get on the ballot. (10 ILCS 5/7-8). No such network exists for the independent and new political party candidates, who must start from scratch.

CONCLUSION

WHEREFORE, Intervenor Kopitke respectfully requests that Alexander (AJ) Ruggieri's Motion To Intervene be denied.

Respectfully submitted

/s/Samuel J. Cahnman
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CERTIFICATION OF SERVICE

I hereby certify that the foregoing document was filed 7/2/20 using the Court's CM/ECF system, which will effect service on all counsel of

record on July 2, 2020.

/s/Samuel J. Cahnman
Attorney at Law