

APPENDIX A - UNITED STATES COURT OF APPEALS DECISION

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

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Filed: October 05, 2021

Mr. Richard W. Nagel
Southern District of Ohio at Dayton
200 W. Second Street
Suite 712 Federal Building
Dayton, OH 45402-0000

Re: Case No. 21-3045, *Calvin Roach v. Donald Washington, et al*
Originating Case No. : 2:20-cv-04905

Dear Mr. Nagel,

Enclosed is a copy of the mandate filed in this case.

Sincerely yours,

s/Divya Kumar
For Antoinette Macon, Case Manager

cc: Kevin Koller
Mr. Calvin Roach

Enclosure

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

No: 21-3045

Filed: October 05, 2021

CALVIN ROACH

Plaintiff - Appellant

v.

HONORABLE DONALD W. WASHINGTON, U.S. Marshals Service Director; HONORABLE PAUL IRVING, U.S. House of Representatives; HONORABLE MICHAEL STENGER, Sergeant at Arms of the U.S. Senate; HONORABLE CHRISTOPHER A. WRAY, Director of the Federal Bureau of Investigation

Defendants - Appellees

MANDATE

Pursuant to the court's disposition that was filed 08/10/2021 the mandate for this case hereby issues today.

COSTS: None

No. 21-3045

- 3 -

Accordingly, we **AFFIRM** the order of the district court.

ENTERED BY ORDER OF THE COURT

A handwritten signature in cursive script, appearing to read "Deborah S. Hunt", written over a horizontal line.

Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: August 10, 2021

Mr. Calvin Roach
1527 Devonhurst Drive
Columbus, OH 43232

Re: Case No. 21-3045, *Calvin Roach v. Donald Washington, et al*
Originating Case No.: 2:20-cv-04905

Dear Mr. Roach,

The Court issued the enclosed Order today in this case.

Sincerely,

s/Antoinette Macon
Case Manager
Direct Dial No. 513-564-7015

cc: Mr. Kevin Koller
Mr. Richard W. Nagel

Enclosure

Mandate to issue

NOT RECOMMENDED FOR PUBLICATION

No. 21-3045

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Aug 10, 2021

DEBORAH S. HUNT, Clerk

CALVIN ROACH,

Plaintiff-Appellant,

V.

HONORABLE DONALD W. WASHINGTON,
U.S. Marshals Service Director; HONORABLE
PAUL IRVING, U.S. House of Representatives;
HONORABLE MICHAEL STENGER, Sergeant at
Arms of the U.S. Senate; HONORABLE
CHRISTOPHER WRAY, Director of the Federal
Bureau of Investigation,

Defendants-Appellees.

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF
OHIO

ORDER

Before: GUY, BUSH, and LARSEN, Circuit Judges.

Calvin Roach, proceeding pro se, appeals the order of the district court dismissing his action under 42 U.S.C. § 1983 for lack of subject-matter jurisdiction and failure to state a claim upon which relief can be granted. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

Roach's complaint named the United States and several federal officials as defendants. According to the complaint, which was filed prior to the 2020 presidential election, the defendants failed to arrest other federal officials for crimes against the United States, including then-President Donald J. Trump and then-Vice President Michael R. Pence, in relation to the ongoing coronavirus pandemic and protests that were held in the summer of 2020. The complaint also alleged that the defendants did not arrest Senators Lindsey Graham and Mitch McConnell for their roles in the first

impeachment trial against President Trump. Roach urged that the defendants be ordered to arrest and prosecute these officials and that he be awarded damages.

The defendants filed a motion to dismiss the complaint for lack of subject-matter jurisdiction and failure to state a claim. In an opinion and order, the district court granted the motion. The court construed the claims to be against the individual defendants in their official capacity and determined that the United States did not waive sovereign immunity. The court also concluded that § 1983 did not apply to the defendants and that Roach did not establish standing to file his complaint. Roach filed a timely notice of appeal.

The dismissal of claims for lack of subject-matter jurisdiction or failure to state a claim is reviewed de novo. *Jama v. Dep't of Homeland Sec.*, 760 F.3d 490, 494 (6th Cir. 2014).

The district court correctly dismissed Roach's complaint. The United States cannot be sued without its consent, and federal sovereign immunity must be expressly waived by Congress through statute; moreover, federal sovereign immunity extends to federal officials acting in their official capacities. *Muniz-Muniz v. U.S. Border Patrol*, 741 F.3d 668, 671 (6th Cir. 2013). Furthermore, § 1983 applies only to individuals acting under the color of state or local law, so it is inapplicable to the defendants, who are federal officials. *See Haines v. Fed. Motor Carrier Safety Admin.*, 814 F.3d 417, 429 (6th Cir. 2016). Finally, at least to the extent Roach asks this court to order the defendants to arrest various officials, he lacks standing to pursue such relief. As the Supreme Court has repeatedly explained, "a private citizen lacks a judicially cognizable interest in the prosecution . . . of another." *Linda R. S. v. Richard D.*, 410 U.S. 614, 619 (1973); *see also Diamond v. Charles*, 476 U.S. 54, 64–65 (1986); *Leeke v. Timmerman*, 454 U.S. 83, 86–87 (1981) (per curiam).

APPENDIX B – UNITED STATES FEDERAL COURT DECISION

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Calvin Roach,

Plaintiff,

v.

United States, *et al.*,

Defendants.

Case No: 2:20-cv-4905

Judge Graham

Chief Magistrate Judge Deavers

Opinion and Order

Plaintiff Calvin Roach, proceeding *pro se*, brings this action under 42 U.S.C. § 1983 against the United States and certain officials whom he identifies as the U.S. Marshals Service Director, the Sergeants at Arms of the U.S. Senate and the U.S. House of Representatives, and the Director of the Federal Bureau of Investigation.

Plaintiff alleges that defendants have unlawfully failed to arrest certain federal officials who allegedly committed crimes against the United States. For example, plaintiff asserts that defendants should have arrested President Donald Trump and Vice President Michael Pence for “committing biological warfare” against the U.S. by not taking certain measures to prevent the spread of COVID-19. Plaintiff asserts that defendants should have arrested Senators Mitch McConnell and Lindsey Graham for conspiring against the U.S. insofar as they exhibited bias during the impeachment trial of President Trump.

This matter is before the court on defendants’ motion under Fed. R. Civ. P. 12(b)(1) and (6) to dismiss the complaint. The motion is granted.

The United States and the individual defendants, whom plaintiff does not purport to sue in their individual capacities, are immune from suit. See *United States v. Mitchell*, 445 U.S. 535, 538 (1980); *Muniz-Muniz v. United States Border Patrol*, 741 F.3d 668, 671 (6th Cir. 2013) (“[T]he United States may not be sued without its consent Sovereign immunity extends to agencies of the United States or federal officers [acting] in their official capacities.”) (internal quotation marks omitted).

“A waiver of sovereign immunity may not be implied and exists only when Congress has expressly waived immunity by statute.” *Id.* Section 1983 is a statute which applies to state actors,

not the United States or federal officials, *see Haines v. Fed. Motor Carrier Safety Admin.*, 814 F.3d 417, 429 (6th Cir. 2016), and therefore it cannot constitute an express waiver of federal sovereign immunity.

The court further finds that plaintiff has not established standing. Standing requires: (1) an “injury in fact – a harm suffered by the plaintiff that is concrete and actual or imminent, not conjectural or hypothetical”; (2) “causation – a fairly traceable connection between the plaintiff’s injury and the complained-of conduct of the defendant”; and (3) “redressability – a likelihood that the requested relief will redress the alleged injury.” *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 102–03 (1998). The complaint, which alleges generalized grievances against the government for which plaintiff suffered the alleged harm of spending many hours preparing this lawsuit, contains no allegations that would satisfy the requirements of standing. *See Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013).

Accordingly, defendants’ motion to dismiss (doc. 4) is granted and this action is dismissed.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: December 21, 2020

APPENDIX C - COMPLAINT

2020 SEP 18 PM 3:41

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

CALVIN ROACH

Plaintiff, Pro Se

V.

United States et al.

Hon. Donald W. Washington

US Marshal Director

and

Hon. Paul Irving

House of Representatives

and

Hon. Michael Stenger

US Senate

and

Hon. Christopher Wray

FBI Director

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Case No. 2 20 CV 4905

Judge Graham

MAGISTRATE JUDGE DEEVERS

) SUIT FOR PERFORMANCE

) and Question of Law

) and US Constitution

) 28 USC 1331 and

) Civil Right Violation

) 42 USC 1983

Name and Addresses of the Parties

Plaintiff

Calvin Roach, Pro Se

Calvin Roach, Pro Se

(520) 678-1725

Defendants

Hon. Donald W. Washington, US Marshals
US Department of Justice - US Marshalls Service
Office of General Counsel
CG-3, 15th Floor, US Marshals
Washington DC, 20350

Hon. Paul Irving, Sergeant of Arms of the US House of Representatives
US Capitol, U.S. House of Representatives
Room H-124
Washington, DC 20515

Hon. Michael Stenger , Sergeant of Arms, US Senate
US Capitol, US Senate
Room S-151
Washington, DC 20501

Hon. Christopher Wray, FBI Director
935 Pennsylvania Avenue, NW;
Washington, D.C. 20535-0001

**This court has jurisdiction of all complaints against the United States and
questions involving the United States Constitution and Federal Law**

COMPLAINT

Complaint I. (Senator bias jurors)

On December 15, 2019, Senator Lindsay Graham stated he will not be an unbiased juror during President Trump impeachment trial which he is required under the United States Constitution. He committed war against the United States Constitution and the US Marshals, Hon. Donald Washington and the Senate Sergeant of the Arms, Michael Stenger failed to uphold their responsibilities in arresting Senator Lindsey Graham. One of the violations is *Conspiracy against the United States (18 USC 371)*. Not being a legal expert, I am sure the proper authorities, can identify all violations.

Complaint II. (Senator Bias Juror)

Senate Majority Leader Mitch McConnell on several occasions stated he will not be an unbiased juror in President Trump's impeachment trial which he is obligated by the United States Constitution. He also stated the week of December 12, 2019 that he worked with the President's attorney to ensure the president do not get convicted. By conspiring with the defendant's attorney, he also conspired against the United States. He committed war against the United States Constitution and the US Marshals, Hon. Donald Washington and the Senate Sergeant of the Arms, Michael Stenger failed to uphold their responsibilities in arresting Senator Mitch

McConnell. One of the violations is *Conspiracy against the United States (18 USC 371)*. Not being a legal expert, I am sure the proper authorities, can identify all violations.

Complaint III. (Attorney General - Tyranny)

Attorney General authorized military troops to fire on peaceful protestors so the President can trespass on church grounds to take a photo. The attorney general's act was tyranny and the attorney general conspired with the President to conspire against the United States Constitution. US Marshals, Hon. Donald Washington and FBI Director Christopher Wray failed to arrest the attorney general and President of the United States. One of the violations is *Conspiracy against the United States (18 USC 371)* and *violation of my civil rights 42 USC 1983* and attempts to make me fear the government that I pay to protect me. Not being a legal expert, I am sure the proper authorities, can identify all violations.

Complaint IV. (President and Vice President)

President Donald Trump and Vice President Michael Pence has waged war against the people of the United States by committing biological warfare as a tool. The President has known in February that COVID-19 is a deadly viral disease that is spread in the air. He and the Vice President has held several rallies, visits, and

events where people do not wear mask or social distance to reduce the spread of the virus. The President encouraged people not to wear mask and not social distance to reduce the spread of the virus, thus creating human bots carrying and spreading the virus. The government has put the public in a precarious position when in a closed environment. If a person enters without a mask, should the person guess that the unmask has the virus and kill that person to protect themselves from the possible virus or take a chance of not being infected by the virus from the unmasked person due to the government neglect or failure to act, *District of Columbia v. Heller*, 554 U.S. 570 (2008). In this scenario the act of neutralizing the unmasked person may be appropriate as well as mis-guided because the true neglect is specific government personnel, *District of Columbia v. Heller*, 554 U.S. 570 (2008). Some of the violations are *Conspiracy against the United States (18 USC 371)*, *Domestic Terrorism 18 USC 2331*, *18 USC 175* using humans as a delivery system of biological agent defined by *18 USC 178* as well spreading Variola Virus as defined in *18 USC 175c* as across interstate boundaries. The executive branch acts, President and Vice President violates my civil rights and infringes on my right to life and liberty, *42 USC 1983*. Not being a legal expert, I am sure the proper authorities, can identify all violations. The US Marshals Hon. Donald Washington and the FBI Director Hon. Christopher Wray failed to arrest the President and Vice President for committing tyranny and terrorism against the

United States. The Senate Sergeant of the Arms, Michael Stenger failed to arrest or remove the President Pro Tempore of the Senate for his actions committing tyranny and bioterrorism. This lack of action questioned the integrity of the US Senate to govern in an unbiased manner and to the best interest of the citizens of the United States.

Complaint V. (Governors and Mayors)

There have been governors around the country that has prohibited majors and local authorities to protect their communities by wearing mask. These governors enjoined with President Trump in biological warfare in creating human viral bots to spread COVID-19. The US Marshals, Hon. Donald Washington and FBI Director Hon. Christopher Wray failed to arrest the governors and mayors that assisted in the execution of biological warfare by not enforcing social distancing and wearing of mask to protect the public .

Complaint VI. (Washington DC National Guard)

The Washington DC National Guard General allowed his troops to fire on peaceful protestors under the order of the Attorney General. Being retired military member, I know and the General should have known, he can disobey an unlawful and / or unconstitutional order even if given by the President of the United States; however,

the order was given by the attorney general. . The US Marshals, Hon. Donald Washington and FBI Director Hon. Christopher Wray failed to arrest the General who ordered the violence against the protestors.

Questions and Discussion:

Question of Law and the US Constitution. Does the US Constitution state that the only way to remove the President and appointees is by impeachment?

The framers of our US Constitution added multiple ways to prevent tyranny and one was by impeachment. The United States constitution does not restrict removal of the President and appointees to be only by impeachment. The Federalist Papers as well as the US Supreme Court, stated the people can remove a tyrannical government under the 2nd amendment, and that includes the people in the FBI, and US Marshal service; however, the congress (House of Representatives and the US Senate has passed federal laws that everyone must adhere to that includes the President of the United States. The US Constitution does not prevent the President from abiding by the law and/or to escape federal prosecution; however, it details if the removal is under impeachment and whether the president can be prosecuted after removal from office due to impeachment. In the case *Nixon v. Fitzgerald*, 457 U.S. 731 (1982), the United States Supreme Court stated that, "the President's immunity only protected against civil damages for acts while in office but can be

held liable for criminal acts committed in office whether the act stems from official or unofficial duties.” Clearly, the US Supreme Court accepts the fact that the President can be prosecuted because Article 1, section 3 states, “impeachment shall not extend further than removal of office...”. For the president to be held criminally responsible for the act committed in office, the president and appointees must be criminally prosecuted by a state or federal law enforcement agency. The fact that is an election year lacks relevancy.

RELIEF

- I. I am seeking relief for the defendants to arrest and prosecute the individual identified in each complaint.
- II. Court Cost
- III. Punitive and compensatory damages if allowed under federal law
 - a. Purchasing and reading law books, Federalist Papers, and Researching case law (over 700 hours after work, on vacation, not taking care of mother’s probate due to legal research and confusion of should I file and protect my rights and the retribution from the tyrant’s followers)
 - b. Time away from enjoying life with pandemic limitations and hobbies
 - c. Mental anguish and fear of the government for unconstitutional retribution.