

FILED

February 16, 2024

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT
A24-0216

Ken Martin,

Petitioner,

vs.

Steve Simon, Minnesota Secretary of State,

Respondent.

O R D E R

On February 6, 2024, petitioner Ken Martin filed a petition pursuant to Minn. Stat. § 204B.44 (2022), asking this court, in part, to direct respondent Steve Simon, Minnesota Secretary of State, to (1) decertify the Legal Marijuana Now Party as a major political party, and (2) not allow candidates from the Legal Marijuana Now Party to appear on the ballots for the 2024 state primary and general elections using the procedures for candidates for partisan offices who seek the nomination of a major political party. The petition alleges that the Legal Marijuana Now Party does not meet the definition of a major political party contained in Minnesota law. *See* Minn. Stat. § 200.02, subd. 7 (Supp. 2023) (defining major political party).

In a February 8, 2024 order, we directed the Secretary of State and the Legal Marijuana Now Party to respond to the petition and to identify any genuine issues of material fact that are in dispute, any potentially dispositive threshold legal issues, and the relevant dates by which a decision of the court is necessary. We asked Martin to identify

the same, as well as to clarify whether the petition seeks any relief related to the 2024 Minnesota presidential nomination primary. Responses and memoranda were received on February 14, 2024. The Legal Marijuana Now Party also moved to formally intervene as a party.

Martin has clarified that his petition does not seek any relief related to the 2024 presidential nomination primary. The Secretary of State and Martin both represent that a final decision from the court is needed by May 21, 2024, the date when the 2-week filing period for candidates in Minnesota’s 2024 state primary and general elections begins, with the Secretary of State requesting a decision by May 15, 2024, in order to allow election officials to comply with the court’s order before the candidate filing period begins.

Any resolution as to the merits of the claims raised in the petition will require referral to a referee to take and receive evidence and make findings of fact. The Secretary of State has represented that “[h]e believes that findings of fact are necessary to determine whether Petitioner is entitled to the relief he seeks.” And the Legal Marijuana Now Party contends that “the Petition is replete with factual errors” and that there are “factual disagreements.”

There is, however, a threshold question of our jurisdiction over this matter under Minn. Stat. § 204B.44. In *Begin v. Ritchie*, we reaffirmed “that section 204B.44 ‘is not a broad vehicle through which any conduct with any relationship to an election, however tangential, can be challenged,’ ” and concluded that, because the Green Party’s challenge to its “de-certification as a minor political party does not directly interfere with the Green Party’s right to present candidates for office in future elections, . . . we do not have

jurisdiction under Minn. Stat. § 204B.44” over the Green Party’s petition. 836 N.W.2d 545, 548–49 (Minn. 2013) (quoting *Carlson v. Ritchie*, 830 N.W.2d 887, 894 (Minn. 2013)). We will benefit from briefing as to whether we have jurisdiction under section 204B.44, including *Begin*’s applicability to this matter.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioner, respondent, and the Legal Marijuana Now Party shall file memoranda or informal briefs addressing our jurisdiction over this matter under Minn. Stat. § 204B.44, including but not limited to the applicability of *Begin v. Ritchie*, 836 N.W.2d 545, 548 (Minn. 2013). The memoranda or briefs must be served and filed on or before **Wednesday, February 21, 2024**.

2. Any responses to the Legal Marijuana Now Party’s motion to intervene must be served and filed on or before **Wednesday, February 21, 2024**.

3. No oral argument will be held on the jurisdictional issue or the motion to intervene.

4. A referee referral and briefing order will issue, if necessary, following an order on our jurisdiction over the petition.

Dated: February 16, 2024

BY THE COURT:



Natalie E. Hudson
Chief Justice

CHUTICH, PROCACCINI, JJ., took no part in the consideration or decision of this case.