

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 21, 2021

**Christopher M. Wolpert
Clerk of Court**

ALBERTA ROSE JONES, and those
similarly situated,

Plaintiff - Appellant,

v.

MERRICK B. GARLAND, Attorney
General of the United States, et al.,

Defendants - Appellees.

No. 20-6189
(D.C. No. 5:19-CV-01056-G)
(W.D. Okla.)

ORDER

Before **MATHESON, BRISCOE, and PHILLIPS**, Circuit Judges.

Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court
who are in regular active service. As no member of the panel and no judge in regular
active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 4, 2021

Christopher M. Wolpert
Clerk of Court

ALBERTA ROSE JONES, and those
similarly situated,

Plaintiff - Appellant,

v.

MERRICK B. GARLAND, Attorney
General of the United States; DAVID
PRATER, individual capacity; TIMOTHY
HENDERSON, individual capacity;
ROBERT RAVITZ, individual capacity;
CINDY FERRELL ASHWOOD,
individual capacity; ALLEN BROWN,
individual capacity; LORI MCCONNELL,
individual capacity; ROBERT GROSHON;
DOES 1 THRU 100,

Defendants - Appellees.

No. 20-6189
(D.C. No. 5:19-CV-01056-G)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before MATHESON, BRISCOE, and PHILLIPS, Circuit Judges.**

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Alberta Rose Josephine Jones—proceeding pro se on behalf of her incarcerated son—appeals the district court’s order *sua sponte* dismissing her case without prejudice for lack of standing and failure to comply with the district court’s orders. Because the district court correctly concluded that Jones lacked standing to pursue claims on behalf of her son, we affirm.¹

BACKGROUND

On October 16, 2019, Alberta Rose Josephine Jones filed a pro se lawsuit against 110 defendants—the primary defendant being the United States Attorney General—in the Oklahoma County District Court.² In her complaint, Ms. Jones alleges several people violated her son’s constitutional rights while he was imprisoned in Oklahoma County. Jones, however, does not list her son as a party to the lawsuit—only herself and “those similarly situated.” On November 15, 2019, the Attorney General removed the case to the United States District Court for the Western District of Oklahoma.

Jones has filed similar lawsuits in the district court in the past. Each was dismissed for lack of standing to pursue constitutional claims on another’s behalf. Eventually, the district court imposed a filing restriction on Jones, requiring that she obtain the court’s permission to file lawsuits pro se.

¹ Because Jones appears pro se, we construe her pleadings and briefing liberally, but we will not advocate on her behalf. *See James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

² At the time the lawsuit was filed, Attorney General William Barr was named as a Defendant. Attorney General Merrick B. Garland has now taken his place and is the primary named defendant.

On August 10, 2020, the district court instructed Ms. Jones to acquire a lawyer within thirty days. Over ninety days later, Ms. Jones still had failed to do so. Thus, on November 17, 2020, the district court *sua sponte* dismissed her lawsuit without prejudice for lack of standing and failure to comply with the district court’s orders instructing her to acquire counsel. Jones filed a timely notice of appeal on a final decision from the United States District Court for the Western District of Oklahoma, granting this court jurisdiction under 28 U.S.C. § 1291.

DISCUSSION

The district court dismissed Jones’s claims on behalf of her son under Federal Rule of Civil Procedure 12(b)(6).³ We review de novo. *VR Acquisitions, LLC v. Wasatch Cnty.*, 853 F.3d 1142, 1145 (10th Cir. 2017). Under Article III of the United States Constitution, federal courts have subject-matter jurisdiction only over genuine “cases and controversies.” *Wilderness Soc’y v. Kane Cnty., Utah*, 632 F.3d 1162, 1168 (10th Cir. 2011) (en banc). Apart from Article III’s requirements, courts also consider prudential standing, a doctrine of “judicially self-imposed limits on the exercise of federal jurisdiction.” *Id.* (cleaned up). “The prudential standing doctrine encompasses various limitations, including the general prohibition on a litigant’s raising another person’s legal rights.” *Id.* (cleaned up); *accord McGowan v. Maryland*, 366 U.S. 420, 429 (1961) (“Since the general rule is that a litigant may only assert his own constitutional rights or

³ Because the court ultimately affirms on Rule 12(b)(6) grounds, it need not reach any other grounds for dismissal.

immunities, we hold that appellants have no standing to raise this contention.”) (cleaned up).

Jones seeks relief for alleged constitutional injuries suffered by her son.⁴ As a result, she lacks prudential standing, permitting the district court to dismiss her claims on 12(b)(6) grounds without prejudice. *N. Mill St., LLC v. City of Aspen*, 6 F.4th 1216, 1230 (10th Cir. 2021) (collecting cases). Because Jones lacks prudential standing, the court need not reach the remaining issues. *Wasatch Cnty.*, 853 F.3d at 1146 n.3 (“Because plaintiff lacks prudential standing, we proceed directly to that issue” (cleaned up)).

CONCLUSION

For the reasons stated, we affirm the district court’s dismissal of Jones’s Complaint without prejudice. We remind her that she risks facing sanctions if she continues to raise claims on behalf of others without acquiring counsel.

Entered for the Court

Gregory A. Phillips
Circuit Judge

⁴ Ms. Jones argues, in her reply brief, that she has also alleged her own damage, not merely her son’s. But she cannot use her own emotional distress from her son’s alleged treatment to circumvent the standing requirement that a pro se litigant may bring constitutional claims only on behalf of oneself.

**Additional material
from this filing is
available in the
Clerk's Office.**