

United States Court of Appeals
For the Eighth Circuit

No. 23-3697

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;
Zachery S. King; Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray
Holmberg, Representative; Senator Richard Wardner, Representative; Senator
Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones,
Representative; Claire Ness, Senior Counsel at the North Dakota Legislative
Council

Movants

No. 24-1171

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;
Zachery S. King; Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray Holmberg, Representative; Senator Richard Wardner, Representative; Senator Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones, Representative; Claire Ness, Senior Counsel at the North Dakota Legislative Council

Movants

Appeal from United States District Court
for the District of North Dakota - Eastern

Submitted: October 22, 2024

Filed: May 14, 2025

Before COLLOTON, Chief Judge, GRUENDER and KOBES, Circuit Judges.

GRUENDER, Circuit Judge.

The facts of this case are set out in *Turtle Mountain Band of Chippewa Indians v. Howe*, No. 23-3655, ___ F.4th ___ (8th Cir. May 14, 2025). In this appeal, North Dakota's Legislative Assembly seeks to intervene in *Turtle Mountain Band of Chippewa Indians v. Howe* to appeal the district court's order imposing the remedial map. Because we concluded in *Turtle Mountain Band of Chippewa Indians v. Howe*

that the plaintiffs do not have a cause of action and, therefore, vacated the judgment of the district court, we dismiss this appeal as moot.

COLLTON, Chief Judge, dissenting.

Having voted to affirm in No. 23-3655, I do not believe that these appeals should be dismissed as moot. I would affirm the district court's order denying the North Dakota Legislative Assembly's motion to intervene on the ground that the motion was untimely. *See* Fed. R. Civ. P. 24; *United Food & Com. Workers Union, Local No. 663 v. U.S. Dep't of Agric.*, 36 F.4th 777, 780 (8th Cir. 2022). I would affirm the district court's order denying the Assembly's motion for extension of time to file a remedial plan, because the Assembly was afforded a reasonable opportunity to submit a plan, and no party to the case sought an extension of time.
