

IN THE SUPREME COURT OF OHIO

STATE EX REL. ANGELA M. FORD, :
ESQ., : Case No.: 2015-1470
Relator, :
v. : ORIGINAL ACTION IN PROHIBITION AND
HONORABLE ROBERT P. : MANDAMUS
RUEHLMAN, :
Respondent. :

RELATOR ANGELA FORD, ESQ.'S OPPOSITION TO MOTION OF STANLEY M. CHESLEY AND THE LAW FIRM OF WAITE, SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A. TO INTERVENE

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**RELATOR ANGELA M. FORD, ESQ.'S RESPONSE IN OPPOSITION
TO MOTION OF STANLEY M. CHESLEY AND THE LAW FIRM OF WAITE,
SCHNEIDER, BAYLESS & CHESLEY CO., L.P.A. TO INTERVENE**

I. Introduction

Proposed Intervenors Stanley M. Chesley (“Chesley”) and Waite Schneider Bayless & Chesley Co., L.P.A. (“WSBC”) (collectively, “Proposed Intervenors”) motion to intervene should be denied because they fail to satisfy the legal requirements necessary to support intervention. The interests identified by each, while ultimately affected by this Court’s decision are not legally protectable interests, and they are not the subject of this proceeding. The Petition for Writs of Mandamus and Prohibition (the “Petition”) filed by Relator Angela M. Ford, Esq. (“Ms. Ford”) presents the legal question of whether Respondent Judge Robert P. Ruehlman (“Judge Ruehlman”) has jurisdiction to hear a nonjusticiable controversy, enjoin domestication of a foreign judgment, and prohibit Ohio entities from complying with another state’s orders. Proposed Intervenors may want a forum to voice their position on these issues—but that is not the standard governing intervention. Ultimately, Proposed Intervenors have no legally protectable interest in the outcome of those narrow questions and therefore cannot intervene.

And, even if they did, these interests are adequately represented and protected by Judge Ruehlman. Indeed, Judge Ruehlman has already filed an answer and a motion for judgment on the pleadings, the exact course of action Proposed Intervenors have indicated they will take. Moreover, like Judge Ruehlman, Proposed Intervenors object to Ms. Ford’s entitlement to the relief she seeks and contend that Judge Ruehlman has jurisdiction over the underlying case to issue the orders he has. And Proposed Intervenors do not identify any way Judge Ruehlman’s defense has been deficient. Thus, Proposed Intervenors’ presence in this lawsuit is not necessary, and they are not entitled to intervene as a matter of right.

II. Argument

Proposed Intervenors have the burden to demonstrate intervention is appropriate. They must show: (1) an interest in the property or transaction that is the subject of the action; (2) that they are situated such that the disposition of the action may impair or impede their ability to protect their interests; and (3) that the parties to the lawsuit do not already adequately represent the proposed intervenors' interest. *See Pfeiffer v. State Auto. Mut. Ins. Co.*, 1st Dist. Hamilton No. C-050683 , 2006-Ohio-5074, ¶ 22. "Failure to meet any one of these elements will result in denial of the motion to intervene as of right." *State of Ohio ex rel. The Dispatch Printing Co. v. City of Columbus*, 10th Dist. Franklin No. 99AP-766, 1999 Ohio App. LEXIS 3557, *10 (Aug. 5, 1999).

To the extent that Proposed Intervenors suggest that they are entitled to intervene merely because this case involves a petition for extraordinary relief, this is incorrect. Indeed, the case on which Proposed Intervenors rely, *The State ex rel. Watkins v. Eighth District Court of Appeals*, 82 Ohio St.3d 532, 534, 696 N.E.2d 1079 (1998), does not so provide. In that case, this Court noted only that the proposed intervenor was an appellant in the underlying matter, had complied with the procedural requirements of the rule, and there was no opposition to the motion to intervene. *See id.* It does not address whether proposed intervenor was especially entitled to relief because the matter involved a petition for extraordinary relief.

As set forth below, Proposed Intervenors cannot satisfy all elements, and therefore, the motion must be denied.

A. Proposed Intervenors Do Not Identify a Legally Protected Interest in this Action.

Not every conceivable interest a party has in pending litigation confers an interest to justify intervention. In fact, only those interests that are "legally protectable" provide the

proposed intervenor with a sufficient interest to intervene. *See Rumpke Sanitary Landfill, Inc. v. State*, 128 Ohio St.3d 41, 2010-Ohio-6037, 941 N.E.2d 1161, ¶ 22; *The State ex rel. Dispatch Printing Co. v. City of Columbus*, 90 Ohio St.3d 39, 40, 734 N.E.2d 797 (2000).

Here, neither of the Proposed Intervenors can identify a legally protectable interest at issue in this proceeding. Chesley describes his interest as his ability to protect his rights under Ohio law with respect to Relator’s attempts to collect on a judgment obtained in Kentucky state court in litigation.” (Motion at 4). WSBC defines its interest as “challeg[ing] Relator’s attempts to attach or otherwise interfere with its assets or operations by various activities conducted outside Ohio” (Motion at 5). But Proposed Intervenors’ respective interests are not at issue here because whether Ms. Ford’s clients can collect on the judgment she obtained against Chesley is not before this Court. Instead, the subject of this action is whether Judge Ruehlman has jurisdiction to hear the underlying complaint—whether it is a justiciable case—and whether Judge Ruehlman has exceeded his jurisdiction by prohibiting domestication and ordering Ohio citizens not to comply with Kentucky orders. These are legal questions to be answered by this Court, and the Proposed Intervenors have no legally protectable interest in these legal questions. Indeed, they have no legally protectable right in having a nonjusticiable case decided by a judge, nor the right to benefit from orders issued by a judge without jurisdiction to do so. Because the Proposed Intervenors do not have a legally protectable interest in the subject of the case currently pending before this Court, they are not entitled to intervene. This Court should deny their motion.

B. Proposed Intervenors’ Interest, If Any, is Adequately Represented by Judge Ruehlman.

Proposed Intervenors incorrectly contend that their underlying rights are distinct from Judge Ruehlman’s to such an extent that he cannot sufficiently represent them. “[W]hen the

party seeking intervention has the same ultimate objective as a party in the suit, the presumption arises that its interests are adequately represented, against which the petitioner must demonstrate adversity of interest, collusion, or nonfeasance.” *ICSC Partners, L.P. v. Kenwood Plaza, L.P.*, 116 Ohio App.3d 278, 284, 688 N.E.2d 5 (1st Dist. 1996). Merely having distinct motivations does not render representation by one party insufficient, especially when the purpose of both is the same. *See Brady v. Benzing*, 8th Dist. Cuyahoga No. 81894, 2003-Ohio-3354, ¶ 6 (denying intervention because the parties adequately represented the interests in the case, specifically noting that “distinct motivations” were immaterial when the goal was the same).

Here, Judge Ruehlman’s position is aligned with that of the Proposed Intervenors. Judge Ruehlman, like Proposed Intervenors, takes the position that he has jurisdiction to hear the underlying matter and to enter the orders he has entered thus far. Judge Ruehlman, like Proposed Intervenors, argues that Ms. Ford is not entitled to the relief she seeks before this Court because she has not satisfied her burden. Proposed Intervenors cannot, nor do they even attempt to, identify any adverse interests or nonfeasance.

And Proposed Intervenors offer no real reason why Judge Ruehlman does not adequately represent their interests. They do not identify any deficiencies in his defense against the Petition. Indeed, they properly note that Judge Ruehlman has responded to the Petition. And he has filed a motion for judgment on the pleadings, just as Proposed Intervenors indicate they will do. Moreover, the Petition contends that Judge Ruehlman has acted without jurisdiction, and Judge Ruehlman is certain to defend against such allegations, negating any concerns regarding adequate representation asserted by Proposed Intervenors. *See Kayatin v. Petro*, 9th Dist. Lorain No. 06CA008934, 2007-Ohio-334, ¶¶ 11-12 (denying intervention when the proposed intervenor could not explain how its interest was not sufficiently represented, could point to no

shortcomings in the representation of the other parties, or what it would have done differently to litigate the matter). Therefore, because Proposed Intervenors are unable to demonstrate that their interests, if any, are not adequately represented by Judge Ruehlman, this Court should deny the motion.

C. Proposed Intervenors Do Not Satisfy the Standard To Warrant Permissive Intervention.

Proposed Intervenors do not offer any substantive argument that they should be allowed to permissively intervene. Indeed, they do not identify a single “question of law or fact” that their claims or defenses have in common with the main action. As noted above, whether Judge Ruehlman has jurisdiction over the underlying case is a separate legal question from whether Proposed Intervenors are entitled to protection against the collections efforts of Chesley’s judgment creditors. And, because only legal questions are at issue in this proceeding, the actions have no facts in common. Accordingly, Proposed Intervenors fail to meet their threshold burden. This Court should deny the motion.

III. Conclusion

Because Proposed Intervenors cannot establish at least one of the requirements to intervene as a right, this Court must deny the motion. They have no legally protectable interest in this action, and even if they do, Judge Ruehlman can adequately represent and protect these rights. Additionally, they are not entitled to permissively intervene because they have not identified any common legal or factual questions. This Court should deny the motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served on the following individuals via U.S. regular mail on this 15th day of October, 2015:

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