

STATE OF MINNESOTA  
IN COURT OF APPEALS



---

Minnesota Alliance for Retired Americans  
Educational Fund, et al.,

Respondents,

vs.

Steve Simon,

Petitioner.

---

**SPECIAL  
TERM  
ORDER<sup>1</sup>**

**A24-1134**

Considered and decided by Segal, Chief Judge; Bratvold, Judge; and Larson, Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE  
FOLLOWING REASONS:**

Petitioner, Minnesota Secretary of State Steve Simon, seeks discretionary review of a June 14, 2024 district court order that denied the secretary's motion to dismiss claims asserted against him by respondents—Minnesota Alliance for Retired Americans Educational Fund, Teresa Maples, and Khalid Mohamed—alleging that a witness requirement for absentee voting in Minnesota violates federal law. The June 14 order also denied respondents' motion for a temporary injunction and denied a motion by the Republican National Committee and the Republican Party of Minnesota (the Republican

---

<sup>1</sup> Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

parties) to intervene in the action. Respondents have not appealed from the denial of injunctive relief and oppose the petition for discretionary review. The Republican parties have filed an appeal (A24-1170) from the denial of intervention as of right. *See Norman v. Refsland*, 383 N.W.2d 673, 675 (Minn. 1986) (authorizing such an interlocutory appeal).

This court may allow an appeal from an order otherwise not appealable upon the petition of a party and in the interests of justice. Minn. R. Civ. App. P. 105.01. But interlocutory appeals are generally disfavored. *Gordon v. Microsoft Corp.*, 645 N.W.2d 393, 398 (Minn. 2002). When ruling on a petition for discretionary review, this court considers, among other factors, whether the challenged ruling is vested in the district court's discretion, whether the ruling is questionable or involves an unsettled area of the law, the impact of the ruling on the petitioning party's ability to proceed, the importance of the legal issue presented, whether appellate review would benefit from the development of a more complete record or the ruling would be reviewable on appeal from a final judgment, and the specific circumstances of the case. *Id.* at 399-402 (addressing factors appropriately considered in deciding petitions for discretionary review); *Doe 175 ex rel. Doe 175 v. Columbia Heights Sch. Dist., ISD No. 13*, 842 N.W.2d 38, 47 (Minn. App. 2014) (same).

For the following reasons, we conclude that discretionary review is appropriate in this case.

First, the parties agree that the petition raises important and unsettled legal issues—whether Minnesota's witness requirement for absentee voting violates section 201 of the

Voting Rights Act of 1965, 52 U.S.C. § 10501 (2018), or the Materiality Provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B) (2018). No Minnesota appellate court has addressed these issues, and the federal courts have reached differing conclusions in interpreting the Materiality Provision. *See Liebert v. Millis*, No. 23-CV-672-JDP, 2024 WL 2078216, at \*10-11 (W.D. Wis. May 9, 2024) (describing split of authority).

Second, the issues have broad—indeed statewide—implications, and the secretary persuasively asserts that issues regarding voting should be resolved expeditiously when feasible.

Third, it does not appear that further development of the record would aid this court's review. The statutory-interpretation issues presented by the secretary raise legal questions, and respondents do not identify any factual issues that require development before the legal issues can be resolved.

Fourth, it appears that resolution of the statutory-interpretation issues raised by the secretary will be dispositive or nearly dispositive of the case.

Fifth, granting the secretary's petition will not introduce additional delay into this case because the Republican parties have already taken an available appeal from the June 14, 2024 order. Thus, in the specific circumstances of this case, judicial economy may be advanced by allowing the secretary to also immediately appeal.

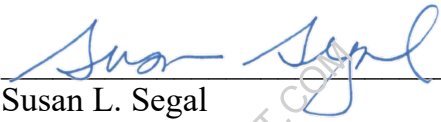
Taken together, the foregoing considerations persuade us that this is an extraordinary case in which discretionary review is warranted.

**IT IS HEREBY ORDERED:**

1. The secretary's petition for discretionary review is granted.
2. The appeal shall proceed in accordance with Minn. R. Civ. App. P. 105.03.

**Dated:** August 13, 2024

**BY THE COURT**

  
\_\_\_\_\_  
Susan L. Segal  
Chief Judge

RETRIEVED FROM DEMOCRACYDOCKET.COM