

ADDENDUM A

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

RAJ K. PATEL,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2023-1325

Appeal from the United States Court of Federal Claims
in No. 1:22-cv-01446-LAS, Senior Judge Loren A. Smith.

ON MOTION

PER CURIAM.

O R D E R

Raj K. Patel appeals from the judgment of the United States Court of Federal Claims dismissing his complaint and subsequent order denying reconsideration. Mr. Patel also moves for “permission to file [a] . . . Motion for a Writ of Mandamus” with his opening brief, ECF No. 4, for “leave to serve the President directly,” ECF No. 12-1 at 1, for leave to amend his motion for leave to serve the President, ECF No. 21, and to expedite, ECF No. 25. The United States

separately moves for summary affirmance. ECF No. 17. Mr. Patel opposes that motion, the United States replies, and Mr. Patel submits a sur-reply, which the court construes as including a motion for leave to file a sur-reply, ECF No. 24.

Mr. Patel has filed several cases at tribunals within this court's appellate jurisdiction alleging breach of a contract with the Presidents of the United States "about living under the stress weapon." In October 2022, Mr. Patel filed his third complaint raising such allegations at the United States Court of Federal Claims. ECF No. 17 at Appx74. In November 2022, the Court of Federal Claims dismissed the complaint for failing to raise any non-frivolous allegation that would establish a claim within that court's jurisdiction. In December 2022, that court denied reconsideration. This appeal followed.*

Summary affirmance is appropriate when the decision below "is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists." *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994) (citation omitted). Here, the Court of Federal Claims was clearly correct that Mr. Patel's complaint made no non-frivolous allegation of a contract with the United States that could form a basis for its jurisdiction under the Tucker Act, 28 U.S.C. § 1491(a)(1). We therefore grant the motion to summarily affirm. We end by warning Mr. Patel, who

* The Court of Federal Claims' judgment included an anti-filing injunction provision. However, Mr. Patel does not challenge that provision in his brief and therefore forfeits any such challenge. See *SmithKline Beecham Corp. v. Apotex Corp.*, 439 F.3d 1312, 1319 (Fed. Cir. 2006) ("[A]rguments not raised in the opening brief are waived."); *Green v. Dep't of Educ. of N.Y.*, 16 F.4th 1070, 1074 (2d Cir. 2021) ("[A] pro se litigant abandons an issue by failing to address it in the appellate brief.").

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has now had three appeals dismissed as clearly baseless, see *Patel v. White House Chief of Staff*, No. 2022-1962, 2022 WL 3711886, at *1 (Fed. Cir. Aug. 29, 2022); *Patel v. United States*, No. 2022-1131, 2022 WL 4956868, at *1 (Fed. Cir. Feb. 11, 2022), that future abuse of the judicial process through frivolous appeal may result in sanctions.

Accordingly,

IT IS ORDERED THAT:

(1) The United States' motion, ECF No. 17, is granted. The Court of Federal Claims' judgment is affirmed.

(2) Mr. Patel's motion for permission to file a petition for writ of mandamus, ECF No. 4, is denied.

(3) Mr. Patel's motion to file a sur-reply is granted. ECF No. 24 is accepted for filing.

(4) All other pending motions are denied as moot.

(5) Each side shall bear its own costs.

FOR THE COURT

March 7, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

ADDENDUM B

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

RAJ K. PATEL,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2023-1325

Appeal from the United States Court of Federal Claims
in No. 1:22-cv-01446-LAS, Senior Judge Loren A. Smith.

ON PETITION FOR PANEL REHEARING AND REHEARING EN BANC

Before MOORE, *Chief Judge*, NEWMAN, LOURIE, DYK,
PROST, REYNA, TARANTO, CHEN, HUGHES, STOLL,
CUNNINGHAM, and STARK, *Circuit Judges*.

PER CURIAM.

ORDER

Raj K. Patel filed a corrected combined petition for panel rehearing and rehearing en banc [ECF No. 34]. The petition was referred to the panel that issued the order,

and thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

The mandate of the court will issue May 2, 2023.

FOR THE COURT

April 25, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner
Clerk of Court

ADDENDUM C

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

RAJ K. PATEL,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2023-1325

Appeal from the United States Court of Federal Claims
in No. 1:22-cv-01446-LAS, Senior Judge Loren A. Smith.

ON MOTION

PER CURIAM.

ORDER

Raj K. Patel moves for reconsideration [ECF No. 37] and files amended motions to reconsider [ECF Nos. 38, 39].

The motions appear to merely reiterate arguments made in the combined petition for panel rehearing and rehearing en banc [ECF No. 34]. Such repetitive requests for relief are not authorized under the court's rules.

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Accordingly,

IT IS ORDERED THAT:

The court will take no action on ECF No. 37, 38, and 39.

FOR THE COURT

May 2, 2023
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

ADDENDUM D

In the United States Court of Federal Claims

No. 22-1446

Filed: November 17, 2022

THE EXCELLENT THE EXCELLENT)
RAJ K. PATEL,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)

ORDER

On November 5, 2021, this Court issued an order dismissing plaintiff’s first complaint in *Patel v. United States*, No. 21-2004, *sua sponte*, for lack of subject-matter jurisdiction under Rule 12(h)(3) of the Rules of the Court of Federal Claims (“RCFC”). *See generally Patel v. United States*, No. 21-2004, ECF No. 10 (Order of Dismissal) and ECF No. 16 (Mandate of Court of Appeals for the Federal Circuit Affirming Dismissal). On August 12, 2022, this Court issued an order dismissing plaintiff’s second complaint in *Patel v. United States*, No. 22-734, *sua sponte*, for lack of subject-matter jurisdiction under RCFC 12(h)(3). *See generally Patel v. United States*, No. 22-734, ECF No. 11 (Order of Dismissal).

On October 3, 2022, plaintiff, proceeding *pro se*, filed a third complaint with this Court, asserting the same underlying claims already dismissed in *Patel v. United States*, No. 21-2004, and *Patel v. United States*, No. 22-734, *i.e.*, that government actors breached contractual obligations and abridged his “privileges and/or immunities” by committing “battery/assault/torture/genocide/civil rights violation/conspiracy through a psycho-bio-tech stress weapon.” *Compare* Complaint, ECF No. 1. [hereinafter Compl.], *with* Complaint, No. 21-2004, ECF No. 1, *and* Complaint, No. 22-734, ECF No. 1. On November 15, 2022, the Court ordered plaintiff to show cause as to why this Court has jurisdiction over his claims. *See* Show Cause Order, ECF No. 11. On that same day, plaintiff filed a Motion for More Definite Statement. *See* Plaintiff’s Motion for More Definite Statement, ECF No. 12. The Court construes this Motion as a response to the Court’s Order to Show Cause, ECF No. 11.

Based on a review of plaintiff’s previously dismissed cases in this Court, his current Complaint, and his corresponding response to the Court’s Order to Show Cause, the Court determines that the most recent Complaint filed by plaintiff is factually frivolous. The allegations asserted in the Complaint are irrational and wholly incredible. *See, e.g., Spencer v. United States*, 98 Fed. Cl. 349, 356 (2011) (citing *Denton v. Hernandez*, 504 U.S. 25, 33 (1992)); *see also* Compl. at 1. Claims that are “factually frivolous,” fall outside of this Court’s

jurisdiction. *See Spencer*, 98 Fed. Cl. at 356, 358–59. Accordingly, plaintiff’s Complaint is **DISMISSED**, *sua sponte*, pursuant to RCFC 12(h)(3). The Clerk of Court is hereby directed to take the necessary steps to dismiss this matter.

Additionally, it is **ORDERED** that the Clerk is directed to accept no further filings or complaints from Raj K. Patel without an order granting leave to file such filings from the Chief Judge of the United States Court of Federal Claims. In seeking leave to file any future documents, plaintiff must explain how the submission raises new matters properly before this Court. *See R. Ct. Fed. Cl. 11(b)–(c)* (barring the filing of unwarranted or frivolous claims that have no evidentiary support).

IT IS SO ORDERED.

s/ *Loren A. Smith*

Loren A. Smith,
Senior Judge

ADDENDUM E

In the United States Court of Federal Claims

No. 22-1446

Filed: December 21, 2022

THE EXCELLENT THE EXCELLENT)
RAJ K. PATEL,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)

ORDER

On October 3, 2022, plaintiff Raj K. Patel, proceeding *pro se*, filed a complaint with this Court, alleging that government actors breached contractual obligations and abridged his “privileges and/or immunities” by committing “battery/assault/torture/genocide/civil rights violation/conspiracy through a psycho-bio-tech stress weapon.” *See generally* Plaintiff’s Complaint, ECF No. 1. On November 15, 2022, the Court issued an order to show cause as to why this case should not be dismissed pursuant to Rule 12(h)(3) of the Rules of the Court of Federal Claims (“RCFC”). *See* Order to Show Cause, ECF No. 11. On that same day, plaintiff filed a motion responding to the Order to Show Cause. *See generally* Plaintiff’s Motion to More Definitive Statement as to Order to Show Cause, ECF No. 12. On November 17, 2022, the Court issued an order dismissing plaintiff’s Complaint for lack of subject-matter jurisdiction under RCFC 12(h)(3). *See generally* Anti-Filing Order, ECF No. 14.

On December 9, 2022, plaintiff filed a motion for reconsideration pursuant to RCFC 59, reasserting his original argument that this Court has subject-matter jurisdiction over his breach of contract claims.¹ *See generally* Plaintiff’s Motion for Reconsideration, ECF No. 17. Motions for reconsideration, however, may not be used to “relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment.” *See Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (quoting 11 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2810.1 (2d ed. 1995)). After careful review, plaintiff brings forth the same jurisdictional arguments in his Motion for Reconsideration, ECF No. 17, as his Complaint and Response to the Court’s Order to Show Cause. *Compare* Plaintiff’s Complaint, ECF No. 1 *and* Plaintiff’s Motion to More Definitive Statement as to Order to Show Cause, ECF No. 12, *with* Plaintiff’s Motion for Reconsideration; ECF No. 17. Accordingly, the Court hereby **DENIES** plaintiff’s Motion for Reconsideration, ECF No. 17.

¹ Plaintiff filed a Motion for Leave to file a Motion for Reconsideration under ECF No. 17. However, the Court construes plaintiff’s Motion for Leave as a Motion for Reconsideration.

IT IS SO ORDERED.

s/ Loren A. Smith

Loren A. Smith,
Senior Judge