IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

PATRICK L. MCCRORY, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 5:16-cv-238-BO
	)	
UNITED STATES OF AMERICA, et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM IN OPPOSITION TO
STEVEN-GLENN: JOHNSON'S MOTION TO INTERVENE

The United States opposes the intervention of Steven-Glenn: Johnson, whose motion appears to be predicated on the notion that all of North Carolina's officials are illegitimate, because he cannot satisfy the requirements for intervention under Federal Rule 24.

BACKGROUND

Mr. Johnson counts himself among "the general class of North Carolinians . . . whose trust has been betrayed by . . . acting public officials who have failed to take, subscribe and/or file the proper oath," including (he believes) the Governor, the Attorney General, and every lawyer in the State. Mot. at 2 (Dkt. 33). His proposed complaint explains that "[a]fter years of research," Ex. 1, ¶ 3 (Dkt. 33-1), he has discovered that North Carolina's public offices "have been quietly invaded and usurped by roughly twenty thousand actors in the legislative, executive and judicial branches behaving in 'RICO' fashion to systematically take over and illicitly transform the political power structure in North Carolina," *id.* ¶ 13. He asserts that his

intervention in this case "will be useful in beginning the process of restoring rightful government to North Carolina, [and] protecting North Carolinians from the current RICO state." *Id.* ¶ 13.[1]

LEGAL STANDARD

Federal Rule of Civil Procedure 24(a)(2) grants intervention as of right to anyone who "[o]n timely motion . . . claims an interest relating to the property or transaction that is the subject of the action, and 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." To intervene by right, an applicant must therefore show "(1) an interest in the subject matter of the action; (2) that the protection of this interest would be impaired because of the action; and (3) that the applicant's interest is not adequately represented by existing parties to the litigation." *N.A.A.C.P. v. Duplin County, N.C.*, 2012 WL 360018, at *2 (E.D.N.C. Feb. 2, 2012) (citing *Teague v. Baker*, 931 F.2d 259, 260–61 (4th Cir. 1991)).

Alternatively, permissive intervention may be granted to anyone who "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). Although "[t]he court enjoys substantial discretion . . . under Rule 24(b)," *Scottsdale Ins. Co. v. Children's Home Soc.*, 2013 WL 749817, at *2 (E.D.N.C. Feb. 27, 2013), its discretion must be guided by a consideration of "whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights," Fed. R. Civ. P. 24(b)(3).

[1] In previous litigation before this court, Mr. Johnson has filed a fifty-two count complaint alleging, among other things, that the United States has declared war on its citizens and allowed the Federal Reserve to confiscate all of their wealth. Compl., ¶¶ 6, 12, *Johnson v. North Carolina*, No. 4:14-cv-50-FL (E.D.N.C. Mar. 28, 2014). Mr. Johnson also filed a thirty-one count complaint, the animating theory of which was that the public officials involved in myriad legal proceedings against him had acted without authority, because they had not sworn a proper oath upon assumption of their offices. Compl., *Johnson v. Thomas*, No. 4:10-cv-151-BR (E.D.N.C. Oct. 20, 2010). Several years before that, he challenged the North Carolina Constitution's requirement that the State judiciary be populated by licensed attorneys. Compl., *Johnson v. McLean*, No. 4:04-cv-151-H (Oct. 15, 2004).

ARGUMENT

The Governor of North Carolina and its Secretary of Public Safety have sued for a declaratory judgment that North Carolina's Public Facilities Privacy and Security Act, better known as H.B. 2, does not violate either Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, or the Violence Against Women Reauthorization Act of 2013, 42 U.S.C. § 13925, *et seq.* Mr. Johnson seeks to intervene in their case on the theory that the Governor and Secretary "do not hold the office they purport to hold," leaving Mr. Johnson and his associates as "the only known authority to bring this action against the United States Department of Justice." Mot. at 3–4 (capitalization regularized). Mr. Johnson seeks to step into the shoes of the Governor and the Secretary because he believes that he is the proper representative of the State of North Carolina and they are not. Mr. Johnson has failed to identify any basis that would support intervention in this case, and his participation here likely would only impede the resolution of the issues presented in this case. Mr. Johnson has failed to identify any cognizable interest in the subject matter of this case, and any interest he may have is adequately represented by the existing parties. Moreover, his intervention would needlessly delay the adjudication of the original parties' rights by interjecting collateral allegations into their case.

"When the party seeking intervention has the same ultimate objective as a party to the suit, a presumption arises that its interests are adequately represented, against which the petitioner must demonstrate adversity of interest, collusion, or nonfeasance." *Virginia v. Westinghouse Elec. Corp.*, 542 F.2d 214, 216 (4th Cir. 1976). There is, moreover, a strong "assumption of adequacy when the government is acting on behalf of a constituency that it represents." *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003). "In the absence of a 'very compelling showing to the contrary,' it will be presumed that a state adequately represents

its citizens when the applicant shares the same interest." *Id.* (quoting 7C Charles Alan Wright, Arthur R. Miller & Mary Kane, Federal Practice and Procedure: Civil 2d § 1909, at 332 (Supp. 2002)). "The very rare cases in which a member of the public is allowed to intervene in an action in which [a] governmental agency[] represents the public interest are cases in which a very strong showing of inadequate representation has been made." *Washington v. Keller*, 479 F. Supp. 569, 572 (D. Md.1979). Mr. Johnson has made no showing of inadequacy at all, and his motion for intervention under Rules 24(a)(2) and 24(b) should therefore be denied.

Respectfully submitted,

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Dated: June 27, 2016

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2016, a copy of the foregoing notice was filed electronically via the Court's ECF system, which effects service upon all counsel of record.

/s/ Spencer Amdur
Spencer Amdur