USCA Case #21-5174 Document #1913530
Filed: 09/09/2021 Page 1 of 3

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CHURCH of JESUS CHRIST of LATTER-DAY SAINTS, et, al., **No. 21-5174**
Appellants,

v.

DONALD J. TRUMP, **(C.A. No. 20-3331)**
Appellee,

APPELLEE'S CERTIFICATE OF COUNSEL AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to this Court's August 10, 2021, Order and Circuit Rule 28(a)(1), counsel for the Appellee files this certificate as to parties, rulings, and related cases.

I. Parties

The Appellants are the Church of Jesus Christ of Latter-Day Saints, and Xiu Jian Sun, who were the Plaintiffs in the District Court. The Appellee is Donald J. Trump, former President of the United States of America, who was the Defendant in the District Court. There was no amicus curiae.

II. Rulings Under Review

At issue in this appeal is the Honorable Judge Rudolph Contreras's June 30, 2021 Order granting the Defendant's Motion to Dismiss.

III. Related Cases

This case has not previously been before this Court. Undersigned counsel is not currently aware of any pending related cases.

CHANNING D. PHILLIPS
Acting United States Attorney
R. CRAIG LAWRENCE
Assistant United States Attorney
/s/ Kenneth Adebonojo
KENNETH ADEBONOJO
Assistant United States Attorney
Civil Division
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-2562
kenneth.adebonojo@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of September, 2021, the foregoing Appellee's 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 St
Flushing, NY 11355
XIU JIAN SUN
54-24 153rd St
Flushing, NY 11355

/s/ Kenneth Adebonojo
KENNETH ADEBONOJO
Assistant United States Attorney

USCA Case #21-5174 Document #1914509
Filed: 09/16/2021 Page 1 of 3

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CHURCH of JESUS CHRIST of LATTER-DAY SAINTS, et, al., **No. 21-5174**
Appellants,

v.

DONALD J. TRUMP, **(C.A. No. 20-3331)**
Appellee,

MOTION TO ENLARGE TIME TO FILE APPELLEE'S DISPOSITIVE MOTION

Donald Trump ("Appellee"), by and through the undersigned counsel, respectfully moves for an extension of time until December 24, 2021, to file his dispositive motion. Currently, Appellee's dispositive motion is due on September 24, 2021. This is Appellee's first request for an enlargement. Appellee is unable to confer on this request because Appellant has not provided a telephone number or email where he can be easily reached. Appellee does not believe the requested enlargement prejudices Appellant.

Appellee respectfully requests this extension because the undersigned had been on medical leave from June 9, 2021, until August 13, 2021. Although the undersigned's colleagues were able to cover his docket in his absence, the undersigned did return to a significant number of deadlines that precede this one.

WHEREFORE, Appellee respectfully requests that this motion be granted.

CHANNING D. PHILLIPS
Acting United States Attorney
R. CRAIG LAWRENCE
Assistant United States Attorney
/s/ Kenneth Adebonojo
KENNETH ADEBONOJO
Assistant United States Attorney
Civil Division
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-2562
kenneth.adebonojo@usdoj.gov

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION

I hereby certify that the foregoing motion contains 284 words at 14-point font size in Times New Roman style.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of September, 2021, the foregoing Appellee's Motion to Enlarge has been served by the postal service, postage pre-paid and addressed as follows:

XIU JIAN SUN
54-24 153rd Street
Flushing, NY 11355

/s/ Kenneth Adebonojo
KENNETH ADEBONOJO
Assistant United States Attorney

USCA Case #21-5174 Document #1916327
Filed: 09/30/2021 Page 1 of 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5174 **September Term, 2021**
1:20-cv-03331-RC
Filed On: September 30, 2021 [1916327]

Xiu Jian Sun, The Spiritual Adam,
Appellant
Church of Jesus Christ of Latter-Day Saints,
Appellee
v.
Donald J. Trump, Former President of U.S.A., Mr.,
Appellees

ORDER

Upon consideration of the motion to enlarge time to file appellee's dispositive motion, it is

ORDERED that the motion be granted. Appellee's dispositive motion is now due December 27, 2021.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Catherine J. Lavender
Deputy Cler

USCA Case #21-5174 Document #1928258
Filed: 12/27/2021 Page 1 of 15

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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

v. **No. 21-5174**

DONALD J. TRUMP, **1:20-cv-03331-RC**
Appellee.

MOTION FOR SUMMARY AFFIRMANCE AND TO ENJOIN APPELLANT FROM FURTHER FILINGS ABSENT LEAVE OF COURT

Former President Donald J. Trump ("Appellee"), by and through undersigned counsel, respectfully moves for summary affirmance of the Minute Order of the Honorable Rudolph Contreras granting Appellee's motion to dismiss the complaint filed by Xiu Jian Sun ("Appellant" or "Sun"). R. 9.[1]

Summary disposition is appropriate in this case because the "merits of this appeal are so clear as to make summary affirmance proper." Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir. 1980). Accordingly, Appellee asks that the Court grant this motion, as "no benefit will be gained from further

1 R. followed by a number refers to the document identified at that number in the District Court's docket.

briefing and argument of the issues presented." Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297–98 (D.C. Cir. 1987).

BACKGROUND AND PROCEDURAL HISTORY

Appellant commenced this action in the district court, seeking adjudication under "God's law."[2] See R. 1. It is not clear whether Appellant brought this action against the former president in his official capacity, as Appellant does not allege any actions that the former president engaged in, took, or failed to take. Id. Within his complaint, Appellant referred to the former president as "Cain" and to himself as "the spiritual Adam." Id. at 2. Appellant's unintelligible complaint mentioned former president Trump, as well as other past presidents, asserting that "the inhabitants of the Earth have been made drunk with the wine of her fornication." Id. "Her" seemingly refers to "the great whore that sitteth upon many waters." Id. The prayer for relief was a trial with god's law. Id.

Albeit on different grounds, this Court has previously affirmed countless district court dismissals of Appellant's "patently insubstantial" claims. See e.g. LDS v. Trump, No. 18-2820 (RC), 2019 U.S. Dist. Lexis 236874 **1-2 (D.D.C. 2019) ("This is the type of 'patently insubstantial' claim that warrants dismissal under Rule 12(b)(1)."), aff'd, 2020 U.S. App. Lexis 4848 ("The district court correctly dismissed appellant's complaint for lack of jurisdiction, on the ground that

2 It appears that Plaintiff claims, in this action and others, that he brings these actions in the name of the Church of Jesus Christ of Latter Day Saints ("LDS"), but there is no indication that the church authorizes these filings or is a real party in these proceedings.

it was patently insubstantial."); see also Sun v. Secret Gang Org.: Obama Barack-Dog, No. 17-1861 (JDB), 2018 WL 4567164, at *1–*3 (D.D.C. 2018). ("In the instant case, Plaintiff claims that a divine messenger provided inspiration for the suit. This is similar to other 'patently insubstantial' claims meriting dismissal under Rule 12(b)(1)"), aff'd, 2019 U.S. App. Lexis 6635 (D.C. Cir. 2019) ("The district court correctly concluded that it lacked subject matter jurisdiction over appellant's complaint because the complaint was "patently insubstantial, raising no federal question suitable for decision."); LDS v. Trump No. 17-cv-1787 (D.D.C. 2017), aff'd, No. 18-5006, 2018 WL 3520406 (D.C. Cir 2018) ("Appellant's complaint did not contain a short and plain statement of the grounds for the court's jurisdiction or of the claim showing that he is entitled to relief."), cert. denied, 139 S. Ct. 425 (2018); LDS v. Contreras, 839 F. App'x 558, 558 (D.C. Cir. 2021) (affirming July 16, 2020, dismissal of claims (D.D.C. No. 20-0197 (EGS)) for lack of subject matter jurisdiction because they were "patently insubstantial"); LDS v. Lawrence, et al., 19-2886 (RC), ECF No. 7 at 3 ("[B]ecause Sun's complaint is patently insubstantial, the Court lacks subject matter jurisdiction over this case" and Plaintiff also failed to state a claim), aff'd, 2020 U.S. App. Lexis 33111 (D.C. Cir. 2020) (referring to Plaintiff's complaint as "wholly insubstantial").[3]

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3 In this action, plaintiff named six attorneys employed in the Civil Division of the United States Attorney's Office as defendants for no other reason than that they had handled previous litigation involving him. He even went as far as to petition for a writ of certiorari in the Supreme Court, which was denied. See Sun v. Lawrence, 141 S. Ct. 1071 (2021)

In this action, Appellee filed a dispositive motion in response to Appellant's complaint. See R. 7. The district court issued a Fox/Neal order to Appellant and explained that he must respond to the motion to dismiss by June 21, 2021, or the court would treat the motion as conceded. See R. 8. Appellant never responded to the motion to dismiss, nor did Appellant request additional time. Id. Thus, the district court granted the motion to dismiss as conceded under Local Civil Rule 7(b) ("Rule 7(b)"). See R. 9 at 2. Relying on this Court's ruling in Texas v. United States, 798 F.3d 1108 (D.C. Cir. 2015), the district court concluded that the case merited "a straightforward application of [Rule 7(b)]" due to Appellant's complete failure to respond. Id.

This appeal followed.

ARGUMENT

I. The District Court Properly Dismissed Appellant's Complaint as Conceded under Local Civil Rule 7(b)

Rule 7(b) "permits a court to 'treat . . . as conceded' a motion not met with a timely opposing memorandum of points and authorities." Cohen v. Bd. of Trustees of the Univ. of the D.C., 819 F.3d 476, 480 (D.C. Cir. 2016). "[Rule 7(b)] is a 'docket-management tool that facilitates efficient and effective resolution of motions.' Id. at 480. This Court's review of a Rule 7(b)-based grant of a motion to dismiss as conceded is for abuse of discretion, and this Court normally does not deem a "straightforward application" of the rule to be an abuse of discretion. Id. at 480.

This Court upholds a district court's enforcement of Rule 7(b) "where the district court relie[d] on the absence of a response as a basis for treating [a] motion as conceded." Fox v. Am. Airlines, Inc., 389 F.3d 1291 (D.C. Cir. 2004) (citing Twelve John Does v. Dist. of Columbia, 117 F.3d 571 (D.C. Cir. 1997)); see also Jackson v. Todman, 516 F. App'x 3 (D.C. Cir. 2013) ("Because appellant failed, despite appropriate warning, to file a timely response or a timely motion to extend the time to file a response . . . and offered no explanation for that failure . . . the district court did not abuse its discretion in granting the motion to dismiss as conceded."). Accordingly, there is no dispute that, despite being issued an Order expressly warning him of the consequences of not responding to Appellee's motion to dismiss, R. 8, Appellant neither responded to Appellee's motion to dismiss, nor did he request additional time to respond. Thus, the district court's grant of the motion as conceded was appropriate.

In limited circumstances this Court has found abuse of discretion by a lower court in applying Rule 7(b). This Court has found a Rule 7(b) abuse of discretion when the district court granted with prejudice a motion to dismiss as conceded, despite the Plaintiff filing a late response to remedy the error. Cohen, 819 F.3d at 483–85 (holding that Plaintiff's filing of response and amended complaint a few weeks late, combined with good faith and "absence of any prejudice to the defendants," made dismissal with prejudice improper). Moreover, an abuse of discretion has been found when a complaint "adequately stat[ed] a plausible claim for relief" and a timely response to

the motion to dismiss had been filed. Wash. All. of Tech. Workers v. Dep't of Homeland Sec., 892 F.3d 332 344–45 (D.C. Cir. 2018) (a claim that "identif[ied] the perceived disconnect between what the statute permits . . . and what the regulations do" stated a plausible claim for relief, and where the plaintiff filed a timely opposition that "adhered to its position that its complaint was well-pleaded," a Rule 7(b) dismissal was improper). Basing the legal sufficiency of a complaint on the legal sufficiency of a response to a Rule 12(b)(6) motion would undermine "the clear preference of the Federal Rules to resolve disputes on their merits." Id. at 345 (citing Cohen, 819 F.3d at 482)

None of these limitations on application of Rule 7(b) apply here. In this case, Appellant did not file a timely response to Appellee's motion to dismiss. R. 7 at 1. Appellant also did not state a "plausible claim for relief," as he failed to allege any conduct of Appellee "Cain," nor did he reference a single legal provision violated. See generally R. 1. To warrant dismissal, claims must "be flimsier than 'doubtful or questionable – they must be 'essentially fictitious.'" Best v. Kelly, 39 F.3d 328, 330 (D.C. Cir. 1994) (quoting Hagans v. Lavine, 415 U.S. 528, 537-38 (1974)) (finding that the claims of pro se prisoners who asserted that the prison had violated their constitutional rights were not "patently insubstantial," but noting that "any sort of supernatural intervention" would meet the standard for Rule 12(b)(1) dismissal). Here, it is impossible to discern what harm Appellant allegedly suffered, what Appellee did or failed to do that caused any harm to Appellant, or what federal rights were allegedly infringed. Thus, Appellant failed to state a "plausible

claim for relief," further making the district court's Rule 7(b) dismissal as conceded proper.

II. Conditionally Enjoining Appellant from Filing Further Actions in the District Court is Reasonable and Proper

It is also proper that Appellant be conditionally enjoined from future filings in the district court without first seeking leave of Court. Similar to the history of frivolous filings set forth above in this Circuit, Appellant has a near identical history in other federal courts. See Sun v. N.Y. Office of Att'y Gen., No. 17-cv5916, 2017 WL 4740811, at *1–*3 (E.D.N.Y. 2017) (Plaintiff's "allegations consist entirely of religious pronouncements. The complaint is therefore dismissed as frivolous."); Sun v. United States, 130 Fed. Cl. 569, 569-570 (2016) (dismissing suit sua sponte because "The Court finds that any expenditure of governmental resources in preparing a defense to this complaint would be a waste of public funds."); Sun v. Newman, No. 18-cv-4010 (VSB), 2018 U.S. Dist. Lexis 86016 *3 (S.D.N.Y. 2018) ("Plaintiff's complaint must be dismissed as frivolous. Plaintiff's allegations rise to the level of the irrational, and there is no legal theory on which he can rely."); LDS v. Mullkoff, No. 18-cv-2751 (LTS), 2018 U.S. Dist. Lexis 77655 *3 (E.D.N.Y. 2018) (same); Church of Jesus Christ of Latter-Day Saints v. Zeve, No. 18-cv-2749 (AJN), 2018 U.S. Dist. Lexis 59378 (S.D.N.Y. 2018) ("The Court dismisses this action as frivolous."); Sun v. Cavallo, No. 16-cv-1083 (ENV/CLP), 2016 U.S. Dist. Lexis 193861 *4 (E.D.N.Y 2016) ("[T]he complaint is dismissed as frivolous, and leave to amend is denied as futile.

Although plaintiff has paid the filing fee to commence this action, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of an appeal."); Sun v. Supreme Court of N.Y., No. 17-cv-5063 (ENV/LB), 2017 U.S. Dist. Lexis 220408 **3-4 (E.D.N.Y. 2017) ("[E]ven if Sun's complaint alleged any facts that were not frivolous, it likely would, nonetheless, need to be dismissed on grounds of absolute judicial immunity"); Sun v. Dillon, No. 16-cv-5276 (LDH/LB), 2016 U.S. Dist. Lexis 142331 *4 (E.D.N.Y. 2016) ("[T]he complaint is dismissed as frivolous . . . because the judicial officers named herein would be entitled to absolute immunity for any actions
related to their judicial duties.").

In N.Y. Office of Att'y Gen., 2017 WL 4740811, at *1–*3, in light of Plaintiff's frivolous complaint naming too many defendants to count, whom hecalled "pharisees," the U.S. District Court for the Eastern District of New York issued an order to show cause why an injunction should not be issued against Plaintiff for his frivolous filings in that case. See generally R. 7. Because Plaintiff did not respond to that Court's order to show case, it "ordered that [] plaintiff . . . is enjoined from filing any new action in this Court without first obtaining the Court's permission." Id.[4] The Second Circuit has also entered

4 "[I]f the plaintiff seeks permission to file and the Court finds that the new action is not subject to this filing injunction, the Court will grant the plaintiff leave to file the new action and the civil action shall be filed and assigned a civil docket number; and (4) if leave to file is denied, the plaintiff's submission shall be filed on the Court's miscellaneous docket and a summary order denying leave to

an order "that Appellant [Xiu Jian Sun] must seek leave of this Court before filing any appeals or other documents." See Ex. B hereto (Sun v. Dillon, No. 16-3557 (2d Cir. Dec. 13, 2017). In another Second Circuit appeal, the Court dismissed Plaintiff's appeal and added the following:

> On May 21, 2018, the Court dismissed the action as frivolous, and noted that because of Plaintiff's history of filing frivolous actions, both the United States Court of Appeals for the Second Circuit and the United States District Court for the Eastern District of New York have barred him under 28 U.S.C. § 1651 from filing civil matters in those courts without having first obtained permission. See Sun v. Dillon, No. 16-3557 (2d Cir. Dec. 23, 2017), cert. denied, No. 17-1000 (Mar. 5, 2018); Sun v. State of New York of the Attorney General, No. 17-CV5916 (AMD) (SMG) (E.D.N.Y. Dec. 6, 2017). This Court directed Plaintiff to show cause within thirty days why he should not be barred from filing further actions in this Court without prior permission. Plaintiff did not file a declaration, but instead filed a notice of appeal on May 29, 2018. (ECF No. 10.). By mandate issued July 17, 2018, the Second Circuit dismissed the appeal because

file shall be entered, and no further action will be taken. The plaintiff is warned that the continued submission of frivolous civil actions or frivolous leave-to-file pplications may result in the imposition of additional sanctions, including monetary penalties, upon notice and opportunity to be heard. 28 U.S.C. § 1651(a). See, e.g., Malley v. Corp. Counsel of the City of New York., 9 F. App'x 58, 59 (2d Cir. 2001) (affirming imposition of $1,500 sanction on pro se litigant)." Ex. A hereto.

> Plaintiff failed to seek permission for leave to file. See No. 18-1640 (2d Cir. July 17, 2018).

R. 7 (citing The Church of Jesus Christ of Latter-Day Saints v. Newman, No. 18-cv-4010 (VSB) (S.D.N.Y. May 21, 2018).

It appears that Appellant has turned his attention to judges and employees in this jurisdiction due to being enjoined from filing claims in New York and the Second Circuit. Appellant's history of frivolous filings in this jurisdiction more than justifies an order similarly requiring him to seek leave before filing in this jurisdiction. See Sun v. New York Office of the Attorney General, 2017 WL 4740811, at *2 ("[P]laintiff has made a practice of suing any judge, court personnel, government official, or person with whom he has ever interacted, [making] allegations consist[ing] . . . of religious pronouncements.").

The Supreme Court has recognized "the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." Landis v. N. Am. Co., 299 U.S. 248, 254 (1936). The court has an obligation to protect the "orderly and expeditious administration of justice." Urban v. United Nations, 768 F.2d 1497, 1500 (D.C. Cir. 1985). It is also true that, in acting to protect the "integrity of the courts," courts may use injunctive remedies. Id. In fashioning a remedy to stem the flow of frivolous actions, a court must take great care not to "unduly impair[] [a litigant's] constitutional right of access to the courts." In re Green, 669 F.2d 779, 786 (D.C. Cir. 1981). The

factors to be considered when fashioning an appropriate remedy are affording the litigant appropriate due process before imposition of the injunction, "mak[ing] substantive findings as to the frivolous or harassing nature of the litigant's actions [,]" and "mak[ing] findings as to any pattern constituting harassment." In re Powell, 851 F.2d 427, 431 (D.C. Cir. 1988).

As a threshold matter, in contrast to some prisoners who may attempt, even if inartfully, to advance constitutional or due process challenges, no particular solicitude is due to Appellant, who is not incarcerated. But see Green, 669 F.2d at 785 (although "prisoners have a constitutional right of access to the courts," that right is "neither absolute nor unconditional"). With regard to "substantive findings as to the frivolous or harassing nature of the litigant's actions," Appellant's conduct appears to be even more egregious than other cases, because at least in other circumstances courts have been able to make out the nature of a plaintiff's claims – for instance, in Green, the plaintiff appeared to raise claims arising from his incarceration, in Powell the petitioner was an expert at Freedom of Information Act litigation and had exhausted his administrative remedies before seeking judicial review, and even the Urban plaintiff had raised claims about actual events, like attempting to stop President Reagan's inauguration. By contrast, in this case it is impossible to make out Appellant's claims based on "God's law." All the claims appear to be identical or nearly so, and it appears that all repeatedly have been deemed to be frivolous, whether in this Court, the Second Circuit, or the Court of

Federal Claims. See Urban, 768 F.2d at 1498 ("The 16 separate cases comprising this consolidated appeal were filed against a variety of real and imaginary government defendants").

Moreover, because Appellant's complaints are consistently patently insubstantial and frivolous, a reasonable conclusion is that he files them solely for the purpose of harassing judges and attorneys who have handled his cases. See Powell, 851 F.2d at 430 ("[T]he district court should make findings as to any pattern constituting harassment"). "[T]he district court should look to both the number and content of the filings as indicia of frivolousness and harassment." Id. Here, both the number and content of Appellant's complaints evince an intent to harass, as the Eastern District of New York concluded. See Sun v. New York Office of the Attorney General, 2017 WL 4740811, at *2 ("[P]laintiff has made a practice of suing any judge, court personnel, government official, or person with whom he has ever interacted, [making] allegations consist[ing] . . . of religious pronouncements."). Another complaint by Appellant, in which he sued attorneys in the Civil Division of the United States Attorney's Office merely because they handled his cases, lays this bare. See LDS v. Lawrence, et al., 2020 U.S. App. Lexis 33111 (D.C. Cir. 2020) (referring to Plaintiff's complaint as "wholly insubstantial")

Apart from the necessity of a case-by-case determination of poverty, frivolity or maliciousness, a court may impose conditions upon a litigant – even onerous conditions – so long as they assist the court in rendering an appropriate sanction, and so long as they

are, taken together, not so burdensome as to deny the litigant meaningful access to the courts. See Green, 669 F.2d at 786 ("[T]he present need to deter Green and others who may follow him requires us to enter an order that is both effective and constitutional."). Because Green was incarcerated, the imposition of a requirement of a filing fee plus a deposit was considered punitive, but an order requiring leave of court before making further filings was deemed appropriate. Id. at 787.

In this case, Appellant is not incarcerated and apparently has adequate resources to pay filing fees for actions that he, however, appears not to be interested in prosecuting. The litigants in the other three above-cited cases of this Court actually litigated their cases. Requiring Appellant to seek leave "upon a satisfactory demonstration of the novelty of the claim and its bona fide nature" does not interfere with his right of access. Id. at 787-788. While Appellant did not file anywhere near the number of cases that were filed in Green, Appellant's conduct is more egregious in many respects because his actions are completely devoid of substance, he does not actually litigate the cases, and it appears that he files these actions for the sole purpose of harassing judges, government officials, and government attorneys. See Justice v. Koskinen, 109 F. Supp. 3d 142 (D.D.C. 2015) (enforcing a similar order). Accordingly, this Court should affirm Appellee's motion to dismiss as conceded, and, further, should act similar to the Second Circuit and enjoin Appellant from making further filings in this Court or in the district court, absent leave of court.

CONCLUSION

Thus, for the foregoing reasons, the district court's ruling was correct and should be summarily affirmed, and Xiu Jian Sun should be enjoined from making further filings in this Court or in the District Court absent leave of Court.

MATTHEW M. GRAVES
United States Attorney
R. CRAIG LAWRENCE
Assistant United States Attorney
/s/ Kenneth A. Adebonojo
KENNETH A. ADEBONOJO
Assistant United States Attorney

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION

I hereby certify that the foregoing motion contains 3454 words at a 14-point font size in Times New Roman style.

/s/ Kenneth A. Adebonojo
KENNETH A. ADEBONOJO
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, this December 27, 2021, I caused a copy of the foregoing Motion for Summary Affirmance and to Enjoin Appellant from Further Filings Absent Leave of Court to be served on Appellant by first class mail:

Xiu Jian Sun
54-25 153rd Street, Second FL, Flushing, NY 11355

/s/ Kenneth A. Adebonojo
KENNETH A. ADEBONOJO
Assistant United States Attorney

Case 16-3557, Document 95, 12/13/2017, 2193883,
Page1 of 1
USCA Case #21-5174 Document #1928258
Filed: 12/27/2021 Page 1 of 1

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13th day of December, two thousand and seventeen.

Xiu Jian Sun,
Plaintiff - Appellant,

v.

Mark C. Dillon, Sylvia O. Hinds-Radix, Sheri S. Roman, Colleen Duffy,
Defendants - Appellees.

ORDER

Docket No. 16-3557

By Summary Order dated November 1, 2017, the Court affirmed the judgment of the district court and ordered Appellant to show cause within 30 days of the order why he should not be required to seek leave of this Court before filing any appeals or other documents. The Summary Order also stated that failure to file a timely response will result in the imposition of a leave-to-file sanction. To date,

Appellant has not responded to the order to show cause. Upon due consideration,

It is hereby ORDERED that Appellant must seek leave of this Court before filing any appeals or other documents. See In re Martin-Trigona, 9 F.3d 226, 229 (2d Cir. 1993).

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court
Catherine O'Hagan Wolfe,

USCA Case #21-5174 Document #1931525
Filed: 01/20/2022 Page 1 of 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5174 **September Term, 2021**
1:20-cv-03331-RC
Filed On: January 20, 2022 [1931525]

Xiu Jian Sun, The Spiritual Adam,
Appellant
Church of Jesus Christ of Latter-Day Saints,
Appellee
v.
Donald J. Trump, Former President of U.S.A., Mr.,
Appellees

ORDER

On December 27, 2021, appellee filed a dispositive motion. Any response was due by January 10, 2022. To date, no response has been received from appellant. Upon consideration of the foregoing, it is

ORDERED, on the court's own motion, that appellant show cause by February 22, 2022, why the dispositive motion should not be considered and decided without a response. The response to the order

to show cause may not exceed the length limitations established by Fed. R. App. P. 27(d)(2) (5,200 words if produced using a computer; 20 pages if handwritten or typewritten).

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/
Lynda M. Flippin
Deputy Clerk

USCA Case #21-5174 Document #1955682
Filed: 07/19/2022 Page 1 of 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5174 **September Term, 2021**
1:20-cv-03331-RC
Filed On: July 19, 2022 [1955682]

Xiu Jian Sun, The Spiritual Adam,
Appellant

Church of Jesus Christ of Latter-Day Saints,
Appellee

v.

Donald J. Trump, Former President of U.S.A., Mr.,
Appellee

MANDATE

In accordance with the order of May 25, 2022, and pursuant to Federal Rule of Appellate Procedure 41, this constitutes the formal mandate of this court.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

Link to the order filed May 25, 2022

Case 1:20-cv-03331-RC Document 9
Filed 06/30/21 Page 1 of 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, et al.,
Plaintiff,
v.
DONALD J. TRUMP,
Defendant.

Civil Action No.: 20-3331 (RC)
Re Document No.: 7

ORDER

GRANTING DEFENDANT'S MOTION TO DISMISS

Plaintiff Xiu Jian Sun, proceeding pro se, purported to bring this case against former President Donald Trump under "god's law." Compl. at 1, ECF No. 1.[1] Defendant moved to dismiss the complaint on May 20, 2021. Def.'s Mot. Dismiss, ECF No. 7. The next day, the Court issued a Fox/Neal order explaining that Plaintiff was required to respond to the motion to dismiss by June 21, 2021. Fox/Neal Order at 2, ECF

1 As Defendant points out, Plaintiff claims to bring this suit on behalf of the Church of Jesus Christ of Latter-day Saints, but there is no indication that the Church authorizes his actions. See Mem. P. & A. Supp. Def.'s Mot. Dismiss Pl.'s Compl. at 1 n.1, ECF No. 7-1.

No. 8. The Court warned that it could treat the motion to dismiss as conceded if the deadline passed without Plaintiff filing a response. Id. at 1; see also Fox v. Strickland, 837 F.2d 507, 509 (D.C. Cir. 1988) (per curiam) (explaining that a district court must inform a pro se party that "failure to respond . . . may result in the district court granting the motion and dismissing the case"). To date, Plaintiff has not responded to Defendant's motion or requested additional time to respond.

Under Local Civil Rule 7(b), if any party fails to file a response to a motion within the prescribed time, "the Court may treat the motion as conceded." Although the D.C. Circuit has expressed concern with the interaction of Local Civil Rule 7(b) and Federal Rule of Civil Procedure 12(b)(6), standing circuit precedent permits district courts to follow the local rule and grant motions to dismiss as conceded. See Cohen v. Bd. of Trustees of the Univ. of D.C., 819 F.3d 476, 480–83 (D.C. Cir. 2016). Indeed, the Circuit "ha[s] yet to deem a 'straightforward application of Local Rule 7(b)' an abuse of discretion." Id. at 480 (quoting Fox v. Am. Airlines, Inc., 389 F.3d 1291, 1294 (D.C. Cir. 2004)); see also Jordan v. Ormond, No. 15-7151, 2016 WL 4098823, at *1 (D.C. Cir. July 22, 2016) (unpublished per curiam opinion) (holding that a district court "did not abuse its discretion" when it granted a motion to dismiss as conceded pursuant to Local Civil Rule 7(b)). Because Plaintiff has completely failed to respond to

Defendant's motion to dismiss, this case involves the straightforward application of Local Civil Rule 7(b). See Texas v. United States, 798 F.3d 1108, 1114 (D.C. Cir. 2015) ("As we have often observed, where the district court relies on the absence of a response as a basis for treating the motion as conceded, we honor its enforcement of the rule." (cleaned up) (quoting Fox, 389 F.3d at 1295)).

Accordingly, it is hereby **ORDERED** that Defendant's motion to dismiss (ECF No. 7) is **GRANTED AS CONCEDED**. It is **FURTHER ORDERED** that the complaint and this civil action are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

Dated: June 30, 2021 RUDOLPH CONTRERAS
United States District Judge