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App. 1a

**JUDGMENT OF THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT
(November 10, 2022)**

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

**No. 22-20360
Summary Calendar**

**RANDALL E. ROLLINS, AND DOES 1-300,000,000,
Plaintiff-Appellant,**

versus

**THE PRESIDENT OF THE UNITED STATES OF
AMERICA; THE SENATE OF THE UNITED STATES
OF AMERICA; THE HOUSE OF REPRESENTATIVES
OF THE UNITED STATES OF AMERICA,
Defendants-Appellees.**

**Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CV-1427**

**Before DAVIS, DUNCUN, and ENGELHARDT, *Circuit
Judges.***

App. 2a

No. 22-20360

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that Appellant pay to Appellees the costs on appeal to be taxed by the Clerk of this Court.

**MEMORANDUM OPINION OF THE UNITED
STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT
(November 10, 2022)**

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

**No. 22-20360
Summary Calendar**

**RANDALL E. ROLLINS, AND DOES 1-300,000,000,
Plaintiff-Appellant,**

versus

**THE PRESIDENT OF THE UNITED STATES OF
AMERICA; THE SENATE OF THE UNITED STATES
OF AMERICA; THE HOUSE OF REPRESENTATIVES
OF THE UNITED STATES OF AMERICA,**

Defendants-Appellees.

**Appeal from the United States District Court
for the Southern District of Texas**

USDC No. 4:22-CV-1427

No. 22-20360

Before DAVIS, DUNCUN, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Plaintiff-Appellant, Randall E. Rollins, on behalf of Does 1-300,000,000, appeals the district court's dismissal of his action against Defendant-Appellees, the President of the United States of America, the Senate of the United States of America, and the House of Representatives of the United States of America. For the reasons set forth below, we AFFIRM.

I. BACKGROUND

Randall Rollins appeals the district court's dismissal of his complaint and denial of his emergency motion for a temporary restraining order ("TRO"). The basis of Rollins's complaint and TRO is his allegation that Defendants are violating the U.S. Constitution by "fail[ing] to enforce the immigration laws" and are "unabashedly and proudly allow[ing] America to be invaded by foreign criminals on a daily basis." Rollins's TRO sought to "enjoin[] and restrain[] the

* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4.

President, Senate, and House of Representatives from allowing people from other countries to illegally invade the United States of America.” The district court denied Rollins’s motion for a TRO, and dismissed Rollins’s complaint for lack of standing, holding that his interest in Defendants’ compliance with immigration laws is no different from that held by the general public.¹ Rollins timely appealed.

II. DISCUSSION

This court reviews de novo a district court’s Rule 12(b)(1) dismissal for lack of standing.² “The burden of proof for a Rule 12(b)(1) motion is on the party asserting jurisdiction.”³

On appeal, Rollins asserts that the district court erred in dismissing his complaint because he alleged a sufficient factual basis to support his claim. His opening brief does not address the district court’s determination that he lacked standing to bring his complaint, and his

¹ *Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 220-21 (1974).

² *Cornerstone Christian Sch. v. Univ. Interscholastic League*, 563 F.3d 127, 133 (5th Cir. 2009).

³ *Alfonso v. United States*, 752 F.3d 622, 625 (5th Cir. 2014) (quoting *In re FEMA Trailer Formaldehyde Prods. Liab. Litig.*, 646 F.3d 185, 189 (5th Cir. 2011)).

reply brief dedicates two sentences to the topic. Rollins's reply brief asserts that he has standing to bring suit on behalf of himself and 300,000,000 Americans "because of the incalculable damage that this invasion is doing," and that "millions of . . . Americans[] are suffering intentional infliction of emotional distress by the spectacle of Defendants allowing America to be invaded." Although pro se briefs are afforded liberal construction, even pro se litigants must brief arguments in their opening brief in order to preserve them. ⁴ Rollins's opening brief fails to address the district court's reason for dismissing his claim. Therefore, his argument is abandoned. ⁵

Accordingly, the judgment of the district court is AFFIRMED.

⁴ See *Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993) ("This Court will not consider a claim raised for the first time in a reply brief." (citing *United States v. Prince*, 868 F.2d 1379, 1386 (5th Cir. 1989))).

⁵ *Brinkmann v. Dall. Cnty. Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

FINAL DISMISSAL OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF TEXAS
(July 8, 2022)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Randall E. Rollins,	§	
Plaintiff,	§	
versus	§	Civil Action
The President of the United	§	H-22-1427
States of America, et al.,	§	
Defendants.	§	

Final Dismissal

I. *Background.*

Randall E. Rollins is suing the President, the House of Representatives, and the Senate of the United States of America on behalf of himself and presumably most United States citizens -- Does 1-300,000,000 -- under: (a) "[t]he letter and spirit of the Preamble;" (b) Article IV, section 2 of the United States Constitution; (c) Article VI, section 2; (d) the Ninth Amendment; (e) the Tenth Amendment; and (f) sections one and three of the Fourteenth Amendment.

He claims that the defendants have "violated their oath of office to defend the Constitution and the United States of America against all enemies foreign and domestic" because they have "refused and neglected to stop" the "United States from being invaded by illegal immigrants--many of whom bring illegal drugs and communicable diseases into the United States, who have 'cut in line' ahead of other legal immigrants, many of whom are terrorists with evil designs against the United States."

The defendants have moved to dismiss arguing that Rollins lacks standing. They will prevail.

2. *Standing.*

For Rollins to have standing -- and this court to have jurisdiction -- he must show that: (a) he has suffered an injury-in-fact that is concrete, particularized, actual, and imminent; (b) that injury is causally connected to the defendants' actions; and (c) the injury can be redressed by a favorable decision.¹ The injury cannot be against an interest that is commonly held by all members of the public.²

Rollins has not given any facts to suggest that he has an interest different than one held by the public. He does not say how he has suffered from illegal immigration, or any direct action taken by the defendants that has impacted him. Abstract constitutional conclusions do not support his claim.

1 *Deutsch v. Annis Enterprises, Inc.*, 882 F.3d 169, 173 (5th Cir. 2018).

2 *Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 220-21 (1974).

Rollins response is largely babble about sovereign immunity, the Administrative Procedures Act, and vague principles of judicial independence. This is clearly inadequate to support standing.

His attempts to invoke what happened with Adolf Hitler and Nazi Germany are deplorable, and he should be ashamed. The mass killing of Jewish and gypsy people at the hands of an authoritative regime that established false courts has no comparison to what Rollins claims is happening here. Trivializing a historic tragedy does not support his claims.

3. *Conclusion.*

Because he lacks standing, Randall E. Rollins's claims are dismissed. (5)

Signed on July 8, 2022, at Houston, Texas.

Lynn N. Hughes
United States District Judge

**ORDER DENYING TEMPORARY RESTRAINT
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

(July 8, 2022)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

Randall E. Rollins,	§	
Plaintiff,	§	
versus	§	Civil Action
The President of the United	§	H-22-1427
States of America, et al.,	§	
Defendants.	§	

Order Denying Temporary Restraint

Randall E. Rollins is suing the President, the House of Representatives, and the Senate of the United States of America on behalf of himself and presumably most United States citizens -- Does 1-300,000,000 -- under: (a) "[t]he letter and spirit of the Preamble;" (b) Article IV, section 2 of the United States Constitution; (c) Article VI, section 2; (d) the Ninth Amendment; (e) the Tenth Amendment; and (f) sections one and three of the Fourteenth Amendment.

He claims that the defendants have "violated their oath of office to defend the Constitution and the United States of America against all enemies foreign and domestic" because they have "refused and neglected to stop" the "United States from being invaded by illegal immigrants--many of whom have committed crimes in their own countries, many of whom bring illegal drugs and communicable diseases into the United States, who have 'cut in line' ahead of other legal immigrants, many of whom are terrorists with evil designs against the United States."

Rollins has moved for a temporary restraining order that would "enjoin[] and restrain[] the President, Senate, and House of Representatives from allowing people from other countries to illegally invade the United States of America."

To obtain a temporary restraining order, Rollins must show that: (a) he has a substantial likelihood of success on the merits; (b) he would suffer a substantial threat of irreparable harm if the restraining order is not granted; (c) his threatened injury outweighs any harm the restraining order may cause to the defendants; and (d) it would serve the public interest.¹

A. *Substantial Likelihood*

Rollins does not attempt to argue that his claims are likely to succeed on the merits. He conclusorily asserts that the President, House and Senate are violating their oaths of office but does not refer to a

¹ *Opulent Life Church v. Holly Springs, Miss.*, 697 F.3d 279, 288 (5th Cir. 2012).

particular cognizable right that they are violating. His complaint essentially asks for the judiciary to tell the legislative branch what policies it must enact and the executive exactly when and by what means they must enforce those policies. Rollins points to six locations in the Constitution that the court can only assume he believes grants the judiciary this power.

1. The Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The court sees no authority expressly -- or inherently in these words -- that grant the judiciary the power to control the actions of the other branches.

2. Article IV, section 2.

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several states.

The court, again, finds no articulated basis for giving itself the authority to control the other branches of government.

3. Article VI, section 2.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the

Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, and Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support the Constitution.

The court does agree that it -- and the members of the other branches of government -- are bound to follow the Constitution, and this exactly how this court intends to proceed.

4. Ninth Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage other retained by the people.

Rollins gives no analysis or mention of what other rights retained by the people that allow this court to control the other branches.

5. Tenth Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Rollins again offers not mention of what rights reserved to the people would authorize this court to control the other branches of government.

6. *Fourteenth Amendment -- sections one and three.*

Section 1 protects against state action ("No State shall make or enforce") -- yet Rollins wants this court to enjoin the federal government. This clause, therefore, clearly cannot be the basis for the relief he seeks.

Section 3 disqualifies former insurrectionists, rebels, and traitors against the United States from government service. Rollins gives not facts to suggest that the President and both chambers of Congress -- as a whole -- are traitors to this country, so this basis fails as well.

Because Rollins cannot show a likelihood of success on the merits, this factor weighs against a temporary restraining order.

B. *Irreparable Harm.*

Rollins says that he and other Americans "who believe that something has to be done now, not years later," would be irreparably harmed because "[b]y the time it would take to stop these law-breaking invaders via an unwilling President and Congress, the United States may be destroyed or at least severely damaged that recovery might be impossible."

This amount of mass speculation is unequivocally inadequate to show immediate and irreparable injury, loss, or damage that Rollins will suffer personally if the court enters temporary restraint. He fails to show how his life has been impacted in any way by illegal immigration.

Because he cannot show irreparable harm, this factor weighs against temporary restraint.

C. Balance of Harms.

Rollins does not give any argument to support the balance of harms prong. The court would find that the harm would be drastically greater for the defendants than for Rollins. This court enjoining both Congress and the President and forcing each to act in a realm that they have express authority over would largely throw their entire institutions into massive upheaval.

D. Public Interest.

Rollins vaguely -- at best -- says that it would be in the public's best interest to enjoin Congress and the President. His complaint is full of racist and nationalistic undertones. The public interest would not be best served by succumbing to fascist ideals.

Scarcity of resources is a basic tenet of economics. Our government has a finite amount of resources that it must allocate across a wide spectrum of activities. In all areas, more resources would be required to achieve perfect results, but that is not the reality of this world. The Department of Homeland Security has scarce resources to protect and defend our borders. If the court understands Rollins's zeal to stop illegal immigration, then it expects him to advocate full-heartedly to his duly elected representatives to raise his taxes to pay for these changes. Rollins then would enthusiastically pay those taxes, so his vision could be realized.

Randall E. Rollins motion for temporary restraining order is denied. (3)

Signed on July 8, 2022, at Houston, Texas.

Lynn N. Hughes
United States District Judge

**ORDER DENYING REQUEST FOR FINDINGS AND
CONCLUSIONS OF THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF TEXAS**

(July 19, 2022)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

Randall E. Rollins,	§	
Plaintiff,	§	
versus	§	Civil Action
The President of the United	§	H-22-1427
States of America, et al.,	§	
Defendants.	§	

Order on Request

- I. Randall E. Rollins has moved to "request for findings of fact and conclusions of law" under federal rule of civil procedure 52(a)(1). This rule says that "[i]n an action tried on the facts without a jury or with an advisory jury, the court must find the facts specially and state its conclusions of law separately." Because this case did not go to trial, this rule is inapplicable.
2. Rollins conveniently does not continue to read the rules that he apparently researched. Rule 52(a)(3) says that, "The court is not required

to state findings or conclusions when ruling on a motion under Rule 12." The court dismissed on a motion under rule 12(b)(1). In ruling, the court looks to the facts pleaded in the complaint rather than the facts, and the court cannot make findings of fact that do not exist.

3. Rollins's request is denied. (17)

Signed on July 19, 2022, at Houston, Texas.

Lynn N. Hughes
United States District Judge