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United States District Court, District of Columbia.

INMATES OF OCCOQUAN, et al., Plaintiffs,
v.
MARION BARRY, Mayor, et al., Defendants.

Civ. A. No. 86–2128. | June 29, 1987.

Opinion

MEMORANDUM

JUNE L. GREEN, District Judge.

***1** Teamster Local Union No. 1714 ('Union'), as the exclusive bargaining agent of some 2,600 employees of the District of Columbia Department of Corrections ('DCDC'), seeks to intervene as plaintiff in this action or, in the alternative, participate as amicus curiae, pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure ('Fed. R. Civ. P.'). For the reasons stated below, the Court will deny the Union's motion to intervene but will permit it to participate in this action as amicus curiae.

This case was tried to the Court, and an opinion and order followed on December 22, 1986, granting judgment in plaintiffs' favor. Inmates of Occoquan v. Barry, 650 F. Supp. 619 (D.D.C. 1986). The Union claims that the Court's December 22, 1986, ruling affects directly the terms and conditions of its members' employment. Further, the Union asserts that because no party represents the interests of DCDC employees, it should be permitted to intervene in order to protect its members' interests in this fluid matter.

The Union undoubtedly has a significant interest in the issues presented in this action, e.g., prison overcrowding, environmental conditions, fire safety, etc. While these interests may justify commencing a lawsuit in appropriate circumstances, it does not mean necessarily that the Union has the kind of interest that will permit it to enter pending litigation. See Smuck v. Hobson, 408 F.2d 175, 178 (D.C. Cir. 1969).

A more useful point of departure in deciding a Rule 24(a)(2) request to intervene, is to consider whether the applicant may be impeded in protecting its interest by this action and whether the applicant's interests are adequately represented by others. Smuck v. Hobson, 408 F.2d at 179. The Union, as the exclusive bargaining agent for some 2,600 DCDC employees, occupies a privileged position from which to promote its members' interest in a safe work place. Class action plaintiffs in this case, inmates at the Occoquan facilities, won a judgment based on violations of the Eighth Amendment. As a remedy, the Court imposed a population limit on the Occoquan facilities and initiated a reporting system to monitor various conditions there. Inmates of Occoquan v. Barry, 650 F. Supp. at 634–35. The Court does not perceive the disposition of this action as impairing or impeding the Union's interest in ensuring a safer work place for its members. To the contrary, diligent compliance with the Court's order could only serve to promote the Union's desire to see safer working conditions at Occoquan, not to mention plaintiffs' interests.

A proper examination of a Rule 24(a)(2) request to intervene requires further an examination of the adequacy of representation, i.e., a comparison of the applicant's interest with the interest of the present parties. See Natural Resources Defense Council, Inc. v. U.S. Nuclear Regulatory Commission, 578 F.2d 1341, 1346 (10th Cir. 1978). It cannot be said that the Union's interests are not represented at all by the existing plaintiffs. Indeed, any success that plaintiffs realize in bringing about more humane conditions of incarceration translates readily into safer working conditions for those who work within the prison walls. In short, while the Court recognizes that plaintiffs' interests and the Union's goals do not converge fully, it does not perceive the differences between the interests of these parties to be significant enough to create a risk that plaintiffs will not provide adequate representation, albeit indirectly, of the Union's interests. Moreover, the Union's stature as the collective bargaining agent for the DCDC employees provides an avenue of special access to defendants, and this relationship cannot be overlooked. Cf. Natural Resources Defense Council v. Costle, 561 F.2d 904, 913 (D.C. Cir. 1977) (In ruling on a request to intervene, 'the District Court must make a 'discriminating appraisal of the circumstances of the particular case.'') (quoting 7A Wright & Miller, Federal Practice and Procedure: Civil 1st ed. § 1909 at 533).

***2** Last, the Union's complaint in intervention includes various factual allegations that were either asserted already by plaintiffs or would require some answer by defendants. Given the post-judgment status of this litigation, the Court finds that the necessity of adjudicating any new factual disputes would be most inappropriate.

Consequently, the Court will deny the Union's motion to intervene in this action. Nonetheless, recognizing that the outcome of this litigation is sure to have a real impact on working conditions for Occoquan employees, and desirous of having the benefit of the Union's views in implementing the remedy in this action, the Court will

invite the Union to participate as amicus curiae. An order is attached.

ORDER

Upon consideration of Teamster Local Union No. 1714's ('Union') motion to intervene or, in the alternative, participate as amicus curiae, defendants' opposition thereto, the Union's reply, the entire record herein, and for the reasons set forth in the accompanying memorandum, it is by the Court this 29th day of June 1987,

ORDERED that the Union's motion to intervene is denied; and it is further

ORDERED that the Union may participate in this action as amicus curiae.