

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MATTHEW HALE,

Plaintiff,

v.

MICHAEL COLLIS, *et al.*,

Defendants.

Civil Action No. 21-1469 (JEB)

ORDER

On May 27, 2021, *pro se* Plaintiff Matthew Hale brought this action against the Bureau of Prisons, the Counter Terrorism Unit within the Bureau, and Michael Collis, an analyst for the CTU. Hale alleges that Defendants have violated his First Amendment rights in their censoring of his written work and outgoing mail, and in their prohibition of his religious activity associated with a belief system called Creativity. On July 6, 2021, Gregory Morris, a fellow Creativity adherent who is not incarcerated, moved to intervene as a Plaintiff, alleging that the suppression of Hale’s written work, mail, and religious activity was also inhibiting Morris’s own right to freely communicate and practice his religion via correspondence with Hale. The Court will grant the Motion and permit intervention.

I. Legal Standard

Federal Rule of Civil Procedure 24(a) addresses intervention as of right, and Rule 24(b) covers permissive intervention. Rule 24(a)(2) requires the Court to permit anyone to intervene who “claims an interest relating to the . . . 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.” Put another way, “a party seeking to intervene as of right must satisfy four requirements: 1) the application to intervene must be timely, 2) the party must have an interest relating to the property or transaction which is the subject of the action, 3) the party must be so situated that the disposition of the action may, as a practical matter, impair or impede the party’s ability to protect that interest, and 4) the party’s interest must not be adequately represented by existing parties to the action.” Building and Const. Trades Dept., AFL-CIO v. Reich, 40 F.3d 1275, 1282 (D.C. Cir. 1994) (citation omitted).

Rule 24(b), conversely, allows the Court to grant intervention where the intervenor makes a timely motion and “has a claim or defense that shares with the main action a common question of law or fact.” “In order to litigate a claim on the merits under Rule 24(b)(2), the putative intervenor must ordinarily present: (1) an independent ground for subject matter jurisdiction; (2) a timely motion; and (3) a claim or defense that has a question of law or fact in common with the main action.” EEOC v. National Children’s Center, Inc., 146 F.3d 1042, 1046 (D.C. Cir. 1998) (citation omitted). The Court also “must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b)(3).

II. Analysis

The Court need not decide whether Morris could intervene as a matter of right here because it will grant him permissive intervention.

The Rule 24(b)(2) factors favor intervention. First, Intervenor’s inclusion would not present a subject-matter-jurisdiction problem because Plaintiff and Intervenor both invoke a federal statute and the U.S. Constitution to make out their claims. See ECF Nos. 1 (Compl.), ¶¶ 8–33; 3 (Motion to Intervene) at 2–3; 14 (Renewed Motion to Intervene) at 2–3. Second,

Morris was timely, having moved to intervene only a little over a month after Plaintiff filed suit, well before service on Defendants was perfected. Third, the claims being brought by Intervenor are so closely tied to Hale's that they clearly share common questions of both law and fact. Nor does Morris's intervention cause any undue delay or prejudice. Indeed, the Government has not even opposed the Motion.

Although the Court is skeptical that Morris adds much to the action, it will permit intervention.

The Court, accordingly, ORDERS that:

1. Intervenor's original [3] Motion to Intervene is DENIED as superseded;
2. Intervenor's [14] Renewed Motion to Intervene is GRANTED; and
3. He will be held to the same deadlines and Court Orders as Plaintiff.

/s/ James E. Boasberg
JAMES E. BOASBERG
United States District Judge

Date: March 7, 2022