

JURISDICTION

USCA Case #20-5112 Document #1867360

Filed: 10/20/2020 Page 1 of 2

**United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 20-5112

September Term, 2020

1:19-cv-02886-RC

Filed On: October 20, 2020

Xiu Jian Sun, The Spiritual Adam,

Appellant

Church of Jesus Christ of Latter-Day Saints,

Appellee

v.

R. Craig Lawrence, Assistant United States

Attorney, et al.,

Appellees

BEFORE: Henderson, Rogers, and Walker, Circuit
Judges

ORDER

Upon consideration of appellant's brief; the motion for summary affirmance; and the order to show cause entered on July 21, 2020, and the lack of any response thereto, it is

ORDERED that the order to show cause be discharged. It is

FURTHER ORDERED that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court correctly concluded that it lacked subject matter jurisdiction over appellant's complaint, which was "wholly insubstantial." Tooley v. Napolitano, 586 F.3d 1006, 1009 (D.C. Cir. 2009). The district court also correctly concluded that the complaint failed to state a claim upon which relief could be granted. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Amanda Himes

Deputy Clerk

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Appendix A

20-5112 Docket

General Docket

**United States Court of Appeals for District of
Columbia Circuit**

Court of Appeals Docket #: 20-5112

Docketed: 04/29/2020

Nature of Suit: 2890 Other Statutory Actions

Xiu Sun, et al v. R. Lawrence, et al

Appeal From: United States District Court for the
District of Columbia

Fee Status: Fee Paid

Case Type Information:

- 1) Civil US
- 2) United States
- 3)

Originating Court Information:

District: 0090-1:1:19-cv-02886-RC

Lead: 1:19-cv-02886-RC

Trial Judge: Rudolph Contreras, U.S. District Judge

Date Filed: 09/20/2019

Date Order/Judgment:

04/20/2020

Date NOA Filed:

04/21/2020

Prior Cases:

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None

Current Cases:

None

Panel Assignment: Not available

Xiu Jian Sun, The Spiritual Adam

Plaintiff - Appellant

Xiu Jian Sun

Direct: 646-675-0308

[NTC Pro Se]

54-25 153rd Street

Second Floor

Flushing, NY 11355

Church of Jesus Christ of Latter-Day Saints

Plaintiff - Appellee

v.

R. Craig Lawrence, Assistant United States Attorney

Defendant - Appellee

R. Craig Lawrence

Email: craig.lawrence@usdoj.gov

[LD NTC Gvt US Attorney]

U.S. Attorney's Office

(USA) Civil Division

Firm: 202-252-2500

555 4th Street, NW

Washington, DC 20530

John Moustakas, Assistant U.S. Attorney

Direct: 202-276-1100

Email: john.moustakas@usdoj.gov

[COR LD NTC Gvt US Attorney]

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U.S. Attorney's Office
(USA) Civil Division
Firm: 202-252-2500
555 4th Street, NW
Washington, DC 20530

Joshua Lynn Rogers, Assistant United States Attorney
Defendant - Appellee

R. Craig Lawrence
[LD NTC Gvt US Attorney]
(see above)
John Moustakas, Assistant U.S. Attorney
Direct: 202-276-1100
[COR LD NTC Gvt US Attorney]
(see above)

Fred E. Haynes, Assistant United States Attorney
Defendant - Appellee

R. Craig Lawrence
[LD NTC Gvt US Attorney]
(see above)
John Moustakas, Assistant U.S. Attorney
Direct: 202-276-1100
[COR LD NTC Gvt US Attorney]
(see above)

Patricia King McBride, Assistant United States
Attorney

Defendant - Appellee

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R. Craig Lawrence
[LD NTC Gvt US Attorney]
(see above)
John Moustakas, Assistant U.S. Attorney
Direct: 202-276-1100
[COR LD NTC Gvt US Attorney]
(see above)

Timothy J. Shea, United States Attorney
Defendant - Appellee

R. Craig Lawrence
[LD NTC Gvt US Attorney]
(see above)
John Moustakas, Assistant U.S. Attorney
Direct: 202-276-1100
[COR LD NTC Gvt US Attorney]
(see above)

Daniel F. Van Horn

Defendant - Appellee

R. Craig Lawrence
[LD NTC Gvt US Attorney]
(see above)
John Moustakas, Assistant U.S. Attorney
Direct: 202-276-1100
[COR LD NTC Gvt US Attorney]
(see above)

Xiu Jian Sun, The Spiritual Adam,
Plaintiff - Appellant

Church of Jesus Christ of Latter-Day Saints,
Plaintiff - Appellee

v.

R. Craig Lawrence, Assistant United States Attorney;
Joshua Lynn Rogers, Assistant United States Attorney;
Fred E. Haynes, Assistant, United States Attorney;
Patricia King McBride, Assistant United States
Attorney; Timothy J. Shea, United States Attorney;
Daniel F. Van Horn,
Defendants - Appellees

04/29/2020	US CIVIL CASE docketed. [20-5112] [Entered: 04/29/2020 11:14 AM]
04/29/2020	10 pg, 280.27 KB NOTICE OF APPEAL [1840420] seeking review of a decision by the U.S. District Court in 1:19-cv02886- RC filed by Xiu Jian Sun. Appeal assigned USCA Case Number: 20- 5112. [20-5112] [Entered: 04/29/2020 11:16 AM]
04/29/2020	2 pg, 44.86 KB CLERK'S ORDER [1840427] filed directing party to file initial submissions: APPELLANT docketing statement due 05/29/2020. APPELLANT certificate as to parties due 05/29/2020. APPELLANT statement of issues due 05/29/2020. APPELLANT underlying decision

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due 05/29/2020. APPELLANT deferred appendix statement due 05/29/2020. APPELLANT entry of appearance due 05/29/2020. APPELLANT transcript status report due 05/29/2020. APPELLANT procedural motions due 05/29/2020. APPELLANT dispositive motions due 06/15/2020. Directing party to file initial submissions: APPELLEE certificate as to parties due 05/29/2020. APPELLEE entry of appearance due 05/29/2020. APPELLEE procedural motions due 05/29/2020. APPELLEE dispositive motions due 06/15/2020. Failure to respond shall result in dismissal of the case for lack of prosecution. The Clerk is directed to mail this order to appellant by certified mail, return receipt requested and by 1st class mail. [20-5112] [Entered: 04/29/2020 11:21 AM]

04/29/2020 CERTIFIED MAIL and FIRST CLASS MAIL SENT [1840579] with return receipt requested [Receipt No.7017 3040 0001 1261 0751] of order [1840427-2]. Certified Mail Receipt due 05/29/2020 from Xiu Jian Sun. [20-5112] [Entered: 04/29/2020 05:11 PM]

05/05/2020 4 pg, 34.6 KB

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NOTICE [1841375] received from the Clerk of the U.S. District Court to supplement record docketing fee payment [20-5112] [Entered: 05/05/2020 02:10 PM]

05/29/2020	1 pg, 14.48 KB ENTRY OF APPEARANCE [1844889] filed by John Moustakas on behalf of Appellees Fred E. Haynes, R. Craig Lawrence, Patricia King McBride, Joshua Lynn Rogers, Timothy J. Shea and Daniel F. Van Horn. [20-5112] (Moustakas, John) [Entered: 05/29/2020 01:59 PM]
05/29/2020	3 pg, 18.36 KB CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES [1844891] filed by Fred E. Haynes, R. Craig Lawrence, Patricia King McBride, Joshua Lynn Rogers, Timothy J. Shea and Daniel F. Van Horn [Service Date: 05/29/2020] [20-5112] (Moustakas, John) [Entered: 05/29/2020 02:00 PM]
05/29/2020	1 pg, 116.08 KB DOCKETING STATEMENT [1845396] filed by Xiu Jian Sun [Service Date: 06/02/2020] [20-5112] [Entered: 06/02/2020 03:36 PM]
05/29/2020	2 pg, 410.64 KB

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ENTRY OF APPEARANCE [1845393]
filed by Xiu Jian Sun. [20-5112]
[Entered: 06/02/2020 03:32 PM]

05/29/2020	1 pg, 108.54 KB TRANSCRIPT STATUS REPORT [1845398] filed by Xiu Jian Sun [Service Date: 06/02/2020]. Status of Transcripts: Final - No transcripts are needed for the appeal. [20-5112] [Entered: 06/02/2020 03:39 PM]
05/29/2020	12 pg, 814.97 KB APPELLANT BRIEF [1845400] filed by Xiu Jian Sun [Service Date: 05/18/2020] Length of Brief: 1137 words. [20-5112] [Entered: 06/02/2020 03:41 PM]
05/29/2020	52 pg, 2.5 MB APPENDIX [1845401] filed by Xiu Jian Sun. [Volumes: 1] [Service Date: 06/02/2020] [20-5112] [Entered: 06/02/2020 03:43 PM]
06/03/2020	1 pg, 96.65 KB CERTIFIED MAIL RECEIPT [1846241] received for order [1840579-2] sent to Appellant Xiu Jian Sun [20-5112] [Entered: 06/09/2020 08:51 AM]
06/15/2020	8 pg, 28.66 KB

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MOTION [1847300] for summary affirmance (Response to Motion served by mail due on 06/29/2020) filed by Fred E. Haynes, R. Craig Lawrence, Patricia King McBride, Joshua Lynn Rogers, Timothy J. Shea and Daniel F. Van Horn (Service Date: 06/15/2020 by US Mail) Length Certification: 1,047 words. [20-5112]--[Edited 06/16/2020 by AH--MODIFIED PARTY FILER] (Moustakas, John) [Entered: 06/15/2020 06:40 PM]

07/08/2020 13 pg, 204.46 KB
AMENDED MOTION [1850591] for summary affirmance (Response to Motion served by mail due on 07/20/2020) filed by Fred E. Haynes, R. Craig Lawrence, Patricia King McBride, Joshua Lynn Rogers, Timothy J. Shea and Daniel F. Van Horn (Service Date: 07/08/2020 by CM/ECF NDA) Length Certification: 1,047 Words. [20-5112] (Moustakas, John) [Entered: 07/08/2020 11:14 AM]

07/21/2020 1 pg, 40.69 KB
CLERK'S ORDER [1852628] filed to show cause regarding motion for summary affirmance [1847300-2]. Response to Order due 08/20/2020. The response may not exceed the length limitations established in mail

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this order to appellant by certified mail, return receipt requested and by 1st class mail. [20-5112] [Entered: 07/21/2020 08:48 AM] the order.; The Clerk is directed to

07/21/2020 CERTIFIED MAIL and FIRST CLASS MAIL SENT [1852804] with return receipt requested [Receipt No.7017 3040 0001 1261 2724] of order [1852628-3]. Certified Mail Receipt due 08/20/2020 from Xiu Jian Sun. [20-5112] [Entered: 07/21/2020 04:37 PM]

Clear All

☒ Documents and Docket Summary
Documents Only

☒ Include Page Numbers

Selected Pages: 0 Selected Size: 0 KB

View Selected

PACER Service Center
Transaction Receipt
DC Circuit (USCA) - 09/13/2020 20:11:08

PACER Login: xiujiansun
Client Code: 4869479
Description: Docket Report (full)
Search Criteria: 20-5112
Billable Pages: 3
Cost: 0.30

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Appendix B

USCA Case #20-5112 Document #1840427

Filed: 04/29/2020 Page 1 of 2

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5112 September Term, 2019
1:19-cv-02886-RC Filed On: April 29, 2020 [1840427]

Xiu Jian Sun, The Spiritual Adam,
Appellant
Church of Jesus Christ of Latter-day Saints,
Appellee

v.

R. Craig Lawrence, Assistant United States
Attorney, et al.,
Appellees

ORDER

The notice of appeal was filed on April 21, 2020,
and docketed in this court on April 29, 2020. It is, on
the court's own motion,

ORDERED that appellant submit the documents
listed below by the dates indicated.

Certificate as to Parties, Rulings, and Related Cases	May 29, 2020
Docketing Statement Form	May 29, 2020
Entry of Appearance Form	May 29, 2020

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Procedural Motions, if	May 29, 2020
Statement of Intent to Utilize	
Deferred Joint Appendix	May 29, 2020
Statement of Issues to be Raised	May 29, 2020
Transcript Status Report	May 29, 2020
Underlying Decision from Which	
Appeal or Petition Arises	May 29, 2020
Dispositive Motions, if any	
(Original and 4 copies)	June 15, 2020

A request for appointment of counsel does not relieve appellant of the obligation to file responses to any motion filed by appellee or to comply with any order issued by the court, including a briefing schedule. Failure by appellant to respond to a dispositive motion

USCA Case #20-5112 Document #1840427

Filed: 04/29/2020 Page 2 of 2

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5112

September Term, 2019

or comply with any order of the court, including this order, will result in dismissal of the case for lack of prosecution. See D.C. Cir. Rule 38.

It is

FURTHER ORDERED that appellee submit the documents listed below by the dates indicated.

Certificate as to Parties, Rulings, and

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Related Cases	May 29, 2020
Entry of Appearance Form	May 29, 2020
Procedural Motions, if any	May 29, 2020
Dispositive Motions, if any (Original and 4 copies)	June 15, 2020
It is	

FURTHER ORDERED that appellant submit a transcript status report every 30 days after the filing of the initial report, until all transcripts have been received. Within three days of receipt of all transcripts, appellant is directed to file a Final Status Report indicating the date the complete transcript was received. All reports must be served on the parties and each reporter. It is

FURTHER ORDERED that briefing in this case be deferred pending further order of the court.

The Clerk is directed to send a copy of this order to appellant by certified mail, return receipt requested, and by first class mail.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy

Deputy Clerk

The following forms and notices are available on the Court's website:

Attachments for Pro Se Parties Only:

Civil Docketing Statement Form

Entry of Appearance Form

Transcript Status Report Form

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USCA Case #20-5112 Document #1844889

Filed: 05/29/2020 Page 1 of 1

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

333 Constitution Avenue, NW Washington, DC 20001-
2866, Phone: 202-216-7000 | Facsimile: 202-219-8530

Case No: 20-5112

Case Caption: Xiu Jian Sun, The Spiritual Adam & Chu

v.

R. Craig Lawrence, Assistant United States

ENTRY OF APPEARANCE

Party Information

The Clerk shall enter my appearance as counsel for
the following parties: (List each party represented
individually. Use an additional blank sheet as necessary)
Appellant(s)/Petitioner(s) ☒ Appellee(s)/Respondent(s)
Intervenor(s) Amicus Curiae

R. Craig Lawrence, Assistant U.S., Timothy J. Shea,
United States Attorney, Daniel F. Van Horn, Joshua
Lynn Rogers, Former Assistant U.S. Att. Fred E.
Haynes, Former Assistant U.S. Attorney, Patricia King
McBride, Assistant U.S. Attorney

Counsel Information

Lead Counsel: John Moustakas, Assistant U.S. Att.

Direct Phone: 202-252-2518, Fax: 202-252-2599

Email: john.moustakas@usdoj.gov

2nd Counsel: R. Craig Lawrence, Assistant U.S. Att.

Direct Phone: 202-252-2543, Fax: 202-252-2599

Email: craig.lawrence@usdoj.gov

Firm Name: U.S. Attorney's Office-District of Columbia

Firm Address: 555 4 St., NW., Washington, DC 20530

Firm Phone: 202-252-2563, Fax: 202-252-2599

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USCA Case #20-5112 Document #1844891

Filed: 05/29/2020 Page 1 of 3

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 20-5112
(C.A. No. 19-2886)

XIU JIAN SUN, THE SPIRITUAL ADAM, Appellant,
CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, Appellee

v.

R. CRAIG LAWRENCE,
Assistant U.S. Attorney, et al., Appellees.

**FEDERAL APPELLES' CERTIFICATE OF
COUNSEL AS
TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to this Court's April 29, 2020, Order and Circuit Rule 28(a)(1), counsel for the Appellees file this certificate as to parties, rulings, and related cases.

I. Parties

The Appellant is Xiu Jian Sun, Spiritual Adam, who was the Plaintiff in the District Court. The Appellee Church of Jesus Christ of Latter-day Saints was also a Plaintiff in the District Court. The federal Appellees are R. Craig Lawrence, Assistant U.S. Attorney, Joshua Lynn Rogers, Former Assistant U.S. Attorney, Fred E. Haynes, Former Assistant U.S. Attorney, Patricia King McBride, Assistant U.S. Attorney, Timothy J. Shea, United States Attorney, and Daniel F. VanHorn, who were the Defendants in

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the District Court. There was no amicus curiae.

II. Ruling Under Review

At issue in this appeal is the April 20, 2020 Memorandum Opinion of the Honorable Judge Rudolph Contreras granting the federal Defendants' Motion to Dismiss.

III. Related Cases

This case has not previously been before this Court. There are no pending related cases.

TIMOTHY J. SHEA
United States Attorney

R. CRAIG LAWRENCE
Assistant United States Attorney

/s/ John Moustakas
JOHN MOUSTAKAS
Assistant United States Attorney
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-2518
john.moustakas@usdoj.gov

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 2020, the foregoing Federal Appellees' Certificate of Counsel as to Parties, Rulings, and Related Cases and Entry of Appearance have been served by the postal service, postage pre-paid and addressed as follows:

CHURCH OF JESUS CHRIST OF LATTER - DAY SAINTS

54-25 153rd Street
Flushing, NY 11355
PRO SE

XIU JIAN SUN

54-25 153rd Street
Flushing, NY 11355
PRO SE

/s John Moustakas
JOHN MOUSTAKAS
Assistant United States Attorney
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USCA Case #20-5112 Document #1845401

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Case 1:19-cv-02886-RC Document 10

Filed 05/01/20 Page 1 of 4

USCA Case #20-5112 Document #1841375

Filed: 05/05/2020 Page 1 of 4

Case 1:19-cv-02886-RC Document 9

Filed 04/27/20 Page 1 of 10

APPEAL,CLOSED,JURY,PROSE-NP,TYPE-F

U.S. District Court

District of Columbia (Washington, DC)

CIVIL DOCKET FOR CASE #: 1:19-cv-02886-RC

CHURCH OF JESUS CHRIST OF LATTER-DAY

SAINTS et al v. LAWRENCE et al

Assigned to: Judge Rudolph Contreras

Cases: 1:17-cv-01787-RC

1:17-cv-01861-JDB

1:18-cv-02820-RC

1:20-cv-00197-EGS

Case in other court: USCA, 20-05112

Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 09/20/2019

Date Terminated: 04/20/2020

Jury Demand: Plaintiff

Nature of Suit: 890 Other Statutory Actions

Jurisdiction: U.S. Government Defendant

Plaintiff

CHURCH OF JESUS CHRIST OF

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LATTER-DAY SAINTS

represented by **CHURCH OF JESUS CHRIST OF**

LATTER-DAY SAINTS

54-25 153rd St.

Flushing, NY 11355

PRO SE

Plaintiff

XIU JIAN SUN, The Spiritual Adam

represented by **XIU JIAN SUN**

54-25 153rd St.

Flushing, NY 11355

(646-675-0308

PRO SE

V.

Defendant

R. CRAIG LAWRENCE

Assistant United States Attorney

represented by **John Moustakas**

U.S. ATTORNEY'S OFFICE FOR
THE DISTRICT OF COLUMBIA

555 Fourth Street, NW

Washington, DC 20530

(202) 252-2518

Email: john.moustakas@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

JOSHUA LYNN ROGERS

Assistant United States Attorney

represented by **John Moustakas**

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(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE

NOTICED Defendant

FRED ELMORE HAYNES

Assistant United States Attorney

represented by **John Moustakas**

(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

PATRICIA KING MCBRIDE

Assistant United States Attorney

represented by **John Moustakas**

(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

JESSIE K. LIU

United States Attorney

represented by **John Moustakas**

(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DANIEL F. VAN HORN

represented by **John Moustakas**

(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed # Docket Text

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09/20/2019	<u>1</u>	Complaint against Fred Elmore Haynes, R. Craig Lawrence, Jessie K. Liu, Patricia King McBride, Joshua Lynn Rogers, Daniel F. Van Horn (Filing fee \$ 400, receipt number 4616100801) with Jury Demand filed by Xiu Jian Sun, Church of Jesus Christ of Latter-Day Saints. (Attachment: # <u>1</u> Civil Cover Sheet) (ztth)(Entered: 09/26/2019)
09/20/2019		Summons (7) Issued as to Fred Elmore Haynes, R. Craig Lawrence, Jessie K. Liu, Patricia King McBride, Joshua Lynn Rogers, Daniel F. Van Horn, and U.S. Attorney General. (ztth) (Entered: 09/26/2019)
09/20/2019	<u>2</u>	Notice of related case by Church of Jesus Christ of Latter-Day Saints, Xiu Jian Sun. Case related to Case No. 17cv1861 (JDB), 18cv2820 (RC), 17cv1787 (RC). (ztth) (Entered: 09/26/2019)
10/09/2019	<u>3</u>	Affidavit of Mailing by Church of Jesus Christ of Latter-Day Saints, Xiu Jian Sun. (ztth) (Entered: 10/15/2019)
11/27/2019	<u>4</u>	NOTICE of Appearance by John Moustakas on behalf of All

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Defendants (Moustakas, John)
(Entered: 11/27/2019)

12/03/2019	<u>5</u>	Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim by Fred Elmore Haynes, R. Craig Lawrence, Jessie K. Liu, Patricia King McBride, Joshua Lynn Rogers, Daniel F. Van Horn (Moustakas, John) (Entered: 12/03/2019)
12/04/2019	<u>6</u>	Fox/Neal Order advising Plaintiffs to respond by January 30, 2020 to <u>5</u> Defendants' Motion to Dismiss or the Court may deem the matter conceded. See document for details. (lcrc1) (Entered: 12/04/19)
12/23/2019		Set/Reset Deadlines: Responses due by 1/30/2020 (tj) (Entered: 12/23/2019)
04/20/2020	<u>7</u>	Memorandum Opinion and Order granting <u>5</u> Defendants' Motion to Dismiss. See document for details. Signed by Judge Rudolph Contreras on 4/20/2020. (lcrc1) (Entered: 04/20/2020)
04/21/2020	<u>8</u>	Notice of Appeal as to <u>7</u> Order on Motion to Dismiss/Lack of Jurisdiction by Xiu Jian Sun. Fee Status: Fees Pending in Finance.

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Parties have been notified. (ztth)
(Entered: 04/27/2020)

- 04/27/2020 9 Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. Fees pending in Finance and another notice will be transmitted when the receipt has been received re 8 Notice of Appeal. (ztth) (Entered: 04/27/2020)
- 04/28/2020 USCA Appeal Fees received \$505 receipt number 4616102980 re 8 Notice of Appeal filed by Xiu Jian Sun. (ztth) (Entered: 05/01/2020)
- 04/29/2020 USCA Case Number 20-5112 for 8 Notice of Appeal filed by Xiu Jian Sun. (zrdj) (Entered: 04/29/2020)
- 05/01/2020 I0 Supplemental Record on Appeal transmitted to US Court of Appeals re 8 Notice of Appeal, 9 Transmission of Notice of Appeal and Docket Sheet to USCA; Appeal Fees Received, USCA Case Number 20-5112. (ztth) (Entered: 05/01/2020)

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USCA Case #20-5112 Document #1841375

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**U.S. District Court
District of Columbia
Notice of Electronic Filing**

The following transaction was entered on 5/1/2020 at
2:10 PM and filed on 4/28/2020

Case Name: CHURCH OF JESUS CHRIST OF
LATTEr-DAY SAINTS et al v. LAWRENCE et al

Case Number: 1:19-cv-02886-RC

Filer:

WARNING: CASE CLOSED on 04/20/2020

Document Number: No document attached

Docket Text:

**USCA Appeal Fees received \$505 receipt number
4616102980 re [8] Notice of Appeal filed by XIU
JIAN SUN. (ztth)**

**1:19-cv-02886-RC Notice has been electronically
mailed to:**

John Moustakas john.moustakas@usdoj.gov,
reginald.rowan@usdoj.gov

**1:19-cv-02886-RC Notice will be delivered by
other means to::**

CHURCH OF JESUS CHRIST OF LATTEr-DAY
SAINTS
XIU JIAN SUN
54-25 153rd St.
Flushing, NY 11355

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USCA Case #20-5112 Document #1845401

Filed: 05/29/2020 Page 8 of 52

Case 1:19-cv-02886-RC Document 1

Filed 09/20/19 Page 1 of 4

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE CHURCH OF JESUS CHRIST OF LATTER- DAY SAINTS, Servant: XIU JIAN SUN, THE SPIRITUAL ADAM. 54-25 153rd St., Flushing, NY 11355 646-675-0308 Plaintiffs, v. R. CRAIG LAWRENCE, Assistant United States Attorney Judiciary Center Building, U.S. Attorney's Office. Email: craig.lawrence@usdoj.gov 555 4th Street, N.W. Washington, D.C. 20530 202-252-2543	Civil Action No. Case: 1:19-CV028\$6 JURY DEMAND Assigned To: Contreras, Rudolph Assign. Date: 9/2012019 Description: Pro Se Gen. Civ. (F-DECK) Trial with god's law. Apply for jury to prevent insult and unfair behavior
JOSHUA LYNN ROGERS Assistant United States Attorney United States Attorney's Office - District of Columbia 555 4th Street, N.W. Washington, D.C. 20530 (202) 252-2578, 202-252-2543, 202-252-2500, 202-252-6829, 202-252-2563.	

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Fax: 202-252-2599
Joshua.Rogers3@usdoj.gov.

FRED ELMORE HAYNES
Assistant United States Attorney, U.S. Attorney's
Office.
U.S. ATTORNEY'S OFFICE FOR THE DISTRICT OF
COLUMBIA
555 Fourth Street, N.W., Room E-4110
Washington, D.C. 20530
202.252.255, (202) 252-2550, 202-252-2500,
202-252-2543, 202-252-2563.
Fax: 202-252-2599
fred.haynes@usdoj.gov.

PATRICIA KING. MCBRIDE, Assistant United States
Attorney
U.S. ATTORNEY'S OFFICE FOR THE DISTRICT OF
COLUMBIA
555 Fourth Street, NW, Room E-4808
Washington, DC 20530
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555 4th Street, N.W.
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DANIEL F. VAN HORN
555 4th Street, N.W.
Washington, DC 20530
Defendants

COMPLAINT

The complaint of the plaintiff, -god's servant, Xiu Jian Sun, the spiritual Adam respectfully shows and alleges as follows

1. The Lord god of hosts Jehovah, sent messenger through the angel answers to the defendants said: **'Livestock.'**
2. The Lord god of hosts Jehovah, sent messenger through the angel answers to the defendants said: **'Secret gang organization.'** 秘密帮派组织
3. The Doctrine and Covenants Section 42
- 83). And thus ye shall do in all cases which shall come before you.
- 84). And if a man or woman shall rob, he or she shall be delivered up unto the law of the land.
- 85). And if he or she shall steal, he or she shall be delivered up unto the law of the land.
- 86). And if he or she shall lie, he or she shall be delivered up unto the law of the land.
- 87). And if he or she do any manner of iniquity, he or she shall be delivered up unto the law, even that of God.
- 88). And if thy brother or sister offend thee, thou shalt take him or her between him or her and thee alone; and if he or she confess thou shalt be reconciled.
- 89). And if he or she confess not thou shalt deliver him or her up unto the church, not to the members, but to the elders. And it shall be done in a meeting, and that not before the world.
- 90). And if thy brother or sister offend many, he or she

shall be chastened before many.

91). And if any one offend openly, he or she shall be rebuked openly, that he or she may be ashamed. And if he or she confess not, he or she shall be delivered up unto the law of God.

4.

92). If any shall offend in secret, he or she shall be rebuked in secret, that he or she may have opportunity to confess in secret to him or her whom he or she has offended, and to God, that the church may not speak reproachfully of him or her.

93). And thus shall ye conduct in all things.

JURY DEMAND

5. Jehovah, - the Lord god of host gives the words to servant (Plaintiffs) in the temple he made, **"Trial with god's law. Apply for jury to prevent insult and unfair behavior."**

6. I (servant) would like to request a Mandarin Chinese court interpreter for my court day.

It is the savior redeemer of servant, -Jesus Christ, says with father's order. Amen.

Dated: September 16, 2019
Queens, New York

The Church of Jesus Christ of Latter-day saints
Servant:

Xiu Jian Sun, the spiritual Adam
54-25 153rd St
Flushing, NY 11355
646-675-0308
Plaintiffs

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 20-5112

(C.A. No. 19-2886)

XIU JIAN SUN, The Spiritual Adam, Appellant,
CHURCH OF JESUS CHRIST
OF LATTER-DAY SAINTS, Appellee,

v.

R. CRAIG LAWRENCE, ASSISTANT
UNITED STATES ATTORNEY, et al., Appellees.

**FEDERAL APPELLEES' MOTION FOR
SUMMARY AFFIRMANCE**

The federal appellees, identified below as R. Craig Lawrence, Joshua L. Rogers, Fred E. Haynes, Patricia McBride, Timothy J. Shea, and Daniel F. Van Horn, each of whom is a current or former Assistant United States Attorney or United States Attorney, respectfully move for summary affirmance of the Honorable Rudolph Contreras' April 20, 2020 Memorandum Opinion and Order¹ granting the government's unopposed motion to dismiss this case. Summary affirmance is appropriate because the

¹ A copy of the April 20, 2020 Memorandum Opinion and Order is attached.

Citations to "R." followed by a number are to the corresponding number in the District Court docket.

“merits of this appeal are so clear” in this matter in which Appellant filed a case the District Court described as “unintelligible.” Mem. Op. at 2; Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir. 1980) (per curiam), cert denied, 449 U.S. 994 (1980); accord Ambach v. Bell, 686 F.2d 974, 979 (D.C. Cir. 1982). No benefit will be gained from further briefing and argument of the issues presented in Appellant’s brief. Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297-98 (D.C. Cir. 1987) (per curiam). In short, the District Court correctly concluded that the rambling, digressive allegations consisting primarily of references to religious concepts failed to trigger its jurisdiction. Additionally, the District Court found that even if it had jurisdiction, the complaint failed to state a short, plain, or plausible claim for relief.

BACKGROUND AND PROCEDURAL HISTORY

Sun filed this action in September, 2019, purportedly on behalf of himself and the Church of Jesus Christ of Latter Day Saints, seeking to “prevent insult and bad behavior” (R.1, caption) relief against multiple attorneys associated with the U.S. Attorney’s Office for the District of Columbia. The complaint sought a trial under God’s law for relief from an unclear injury that may have arisen out of some prior litigation Sun had filed. Most of the named defendants had been involved in defending or were supervisors of those defending Xiu Jian Sun Spiritual Adam v. Secret Gang Organization: Obama Barack-Dog, Civ. A. No. 17-1861 (JDB) (D.D.C.) (dismissed Sept. 24, 2018). But the allegations in the body of the complaint consisted of statements or interpretations of religious and other materials without mention of the named defendants.

Defendants moved to dismiss (R.5) in December, 2019, and the District Court provided notice to Appellant, who appears to be a non-attorney representing himself, of a deadline for responding to the government's motion to dismiss. Appellant neither responded nor requested additional time beyond the deadline set by the District Court. After two and a half additional months passed after the deadline, the District Court dismissed the case after reviewing the allegations in the complaint. Finding the untethered religious content seeking relief based on, if any, religious law, the type of "patently insubstantial" allegations claim that warrant dismissal under Rule 12(b)(1) of the Federal Rules of Civil Procedure. See, e.g., *Best v. Kelly*, 39 F.3d 328, 330 (D.C. Cir. 1994); *Mem. Op.* at 3-4. Alternatively, the District Court found that even if it had subject matter jurisdiction, dismissal would be appropriate under Rule 12(b)(6) for failure to state a plausible claim. *Mem. Op.* at 4-5.

ARGUMENT

Although Appellant filed a brief (#1845400) and an appendix (#1845401) in this Court, the Court may dispose of this case most efficiently on the basis of waiver. Sun did not advance any of the arguments in his brief before the District Court, and ordinarily this Court declines to consider arguments not presented to the District Court. See *Russell v. Principi*, 257 F.3d 815, 821 (D.C. Cir. 2001) (refusing to consider new argument raised for the first time on appeal); *United States v. Gartmon*, 146 F.3d 1015, 1029 (D.C. Cir. 1998) ("We may dispense with [appellant's] contention without further discussion because [appellant] waived

it by failing to raise it below.”). Although courts afford pro se parties appropriate latitude with liberal interpretation of pleadings, courts typically hold them to the essential procedural aspects of civil litigation, and there is no basis for excusing Appellant’s silence in the District Court prior to the dismissal of the case below. *Weil v. Seltzer*, 873 F.2d 1453, 1459 (D.C. Cir. 1989) (appellant who failed to file opposition timely “is deemed to have waived his opposition and ... he may not now complain on appeal”).

In this case, the District Court’s December 4, 2019, Order (R.6) advised Appellant of the need to respond to the government’s motion to dismiss and the possible consequences for failing to do so. Appellant is not a stranger to the litigation process, having filed multiple cases over a period of several years. E.g., *Xiu Jian Sun v. Katzmann*, No. 16-CV-3937 (LDH) (LB) (dismissing fee-paid pro se complaint as frivolous and warning the plaintiff against filing similar complaints) (terminated Aug. 3, 2016), appeal dismissed, No. 16-3103 (2d Cir. July 11, 2017). Nothing in his brief presents any basis on which find that a waiver under these circumstances would be unjust. Accordingly, the Court should find that Appellant has waived argument that the District Court committed error and affirm.

Even were the Court to reach the arguments in Appellant’s Brief, they fail to demonstrate a basis for finding either jurisdiction or a plausible claim. First, the district court does not enforce religious law of any kind, so a complaint seeking injunctive relief based entirely on what purports to be alleged religious principles plainly lies outside its jurisdiction, and

amounts to an insubstantial and fanciful allegations. *Best v. Kelly*, 39 F.3d at 330. Indeed, the complaint fails to set forth any of the basic elements of standing because it fails to identify a concrete injury in fact caused by any of the named defendants and redressable by the courts. *U.S. Ecology, Inc. v. U.S. Dep't of Interior*, 231 F.3d 20, 24 (D.C. Cir. 2000) (a “deficiency on any one of the three prongs suffices to defeat standing.”).

Second and alternatively, lacking any allegations in the complaint about the involvement of the named defendants (all of whom have immunity from claims of defamation while acting in the scope of their duties and otherwise), or any connection between the named defendants and Appellant, any claim based exclusively in a litany of religious precepts is plainly implausible. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

CONCLUSION

For all these reasons, the federal appellees respectfully requests that the Court grant this motion and summarily affirm the judgment below.

Respectfully submitted,

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/s/ John Moustakas
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CERTIFICATE OF COMPLIANCE

The text of the foregoing Federal Appellees' Motion for Summary Affirmance was prepared using Times New Roman, 14-point font and contains 1,047 words, as counted by counsel's word processor (Microsoft Word 2016).

/s/ John Moustakas
JOHN MOUSTAKAS
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2020, I caused the foregoing Federal Appellees' Motion for Summary Affirmance to be served on Appellant by placing a duplicate copy in the first class United States mail, first class postage prepaid and addressed as follows:

Xiu Jian Sun
54-25 153rd St.
Flushing, NY 11355

/s/ John Moustakas
JOHN MOUSTAKAS
Assistant United States Attorney

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Case 1:19-cv-02886-RC Document 7

Filed 04/20/20 Page 1 of 5

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE CHURCH OF JESUS CHRIST
OF LATTER-DAY SAINTS, et al.,

Plaintiffs,

Civil Action No.:

v.

19-2886 (RC)

R. CRAIG LAWRENCE, et al.,

Defendants.

Re Document No.: 5

MEMORANDUM OPINION AND ORDER

GRANTING DEFENDANTS' MOTION TO DISMISS

I. INTRODUCTION

Plaintiff Xiu Jian Sun, who identifies as "The Spiritual Adam" and as a representative of the Church of Jesus Christ of Latter-Day Saints, filed this action pro se for trial with God's law against various Defendants, who include the former United States Attorney for the District of Columbia and past and present Assistant United States Attorneys for the District of Columbia. Defendants have now moved to dismiss the case, arguing that the Court lacks jurisdiction to hear Sun's claims and that Sun's complaint fails to state a claim upon which relief can be granted. For the reasons explained below, the Court agrees and grants the motion to dismiss.

II. BACKGROUND

Sun has filed numerous suits in other courts over the past few years. See, e.g., Mem. Op. and Order Granting Def.'s Mot. Dismiss, *Church of Jesus Christ of Latter-Day Saints v. Trump*, No. 18-cv-2820 (D.D.C. May 6, 2019), ECF No. 8, *aff'd sub nom. Sun v. Trump*, No. 19-5197, 2020 WL 873534 (D.C. Cir. Feb. 14, 2020) (dismissing complaint because it was "patently insubstantial" and did not plead a "discernible cause of action"); *Sun v. Secret Gang Org.: OBAMA BARACK-Dog*, No. 17-1861, 2018 WL 4567164, at *1-3 (D.D.C. Sept. 24, 2018) (dismissing complaint because Sun "ha[d] not asserted any causes of action" or "stated a claim upon which relief can be granted"); Order Granting Mot. Dismiss, *Church of Jesus Christ of Latter-Day Saints v. Trump*, No. 17-cv-1787 (D.D.C. Dec. 13, 2017), ECF No. 6 (dismissing complaint for failure to comply with pleading requirements); *Sun v. N.Y. Office of Att'y Gen.*, No. 17-CV-5916, 2017 WL 4740811, at *1-3 (E.D.N.Y. Oct. 19, 2017) (dismissing complaint as frivolous and detailing similar cases filed by Sun in state and federal courts); *Sun v. United States*, 130 Fed. Cl. 569, 569-70, *aff'd*, 668 F. App'x 888 (Fed. Cir. 2016) (dismissing complaint because there was "no plausible cause of action") (mem.). Sun's complaint here makes a variety of inscrutable religious allegations, quoting from "The Doctrine and Covenants" Compl. ¶¶ 3-4, ECF No. 1, and requesting "[t]rial with god's law" and a jury "to prevent insult and unfair behavior," *id.* ¶ 5. Defendants moved to dismiss the complaint for lack of subject matter jurisdiction and failure to state a claim. See Defs.' Mem. Supp. Mot. Dismiss ("Defs.' Mem.") at 1, ECF No. 5. Sun has not responded to Defendants' Motion to Dismiss,

despite the Court's issuance of a Fox/Neal order warning that a failure to do so could result in the matter being dismissed as conceded.¹ See Fox-Neal Order, ECF No. 6.

III. ANALYSIS

Defendants move to dismiss this case for lack of subject matter jurisdiction under Rule 12(b)(1) and for failure to state a claim under Rule 12(b)(6). See Defs.' Mem. at 1. Because Sun's complaint is unintelligible, the Court grants the motion.

A. The Court Lacks Subject Matter Jurisdiction Over This Case

First, because Sun's complaint is patently insubstantial, the Court lacks subject matter jurisdiction over this case. "While complaints filed by pro se litigants are held to less stringent standards than those applied to formal pleadings drafted by lawyers," pro se plaintiffs retain the burden to establish that the Court has subject matter jurisdiction over their case. *Newby v. Obama*, 681 F. Supp. 2d 53, 55 (D.D.C. 2010). And, as relevant here, "a court may dismiss a case . . . for lack of subject matter jurisdiction if a complaint is 'patently insubstantial' and thus 'present[s] no federal question suitable for decision.'" *Shao v. Roberts*, No. 18-cv-1233, 2019 WL 249855, at *15 (D.D.C. Jan. 17, 2019) (second alteration in original) (quoting *Vasaturo v. Peterka*, 203 F. Supp. 3d 42, 44 (D.D.C. 2016)). "Declining to

¹ Plaintiffs failure to respond to the motion to dismiss provides grounds for dismissal of this case. However, the Court focuses on the lack of subject matter jurisdiction and failure to state a claim.

hear a claim because it is patently insubstantial is ‘reserved for complaints resting on truly fanciful factual allegations,’ while ‘legally deficient complaints’ are still reserved for 12(b)(6) dismissals.” Id. (quoting Vasaturo, 203 F. Supp. 3d at 44). “Thus, to meet this standard, ‘claims [must] be flimsier than doubtful or questionable—they must be essentially fictitious.” Id. (alteration in original, internal quotation marks omitted) (quoting Vasaturo, 203 F. Supp. 3d at 44). “[E]ssentially fictitious’ claims include ‘bizarre conspiracy theories, any fantastic government manipulations of [the] will or mind, [and] any sort of supernatural intervention.” Id. (alterations in original) (quoting Vasaturo, 203 F. Supp. 3d at 44).

Here, Sun’s complaint is replete with disconnected and mostly incoherent religious messages, including allegations of supernatural intervention. E.g. Compl. ¶ 1 (“The Lord god of the hosts Jehovah, sent messenger through the angel answers to the defendants said: ‘Livestock.’”); id. ¶ 2 (“The Lord god of hosts Jehovah, sent messenger through the angel answers to the defendants said: ‘Secret gang organization.’”). This is the type of “patently insubstantial” claim that warrants dismissal under Rule 12(b)(1). See, e.g., *Best v. Kelly*, 39 F.3d 328, 330 (D.C. Cir. 1994) (noting that claims alleging “any sort of supernatural intervention” could be dismissed as patently insubstantial). The Court accordingly grants Defendants’ motion to dismiss for lack of subject matter jurisdiction.

B. Sun’s Complaint Fails to State a Claim
Even if the Court had subject matter jurisdiction

over this case, it would still grant the motion to dismiss because the complaint fails to state a claim. To survive a motion to dismiss for failure to state a claim under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). When deciding a motion to dismiss, “the Court must . . . ‘treat the complaint’s factual allegations as true and must grant plaintiff the benefit of all inferences that can be derived from the facts alleged.’” *Elec. Privacy Info. Ctr. v. IRS*, 261 F. Supp. 3d 1, 5 (D.D.C. 2017) (internal quotation marks omitted) (quoting *Sparrow v. United Air Lines, Inc.*, 216 F.3d 1111, 1113 (D.C. Cir. 2000)). But “a plaintiff must put forth ‘factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.’” *Id.* (quoting *Iqbal*, 556 U.S. at 678).

Here, even assuming that the Court had subject matter jurisdiction over this case, it would dismiss it for failure to state a claim. While “[a] document filed pro se is ‘to be liberally construed’ and ‘a pro se complaint . . . must be held to less stringent standards than formal pleadings drafted by lawyers,’” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (internal citation omitted) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)), “pro se status does not render [a plaintiff] immune from pleading facts upon which a valid claim can rest,” *In re Watson*, 910 F. Supp. 2d 142, 148 (D.D.C. 2012) (quoting *Watson v. United States*, No. 06:716C, 2007 WL 5171595, at *3 (Fed. Cl. Jan. 26, 2007)). And after a thorough examination and

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generous construction of Sun's complaint, the Court is unable to discern any plausible or colorable cause of action. Indeed, Sun "has not asserted any causes of action or sought any specific relief," Sun, 2018 WL 4567164, at *3, beyond his requests for "[t]rial with god's law," a jury trial, and the appointment of an interpreter, Compl. ¶¶ 5-6. Because the Court is left without a discernible cause of action, it must dismiss this case for failure to state a claim.

IV. CONCLUSION AND ORDER

For the foregoing reasons, Defendants' Motion to Dismiss is **GRANTED**.

SO ORDERED.

Dated: April 20, 2020

RUDOLPH CONTRERAS
United States District Judge



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**United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 20-5112

September Term, 2019

1:19-cv-02886-RC

Filed On: July 21, 2020 [1852628]

**Xiu Jian Sun, The Spiritual Adam,
Appellant
Church of Jesus Christ of Latter-Day Saints,
Appellee**

v.

**R. Craig Lawrence, Assistant United States
Attorney, et al.,
Appellees**

ORDER

On June 15, 2020, appellees filed a dispositive motion. Any response was due by June 29, 2020. To date, no response has been received from appellant. Upon consideration of the foregoing, it is

ORDERED, on the court's own motion, that