STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky,
Nancy B. Greenwood, Mary E. Kupper,
Douglas W. Backstrom, and James E. Hougas, III,
individually and on behalf of all citizens and
voting residents of Minnesota similarly situated,
and League of Women Voters Minnesota,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven,
Karen Lane, Joel Hineman, Carol Wegner,
and Daniel Schonhardt,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota;
and Kendra Olson, Carver County Elections and
Licensing Manager, individually and on behalf of all
Minnesota county chief election officers,

Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo,
Tanwi Prigge, Jennifer Guertin, Garrison O'Keith
McMurtrey, Mara Lee Glubka, Jeffrey Strand,
Danielle Main, and Wayne Grimmer,

Plaintiffs,

and

Dr. Bruce Corrie, Shelly Diaz,
Alberder Gillespie, Xiongpao Lee,
Abdirazak Mahboub, Aida Simon,
Beatriz Winters, Common Cause,
OneMinnesota.org, and Voices for
Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota,

Defendant.

ORDER

On September 7, 2021, Karen Saxe and 11 other Minnesota voters (the Saxe applicants) filed a motion to intervene in this matter as plaintiffs. The Saxe applicants assert that they can contribute expertise in data analytics to the redistricting process. They seek to intervene as of right under Minn. R. Civ. P. 24.01 or, in the alternative, to obtain permissive intervention under Minn. R. Civ. P. 24.02.

A motion to intervene must be "timely." Minn. R. Civ. P. 24.01, .02. Timeliness depends on "the particular circumstances involved," including factors such as "how far the suit has progressed, the reason for the delay in seeking intervention, and any prejudice to the existing parties because of a delay." *Minneapolis Star & Trib. Co. v. Schumacher*, 392 N.W.2d 197, 207 (Minn. 1986). Several circumstances reveal that the Saxe applicants' motion is untimely.

First, the motion does not comply with the deadline the panel set in its first scheduling order. In that order, dated July 22, 2021, the panel required that all motions to intervene be filed by August 4, 2021, and all responses be filed by August 13, 2021. The Saxe applicants did not file their motion until more than a month after that deadline.

Second, the Saxe applicants have not demonstrated good cause for failing to comply with the scheduling order. *See* Minn. R. Civ. P. 16.02 (providing that a scheduling order is not subject to modification except "upon a showing of good cause"). They assert that they were "unaware" of the scheduling order until "well after its August 4 deadline for intervention had passed." But all filings and orders have been publicly accessible since this redistricting litigation began, including the July 22 scheduling order. The Saxe applicants do not explain why, despite their professed longstanding professional interest in the redistricting process, they failed to note material developments in this litigation. They also contend that they had good cause for not complying with the August 4 deadline because they could not confirm whether they lived in overpopulated districts until the U.S. Census Bureau released the final 2020 Census data on August 12. But the plaintiffs and plaintiff-intervenors faced the same conundrum and reasonably relied on estimated figures from the Legislative Coordinating Commission's Geographic Information Services to articulate colorable malapportionment claims. At a minimum, the Saxe applicants could have filed a timely motion indicating their intent to intervene, provided the final 2020 Census data confirmed their residence in overpopulated districts.

Finally, the unique circumstances of this matter warrant strict adherence to the scheduling order. The redistricting process is both complex and time-sensitive. *See*

Wattson v. Simon, No. A21-0243 (Minn. June 30, 2021) (Order of Chief Justice) (noting "significant duties and responsibilities" involved in redistricting and the statutory deadline). Indeed, the Saxe applicants acknowledge both the complexity of the panel's work—it is the stated impetus for their motion—and the "compressed" timeline in which to do it. Part of that work is setting and closely adhering to a schedule. Accordingly, we deny the Saxe applicants' motion to intervene as untimely.

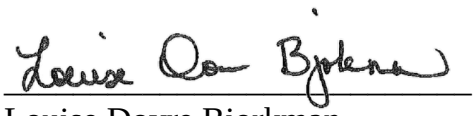
Denial of this motion does not prevent the Saxe applicants from providing information to the panel. As we have noted in prior orders, obtaining information from the public is central to the redistricting process. Like other members of the public, the Saxe applicants may ask to make an oral presentation at an upcoming public hearing; submit a written statement apprising the panel of facts, opinions, or concerns that may inform the redistricting process; and submit a proposed redistricting plan. The details of these opportunities to inform the panel will be more fully set out in a forthcoming order. If the Saxe applicants wish to contribute further information within their area of expertise, they may request leave to submit a brief as amicus curiae.

IT IS HEREBY ORDERED:

The Saxe applicants' motion to intervene is DENIED.

Dated: September 10, 2021

BY THE PANEL:



Louise Dovre Bjorkman
Presiding Judge

Judge Diane B. Bratvold
Judge Jay D. Carlson
Judge Juanita C. Freeman
Judge Jodi L. Williamson