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United States Court Of Appeals
Tenth Circuit

February 9, 2024

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RALAND J. BRUNSON, Plaintiff – Appellant, v. SONIA SOTOMAYRO, in her official capacity of the Supreme Court of the United States; ELENA KAGAN, in her official capacity as Justice of the Supreme Court of the United States: KETANJI BROWN JACKSON, in her official capacity as Justice of the Supreme Court of the United Staes; JANE DOES 1-100, Defendants - Appellees.	No. 23-4108 (D.C. No.1:23-CV-00042-HCN) (D. Utah)

ORDER AND JUDGMENT*

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* Oral argument would not help us decide the appeal, se we have decided the appeal based on the record and the parties' briefs. See Fed. R. App. 34 (a)(2)(C); 10th Cir. R. 34.1(G).

Our order and judgment does not constitute biding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. But the order and judgment may be cited for its persuasive value if otherwise appropriate. See Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

Before **TBACHARACH, KELLY** and **MORITZ**, Circuit Judges.

This appeal grew out of a disagreement over the outcome in a prior suit. In that suit, Mr. Raland Brunson challenged the outcome of the 2020 presidential election. The district court dismissed the suit, we affirmed, and the Supreme Court denied certiorari. Mr. Brunson brought a second suit, which we now address. In the second suit, Mr. Brunson sued three Associate Justices of the Supreme Court (Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson)[1] in their official capacities for denying certiorari in the prior case.[2]

The second suit began in state court, and the three Justices removed the action to federal district court. The district court ordered dismissal, concluding that the Justices enjoyed sovereign immunity. We affirm.

When an action is removed from state court, the federal court considers whether the state court had jurisdiction. If jurisdiction existed in state court, the federal court generally acquires jurisdiction if removal is otherwise

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[1] Mr. Brunson also sued 100 Jane Doe Defendants, but they are not involved in this appeal.

[2] Mr. Brunson claimed breach of contract, fraud, civil conspiracy, and intentional infliction of emotional distress.

appropriate. *Lambert Run Coal Co. v. Baltimore & O.R. Co.*, 258 U.S. 377, 382 (1922). We call this jurisdiction "derivative" because the federal court's jurisdiction derives from the state court's. *See High Lonesome Ranch, LLC v. Bd. of Cnty. Comm'rs for Cnty. of Garfield*, 61 F.4th 1225, 1239 (10th Cir. 2023).

The district court concluded that the state court had lacked jurisdiction over Mr. Brunson's second suit, reasoning that

- the official-capacity claims against the Justices were the equivalent of claims against the United States and
- the United States enjoys sovereign immunity.

See Hinton v. City of Elwood, Kan., 997 F.2d 774, 783 (10th Cir. 1993) (stating that an official capacity suit is a way of asserting a claim against the entity itself); *Loeffler v. Frank*, 486 U.S. 549, 554 (1988) (stating that the federal government enjoys immunity from suit absent a waiver).

Because the official-capacity claims triggered the Justices' sovereign immunity, the district court concluded that

- the state court lacked jurisdiction and
- the federal district court thus lacked derivative jurisdiction.

In his reply brief, Mr. Brunson points out that derivative jurisdiction is not required for removals under

28 U.S.C. § 1441. 28 U.S.C. § 1441(f). Section 1441 governs removal when federal jurisdiction is based on diverse citizenship or federal questions. But the three Justices removed the action under 28 § U.S.C. § 1442 because they were federal officers. For removals under § 1442, derivative jurisdiction is still required. *High Lonsesome Ranch, LLC v. Bd. Of Cnty. Comm'rs for Cnty. Of Garfield,* 61 F.4th 1224, 1230-46 (10th Cir. 2023).

Mr. Brunson argues that even if derivative jurisdiction had been required, the state court had jurisdiction because the doctrine of sovereign immunity violates the First Amendment's right to petition for redress of grievances. We addressed the same argument in *Christensen v. Ward,* 916

F.2d 1462, 1472–73 (10th Cir. 1990). There we rejected this argument, reasoning that the right to petition for redress of grievances "focuses on procedural impediments to the exercise of existing rights and does not prevent a court from holding that a plaintiff has no remedy at law for the injuries he may allege." *Id.* at 1472.

We're bound by our precedent in *Christensen*, and this precedent requires us to recognize the federal government's sovereign immunity. *See In re Smith*, 10 F.3d 723, 724 (10th Cir. 1993) (per curiam). Because the government's sovereign immunity barred jurisdiction in state court, the

federal district court lacked derivative jurisdiction. *See High Lonesome Ranch, LLC v. Bd. of Cnty. Comm'rs for Cnty. of Garfield*, 16 F.4th 1225,1240 (10th Cir. 2023) ("Because the state trial court never had jurisdiction over these crossclaims, upon the United States' § 1442 removal, 'the federal court acquire[d] none.'" (quoting *Lambert Run Coal Co. v. Baltimore & O.R. Co.*, 258 U.S. 377, 382 (1922))).

Finally, Mr. Brunson states in his reply brief that a violation of the judicial oath vitiates the Associate Justices' "immunity and jurisdictional claims." Appellant's Reply Br. at 8. But Mr. Brunson doesn't develop this statement into a distinct argument, and the reply brief would have been too late for that argument. *See Nelson v. City of Albuquerque*, 921 F.3d 925, 931 (10th Cir. 2019) (concluding that the appellant had waived an argument by failing to develop it); *Martin K. Eby Const. Co. v. OneBeacon Ins. Co.*, 777 F.3d 1132, 1142 (10th Cir. 2015) (concluding that an appellant waited too long to make an argument by waiting until the reply brief).

Because the state court lacked jurisdiction, we affirm the dismissal of the second suit.

Entered for the Court

Robert E. Bacharach
Circuit Judge

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

RALAND J BRUNSON, Appellant, vs. SONIA SOTOMARYOR, et at., Appellees	**APPELLANT'S OPENING BRIEF** Case No. 23-4108 Trial Court Case No. 1:21-cv-00042-HCN

APPELLANT'S OPENING BRIEF

1. Statement of the case.

The trial court granted Appellees' (Defendants) motion to dismiss. Raland J Brunson ("Brunson") appellant now appeals the Judgment granting Defendants' Motion.

1. Statement of Facts Relevant to the Issues Presented for Review.

Defendants timely filed their Motion, Brunson timle filed his opposition ("Oppostion") (ECF 14), Defendants timley filed their reply. The trial court filed their report and recommendation ("R&R") on or about July 7, 2023 (ECF 18) granting Defendants' Motion under Fed. R. Cif. P. 12(b)(1), and then Brunson timely flied his objection to this

R&R (ECF 22), and then the court entered a judgment on August 23, 2023 ("Judgment") (ECF 24).'s complaint.

2. Statement of Issues.

a. Defendants Motion was granted under the argument that the court lacked subject-matter jurisdiction and that the Appellee's have immunity. The granting of the Motion did not touch the merits of the complaint.

b. Argument and Authorities:

The R&R sustained Appellee's argument declaring that it's axiomatic that the United States may not be sued without its consent and that a party bringing suit against the United States officials bears the burden of proving that a waiver of sovereign immunity exists, and that without this sovereign immunity a court lacks subject-matter jurisdiction, and that the only conceivable schemes Brunson could have relied upon are the Tucker Act and the Federal Tort Claims Act in the Court of Federal Claims which has exclusive jurisdiction under Brunson's claims.

The application of the Tucker Act ("TA") and the Federal Tort Claims Act ("FTAC"), and the Court of Federal Claims ("CFC") against Brunson set in direct violation of Brunson's right to sue Appellees, as he has done herein, because the FTAC, TA and the CFC ("Instruments of Law") require Brunson to first get permission to sue the Appellees.

The requirement of Brunson to first get permission violate Brunson's right to freely sue the Appellees pursuant to the First Amendment. The First Amendment outlines the protection of Brunson's right to freely sue the Appellees without permission as he has done herein, it states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances [without having to get permission from the government]." (Brackets added)

Brunson's complaint against the Appellee's is a petition for a redress of grievances. See paragraph 3 of the complaint.

Brunson's complaint against the Appellee's is protected under Brunson's "free exercise thereof". Brunson freely exercised his right to bring his claims against the Appellee's without permission.

The Instrument of Law is first subject and controlled by the Constitution of the United States. "This Constitution, and the Laws of the United States which shall be made Pursuance thereof; . . .shall be the supreme Law of the land; . . .". (See Article VI, U.S. Constitution.). And these Instruments of Law cannot deny or disparage Brunson's rights. "The enumeration in the Constitution, of

certain rights, shall not be construed to deny or disparage others retained by the people." See the 9th Amendment of the US Constitution. Therefore, the Instrument of Law cannot violate Brunson's free exercise to sue the Appellees with the requirement to get permission first. The Instrument of Law may be an avenue to pursue, but it cannot be a required restriction for Brunson to follow because it violates his free exercise to sue the Appellees as he has done herein.

Furthermore, once aggrieved by government action an individual can use the courts to "petition the government for a redress of grievances [without having to get permission from the government]." *Puerto Rico v Brandstad, Governor of Iowa* (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187. (Brackets added)

Again, the language of the First Amendment clearly states "the free exercise thereof". In addition, in a most recent decision by the Supreme Court of the United States stated that " . . . we have made clear that individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government". *New York State Rifle & Pistol Association, Inc*., et al. v. Bruen, et al., 597 U. S. ____ (2022). Section 1 of the Fourteenth Amendment states "No State shall make or

enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Brunson freely exercised his right to sue the Appellees as he did herein which is a Constitutional protected "free exercise" right and as such the Instrument of Law which requires that Brunson must obtain permission from the Government before he can file his claims is unconstitutional.

Furthermore, pursuant to the case of Alden v. Main, 527 U.S, 706, 715-16 (1999) "If a colonial lawyer had looked into Blackstone for the theory of sovereign immunity, as indeed many did, he would have found nothing clearly suggesting that the Colonies as such enjoyed any immunity from suit." And that ""The Constitution thus contemplates that a State's government will represent and remain accountable to its own citizens." Printz, 521 U. S., at 920" (751) and "Justice Wilson's position in Chisholm: that because the people, and not the States, are sovereign, sovereign immunity has no applicability to the States." [778] and ""To the Constitution of the United States the term SOVEREIGN, is totally unknown. There is but one place where it could have been used with propriety. But, even in that place it would not, perhaps, have comported

with the delicacy of those, who ordained and established that Constitution. They might have announced themselves `SOVEREIGN' people of the United States: But serenely conscious of the fact, they avoided the ostentatious declaration." 2 Dall., at 454. [783] . . . "This last position [that the King is sovereign and no court can have jurisdiction over him] is only a branch of a much more extensive principle, on which a plan of systematic despotism has been lately formed in Eng- land, and prosecuted with unwearied assiduity and care. Of this plan the author of the Commentaries was, if not the introducer, at least the great supporter. He has been followed in it by writers later and less known; and his doctrines have, both on the other and this side of the Atlantic, been implicitly and generally received by those, who neither examined their principles nor their consequences[.] The principle is, that all human law must be prescribed by a superior. This principle I mean not now to examine. Suffice it, at present to say, that another principle, very different in its nature and operations, forms, in my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. The sovereign, when traced to his source, must be found in the man. " Id., at 458."" [784] (brackets added to show page

numbers). Therefore, pursuant to the case of NY as stated above, Brunson is SOVEREIGN, and as such the Appellee's are subject to Brunson's claims against them.

Alden also stated that " . . . petition of right as an appropriate and normal practice. [791] . . . " there was no unanimity among the Framers that immunity would exist," [793] . . . It would be hard to imagine anything more inimical to the republican conception, which rests on the understanding of its citizens precisely that the government is not above them, but of them, its actions being governed by law just like their own. Whatever justification there may be for an American government's immunity from private suit, it is not dignity. [35] See United States v. Lee, 106 U. S. 196, 208 (1882). [803] . . ."If an act of parliament be made for the benefit of any person, and he is hindered by another of that benefit, by necessary consequence of law he shall have an action; and the current of all the books is so" (citation omitted).[41] *812 Blackstone considered it "a general and indisputable rule, that where there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded." 3 Blackstone. The generation of the Framers thought the principle so crucial that several States put it into their constitutions.[42] And when Chief Justice Marshall asked about Marbury: "If he has a right, and that right has been violated, do the laws of

his country afford him a remedy?," Marbury v. Madison, 1 Cranch 137, 162 (1803), the question was rhetorical, and the answer clear: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court." Id., at 163"" [812]. (Brackets added to show page numbers).

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general and indisputable rule, that where there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded." 3 Blackstone. The generation of the Framers thought the principle so crucial that several States put it into their constitutions.[42] And when Chief Justice Marshall asked about Marbury: "If he has a right, and that right has been violated, do the laws of his country afford him a remedy?," Marbury v. Madison, 1 Cranch 137, 162 (1803), the question was rhetorical, and the answer clear: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court." Id., at 163"" [812]. (Brackets added to show page numbers).

In addition, the principle of sovereign immunity in US law was inherited from the English common law legal maxim rex non potest peccare, meaning "the king can do no wrong." Our founding fathers incorporated themselves as "We the People" in order to establish a government away from the doctrine that a king that can do no wrong by having no king at all—no king, no sovereign immunity—this is the Constitution of the United States! "This

Constitution, and the Laws of the United States which shall be made Pursuance thereof; . . .shall be the supreme Law of the land; and the Judges in every State shall be bound thereby." Article VI of the Constitution.

The legal lease in addition to the Instrument of Law used to claim Appellee's have sovereign immunity in this case fails as a matter of law as explained above.

Furthermore, due to the fact that the First Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances [without having to get permission from the Government]." (Brackets added). And due to the fact that Brunson's complaint is a petition for a redress of grievances, this invokes subject-matter jurisdiction and gives Brunson Article III standing under the First Amendment.

Brunson's claims against Appellees is developed under their oath of office. The Appellee's swore an oath to defend and protect the Constitution against all enemies foreign and domestic. A breach of this oath is found in giving aid and comfort to enemies of the Constitution or the United States of America which is an act of treason.

"Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than $10,000; and shall be incapable of holding any office under the United States." (See 18 U.S. § 2381.).
This owed allegiance also binds them personally to Brunson. They are bound to Brunson to honor their oath as demonstrated in Brunson's complaint and under the four causes of actions against the Appellees which clearly show how Appellee's personally damaged Brunson. Appellee's damaged every US citizen in the same way, but their failure to each bring action against Appellee's is not Brunson's concern.

The serious nature of Brunson's claims against the Appellees borderline acts of treason, and what develops from this case may be a precursor to treason against the Appellees, and misprision of treason against certain individuals of the judicial branch of Gov. that this case touches.

18 USC §2382. Misprision of treason, reads, "Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose

and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both."

Bouvier's Law Dictionary of 1856, also states: "2. Misprision of treason, is the concealment of treason, by being merely passive; Act of Congress of April 30, 1790, 1 Story's L. U. S. 83; 1 East, P. C. 139; for if any assistance be given, to the traitor, it makes the party a principal, as there is no accessories in treason."

In relation to the damages Brunson seeks against Appellees, "Common-law courts traditionally have vindicated deprivations of certain "absolute" rights that are not shown to have caused actual injury through the award of a nominal sum of money. By making the deprivation of such rights actionable for nominal damages without proof of actual injury, the law recognizes the importance to organized society that those rights be scrupulously observed; but at the same time, it remains true to the principle that substantial damages should be awarded only to compensate actual injury or, in the case of exemplary or punitive damages, to deter or punish malicious deprivations of rights." Carey v. Piphus, 435 US 247.

"Courts must be cautious in applying Article III standing requirements in procedural due process cases. When asserting procedural rights, Article III standing does not require plaintiffs to demonstrate that they would obtain concrete relief from the desired process. Lujan, 504 U.S. at 573 n. 7, 112 S.Ct. 2130; see also Catron County Bd. of Comm'rs v. United States Fish & Wildlife Serv., 75 F.3d 1429, 1433 (10th Cir.1996) . . . Parties may suffer injury in fact from defective procedures even if, at the end of the day, they would not have prevailed on the merits. The Court has observed that "the right to procedural due process is `absolute' in the sense that it does not depend upon the merits of a claimant's substantive assertions." Carey v. Piphus, 435 U.S. 247, 266, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978) (citations omitted). In cases where the procedural due process rights of a person have been violated but the outcome was unaffected because the claim was not meritorious, the Court has held that plaintiffs are entitled to nominal damages. Id." Rector v. City and County of Denver, 348 F. 3d 935

Furthermore, the court does have authority to remove a sitting Supreme Court Justice as demonstrated in 18 U.S. Code § 2381 which states "Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United

States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than $10,000; and shall be incapable of holding any office under the United States." A court adjudicating that a sitting Supreme Court Justice is incapable of holding their office is a removal of their office.

3. Do you think the district court applied the wrong law? If so, what law do you want to apply? The district court wrongfully applied the Instrument of Law, and should apply the legal lease stated by Brunson above.

4. Did the district court incorrectly decide the facts? If so, what facts?

The argument stated above answers these questions.

5. Did the district court fail to consider the important grounds for relief? If so, what grounds?

The argument stated above answers these questions.

6. Do you feel that there are other reasons why the district court's judgment was wrong. If so, what? No.

7. What action do you want this court to take in your case?

To reverse the Judgment with an order that the Defendants are to answer Brunson's complaint

within 10 days of this court's order, or to award Brunson that may be deemed appropriate under the circumstances.

7. **Do you think the court should hear oral argument in this case? If so, why?** No.

Humbly submitted this the 16th day of October, 2023.

/s/ Raland J Brunson

Raland J Brunson, Appellant.

Case 1:23-cv-00042-HCN Document 24 Filed 08/11/23 PageID.155 Page 1 of 1

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U.S. DISTRICT COURT

AO 450 (Rev.5/85) Judgment in a Civil Case

United States District Court

District of Utah

RALAND J. BRUNSON,

Plaintiff,

v.

SONIA SOTOMAYOR, *in her official capacity as Justice of the Supreme Court of the United States*; ELANE KAGAN, *in her official capacity as Justice of the Supreme Court of the United States*; KETANJI BROWN JACKSON, *in her official capacity as Justice of the Supreme Court of the United States*; and Jand Does 1-100,

Defendants.

JUDGMENT IN A CIVIL CASE

Case No. 1:21-cv-00111-JNP-JCB

Judge Jill N. Parrish

IT IS ORDERED AND ADJUDGED

That this action is dismissed without prejudice.

August 11, 2023
Date

BY THE COURT:
/s/ Howard C. Nielson, Jr.

Howard C. Nielson, Jr.
United States District Judge

**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

RALAND J. BRUNSON, **Plaintiff,** **v.** **SONIA SOTOMAYOR, ELENA KAGAN, KETANJI BROWN JACKSON, and JOHN and JANE DOES 1-100,** **Defendants.**	**REPORT AND RECOMMENDATION** **Case No. 1:23-cv-00042-HCN-JCB** **District Judge Howard C. Nielson, Jr.** **Magistrate Judge Jared C. Bennett**

This case was referred to Magistrate Judge Jared C. Bennett under 28 U.S.C. § 636(b)(1)(B).[1] Before the court is Defendants Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson's (collectively, "Defendants") motion to dismiss.[2] Based upon the analysis set forth below, the court recommends granting Defendants' motion and dismissing this case without prejudice for lack of subject-matter jurisdiction.

BACKGROUND

[1] ECF No. 6.
[2] ECF No. 7.

Pro se Plaintiff Raland J. Brunson ("Mr. Brunson") filed his complaint in this case in Second District Court in Weber County, Utah.3 Defendants removed the case to this court under 28 U.S.C. § 1442(a)(3).4 Mr. Brunson's complaint is centered on the United States Supreme Court's denial of his petition for writ of certiorari and petition for rehearing in a separate case.5 Mr. Brunson's complaint names Defendants in their official capacities as Associate Justices of the United States Supreme Court and asserts causes of action for breach of contract, intentional infliction of emotional distress, fraud, and civil conspiracy. In his prayer for relief, Mr. Brunson seeks over $3 billion in damages. Defendants moved to dismiss this case for lack of subject-matter jurisdiction.6 Under Fed. R. Civ. P. 12(b)(1), this court should "presume no jurisdiction exists,"7 and the burden of establishing jurisdiction "rests upon the party asserting jurisdiction."8 To establish jurisdiction, a plaintiff "must allege in [his] pleading the facts essential to show jurisdiction, and must support [those facts] by competent

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[3] ECF No. 1-1.
[4] ECF No. 1.
[5] Brunson v. Adams, 143 S. Ct. 569, reh'g denied, 143 S. Ct. 855 (2023).
[6] ECF No. 7.
[7] United States ex rel. Precision Co. v. Koch Indus., Inc., 971 F.2d 548, 551 (10th Cir. 1992).
[8] Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994).

proof."[9] Because Defendants' motion to dismiss is a facial attack on the allegations of Mr. Brunson's complaint, the court must accept those allegations as true.[10]

ANALYSIS

The court recommends granting Defendants' motion to dismiss because the court lacks subject-matter jurisdiction under the doctrine of derivative jurisdiction, which provides that upon removal, a federal court cannot acquire subject-matter jurisdiction over a case if the state court lacked subject-matter jurisdiction.[11] That doctrine applies even if the federal court would have had subject-matter jurisdiction over the case if the case had been brought initially in federal court.[12] Although Congress amended 28

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[9] Koch Indus., Inc., 971 F.2d at 551 (second alteration in original) (quotations and citations omitted).

[10] Holt v. United States, 46 F.3d 1000, 1002 (10th Cir. 1995) (citations omitted).

[11] Minnesota v. United States, 305 U.S. 382, 389 (1939) ("[J]urisdiction of the federal court on removal is, in a limited sense, a derivative jurisdiction. Where the state court lacks jurisdiction of the subject matter or of the parties, the federal court acquires none . . . ."); Crow v. Wyo. Timber Prods. Co., 424 F.2d 93, 96 (10th Cir. 1970) ("Jurisdiction on removal is derivative in nature and does not exist if the state court from which the action is removed lacks jurisdiction.").

[12] Arizona v. Manypenny, 451 U.S. 232, 242 n.17 (1981) ("In the area of general civil removals, it is well settled that if the state court lacks jurisdiction over the subject matter or the parties, the federal court acquires none upon removal, even though the federal court would have had jurisdiction if the suit had originated there."); see also Minnesota, 305 U.S. at 388-89 (providing that "it rests with Congress to determine not only whether the United States may be sued, but in what courts the suit may be brought" and that the doctrine of derivative jurisdiction applies even if the federal court would have had subject-matter

U.S.C. § 1441 to eliminate the doctrine of derivative jurisdiction with respect to removals under that section,[13] the doctrine remains applicable to removals under 28 U.S.C. § 1442,[14] which is the section Defendants relied upon to remove this case. Therefore, the doctrine of derivative jurisdiction applies here.

Under the doctrine of derivative jurisdiction, this court lacks subject-matter jurisdiction for two reasons. First, because Mr. Brunson has not identified any waiver of sovereign immunity that subjects Defendants to suit in state court, the state court did not have subject-matter jurisdiction. Thus, this court lacks subject-matter jurisdiction under the doctrine of derivative jurisdiction. Second, even if Mr. Brunson had relied upon the statutory schemes providing a waiver of sovereign immunity for his claims, the state court still lacked subject-matter jurisdiction. Consequently, this court does not have subject-matter jurisdiction under the doctrine of derivative jurisdiction. Each reason is discussed in order below.

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jurisdiction over a case if the case was brought originally in federal court).

[13] 28 U.S.C. § 1441(f).

[14] Bowers v. J & M Disc. Towing, LLC, 472 F. Supp. 2d 1248, 1254 (D.N.M. 2006) ("[T]he majority of the Circuit Courts of Appeals that have addressed this issue, including the Tenth Circuit, have determined that federal courts' jurisdiction remains derivative of state courts' jurisdiction for those cases removed under statutes other than 28 U.S.C. § 1441.").

I. Because Mr. Brunson Has Not Identified a Waiver of Sovereign Immunity to Sue Defendants in State Court, the State Court Lacked Subject-Matter Jurisdiction.

Because Mr. Brunson fails to carry his burden of establishing a waiver of sovereign immunity to bring suit against Defendants in state court, the state court did not have subject-matter jurisdiction. "Sovereign immunity generally shields the United States, its agencies, and officers acting in their official capacity from suit."[15] The party bringing suit against United States officials bears the burden of proving that a waiver of sovereign immunity exists.[16] Without a waiver of sovereign immunity, a court lacks subject-matter jurisdiction over a case brought against United States officials.[17]

Mr. Brunson sued Defendants in their official capacities as United States officers, but he fails to identify any waiver of sovereign immunity.[18] Additionally, Mr.

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[15] Wyoming v. United States, 279 F.3d 1214, 1225 (10th Cir. 2002) (citing Fed. Deposit Ins. Corp. v. Meyer, 510 U.S. 471, 475 (1994)).
[16] James v. United States, 970 F.2d 750, 753 (10th Cir. 1992).
[17] United States v. Mitchell, 463 U.S. 206, 212 (1983) ("It is axiomatic that the United States may not be sued without its consent and that the existence of consent is a prerequisite for jurisdiction.").
[18] In his response to Defendants' motion to dismiss, Mr. Brunson does not argue that there is a waiver of sovereign immunity for his claims. Instead, Mr. Brunson appears to argue that the doctrine of sovereign immunity is unconstitutional because it obstructs his right to petition the government for redress of grievances under the First Amendment. Importantly, Mr. Brunson fails to cite any authority for his argument, and the court is unaware of any court holding that the doctrine of

Brunson fails to identify any statute that authorizes suit in state court against United States officials. Mr. Brunson's failure to establish a waiver of sovereign immunity that authorizes suit against Defendants in their official capacities and allows that suit to proceed in state court means that the state court did not have subject-matter jurisdiction. Accordingly, this court's derivative jurisdiction precludes it from hearing this case.[19]

II. Even if Mr. Brunson Had Attempted to Rely Upon the Statutory Schemes Providing a Waiver of Sovereign Immunity for His Claims, the State Court Still Lacked Subject-Matter Jurisdiction.

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sovereign immunity is unconstitutional. To the contrary, as noted by Defendants, the doctrine of sovereign immunity was a foundational concept to the framers of the Constitution. Alden v. Maine, 527 U.S. 706, 715-16 (1999) (discussing the historical context of the doctrine of sovereign immunity and stating that "the doctrine that a sovereign could not be sued without its consent was universal in the States when the Constitution was drafted and ratified"). Therefore, Mr. Brunson's argument is without merit.

[19] Despite Defendants' well-taken argument that this court lacks subject-matter jurisdiction, Mr. Brunson argues that Defendants improperly failed to address the merits of his complaint and speculates that this court will do the same. That argument and speculation ignores the concept of subject-matter jurisdiction. By arguing that this court lacks subject-matter jurisdiction, Defendants are necessarily arguing that this court should not reach the merits of Mr. Brunson's claims. Further, because this court agrees with Defendants' argument concerning subject-matter jurisdiction, this court cannot address the merits of Mr. Brunson's claims. Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999) ("Article III generally requires a federal court to satisfy itself of its jurisdiction over the subject matter before it considers the merits of a case.").

The state court still lacked subject-matter jurisdiction even if Mr. Brunson had attempted to rely upon the statutory schemes providing a waiver of sovereign immunity for his claims. The only two conceivable schemes upon which Mr. Brunson could have relied are: (1) the Tucker Act, which addresses contract actions against the United States; and (2) the Federal Tort Claims Act ("FTCA"), which deals with tort claims against United States employees. As shown below, neither scheme would give the state court subject-matter jurisdiction.

First, Mr. Brunson's claim for breach of contract is governed by the Tucker Act, which waives sovereign immunity and grants the Court of Federal Claims—not state courts—exclusive jurisdiction "for claims against the United States founded upon . . . contracts and seeking amounts greater than $10,000."[20] Because Mr. Brunson is seeking over $3 billion in damages, the Court of Federal Claims has exclusive jurisdiction over his claim for breach of contract. Thus, even if Mr. Brunson had relied upon the Tucker Act, the state court did not have subject-matter jurisdiction over that claim, which, by virtue of derivative jurisdiction, means that this court doesn't either.

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[20] Burkins v. United States, 112 F.3d 444, 449 (10th Cir. 1997); see also 28 U.S.C. §§ 1346(a)(2), 1491(a)(1).

Second, Mr. Brunson's remaining tort claims for intentional infliction of emotional distress, fraud, and civil conspiracy are potentially governed by the FTCA, which provides a limited waiver of sovereign immunity for a plaintiff to recover monetary damages for specific common-law torts committed by United States employees acting within the scope of their employment.[21] However, the FTCA's limited waiver of sovereign immunity allows FTCA claims to be brought exclusively in federal court,[22] which means that, even if Mr. Brunson had relied upon the FTCA, the state court lacked subject-matter jurisdiction. And, therefore, so does this court under the doctrine of derivative jurisdiction. Therefore, this case should be dismissed without prejudice for want of subject-matter jurisdiction.[23]

CONCLUSION AND RECOMMENDATION

As demonstrated above, the state court did not have subject-matter jurisdiction over this case, and, thus, this

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[21] 28 U.S.C. § 2679(b)(1); Meyer, 510 U.S. at 475-76.
[22] 28 U.S.C. § 1346(b)(1).
[23] The court acknowledges the hundreds of letters it received from citizens urging this court to overlook jurisdictional defects and to decide this case on its merits. However, courts must abide by the law. And the law provides that a federal court that receives a case removed from state court is subject to the same jurisdictional limitations that applied to the state court. Because the state court could not exercise subject-matter jurisdiction to hear this case, this court cannot either regardless of how many concerned citizens want this court to decide the merits of the case.

court lacks subject-matter jurisdiction under the doctrine of derivative jurisdiction. Therefore, the court HEREBY RECOMMENDS that Defendants' motion to dismiss[24] be GRANTED and that this case be DISMISSED WITHOUT PREJUDICE for lack of subject-matter jurisdiction.[25]

Copies of this Report and Recommendation are being sent to all parties, who are hereby notified of their right to object.[26] The parties must file any objections to this Report and Recommendation within 14 days after being served with a copy of it.[27] Failure to object may constitute waiver of objections upon subsequent review.

DATED this 7th day of July 2023.

BY THE COURT:

JARED C. BENNETT
United States Magistrate Judge

[24] ECF No. 7.
[25] Brereton v. Bountiful City Corp., 434 F.3d 1213, 1216 (10th Cir. 2006) ("A longstanding line of cases from this circuit holds that where the district court dismisses an action for lack of jurisdiction, . . . the dismissal must be without prejudice.").
[26] 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).
[27] 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RALAND J BRUNSON, Plaintiff, vs. SONIA SOTOMAYOR, et al., Defendants.	**OBJECTION TO REPORT AND RECOMMENDATION** Case No. 1:23-cv-00042-HCN-JCB Judge: Howard C. Nielsen Magistrate Judge: Jared C. Bennett

Plaintiff Raland J Brunson ("Brunson") hereby moves this court with his *Objection To Report And Recommendation* Submitted by the honorable Magistrate Judge Jared C. Bennett and states:

ARGUMENT

Brunson, based upon the following grounds, hereby objects to the REPORT AND RECOMMENDATION

("R&R") filed by the Magistrate Judge Jared C. Bennett on July 7, 2023

(ECF 18).

The R&R states that this court lacks subject matter jurisdiction and that Brunson failed to identify a waiver of sovereign immunity.

The importance of this case is extreme. Bronson's opposition states with legal authority that his right to bring his claims against Defendants invokes subject matter jurisdiction because the claims exposes acts of treason upon which immunity is not given, nor would it be constitutional if it were. There is no immunity given for giving aid and comfort to enemies of the United States, which is treason. The Constitution was not written to protect treason by giving any immunity to any governmental position of any level at all. So in this case the Defendants cannot claim to have any immunity. See the whole of Bronson's opposition.

On footnote 23 of the R&R, it makes the claim that they've received hundreds of letters. Closer to the truth is that the court has received over 9,719 letters from across the country as of July 17, 2023. We the People are requiring the Defendants to answer the claims of this case because they know that the Defendants do not have any immunity under Bronson's claims, and they want to see justice served.

Again, the R&R states that this court lacks subject matter jurisdiction and that Brunson failed to identify a waiver of sovereign immunity. In support of this argument the R&R cites the cases of, but not limited to, Wyoming, James, United States, Minnesota, Crow, Arizona, Bowers, Kokkonen, Koch, Holt, and the R&R also cites 28 U.S.C. § 1441 & 1442. Brunson objects to these citations and arguments because to apply them in Bronson's case, which have no bearing under Bronson's claims, is an attempt to rewrite the Constitution which is an act of treason.

The R&R sets out to destroy the importance and the divinity associated with the oath of office found in Bronson's opposition. Despite the fact that the oath is the supreme law of the land, it is the edict of the R&R that the oath is subject to this court, and that it is this court that is the supreme law of the land, not the oath.

The R&R did not address Bronson's oath of office argument nor that our founding fathers incorporated themselves as "We the People" in order to establish a government away from the doctrine that a king that can do no wrong by having no king at all-no king, no sovereign immunity-this is the Constitution of the United States! What the R&R did state is that pursuant to the case of Alden v. Main, 527 U.S, 706, 715-16 (1999) that the doctrine of sovereign immunity was a foundational concept

from the framers of the Constitution. This "foundational concept", as R&R puts it, has a different meaning than what R&R coins them to be. The case of Alden explains further that "If a colonial lawyer had looked into Blackstone for the theory of sovereign immunity, as indeed many did, he would have found nothing clearly suggesting that the Colonies as such enjoyed any immunity from suit." And that ""The Constitution thus contemplates that a State's government will represent and remain accountable to its own citizens." Printz, 521 U.S., at 920" (751) and "Justice Wilson's position in Chisholm: that because the people, and not the States, are sovereign, sovereign immunity has no applicability to the States." [778] and ""To the Constitution of the United States the term SOVEREIGN, is totally unknown. There is but one place where it could have been used with propriety. But, even in that place it would not, perhaps, have comported with the delicacy of those, who ordained and established that Constitution. They might have announced themselves 'SOVEREIGN' people of the United States: But serenely conscious of the fact, they avoided the ostentatious declaration." 2 Dall., at 454. [783] ... "This last position [that the King is sovereign and no court can have jurisdiction over him] is only a branch of a much more extensive principle, on which a plan of systematic

despotism has been lately formed in Eng- land, and prosecuted with unwearied assiduity and care. Of this plan the author of the Commentaries was, if not the introducer, at least the great supporter. He has been followed in it by writers later and less known; and his doctrines have, both on the other and this side of the Atlantic, been implicitly and generally received by those, who neither examined their principles nor their consequences[.] The principle is, that all human law must be prescribed by a superior. This principle I mean not now to examine. Suffice it, at present to say, that another principle, very different in its nature and operations, forms, in my judgment, the basis of sound and genuine jurisprudence; laws derived from the pure source of equality and justice must be founded on the CONSENT of those, whose obedience they require. The sovereign, when traced to his source, must be found in the man." Id., at 458."" [784] (brackets added to show page numbers)

Alden also stated that " ... petition of right as an appropriate and normal practice. [791] . . . "there was no unanimity among the Framers that immunity would exist," [793] ... It would be hard to imagine anything more inimical to the republican conception, which rests on the understanding of its citizens precisely that the government is not above them, but of them, its actions being governed by law

just like their own. Whatever justification there may be for an American government's immunity from private suit, it is not dignity. [35] See United States v. Lee, 106 U.S. 196,208 (1882). [803] ... "If an act of parliament be made for the benefit of any person, and he is hindered by another of that benefit, by necessary consequence of law he shall have an action; and the current of all the books is so" (citation ornitted).[41] *812 Blackstone considered it "a general and indisputable rule, that where there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded." 3 Blackstone. The generation of the Framers thought the principle so crucial that several States put it into their constitutions.[42] And when Chief Justice Marshall asked about Marbury: "If he has a right, and that right has been violated, do the laws of his country afford him a remedy?," Marbury v. Madison, 1 Cranch 137, 162 (1803), the question was rhetorical, and the answer clear: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court." Id., at 163"" [812]. (Brackets added to show page numbers)

So R&R's claim that the foundational concept of sovereign immunity of our founders as being favorable for Defendants is wholly inaccurate and as such grants Bronson's opposition, therefore Brunson moves this court to disregard the R&R and deny Defendants motion to dismiss.

The R&R states that Brunson failed to incorporate any authority supporting his claim that his right to petition the government for redress of grievances under the First Amendment. In addition to this being wholly inaccurate, the R&R cited authority which actually supports Bronson's opposition, that being the case of Alden, as stated above. Again, this favors Brunson to which the R&R purposely ignored and would not address. This is more than just a violation of due process, which is the right to be heard[1], rather its supports acts of treason.

The R&R also went on to state that Brunson failed to cite any authority supporting his claim that the doctrine of sovereign immunity is unconstitutional and that the court is unaware of any. The R&R ignored all the legal authorities cited by Brunson that are paramount to Bronson's argument in opposition and how under this case the doctrine of sovereign immunity is unconstitutional and cannot be applied. The legal authority cited by Brunson

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[1] "(" ... an opportunity to be heard in a meaningful way are at the very heart of procedural fairness ... ")" Brent Brown Dealerships v. Tax Com'n, MVED, 2006 UT App 261.

include those under the Constitution: Article I Section 9 Clause 8, Article VI, Article III, Amendments 1, IX, and XIV Section 3, in addition to the cases of American Bush v. City Of South Salt Lake, 2006 UT 40 140 P.3d.1235, and New York State Rifle & Pistol Association, Inc., et al. v. Bruen, et al., 597 U. S. __ (2022), and [Puerto Rico v Brandstad, Governor of Iowa (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187]. These are just some of the authorities that the R&R ignored.

Why didn't the R&R specifically address these authorities and point out how they are wrong? They are wrong because the R&R states so?

As stated in Bronson's opposition, Bronson's causes of actions are derived from the oath of office of the Constitution of the United States, and Bronson's complaint alleges that Amendment I of the Constitution states that Congress shall make no law prohibiting Bronson's right to petition the Government for redress of grievances. And that the Government is first subject to Bronson's rights, and that the Constitution grants no rights to the people, instead Bronson's individual rights are guarded and protected by the Constitution. And, pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would violate Bronson's individual rights which is the supreme law of the land, and that the Constitution is a restriction

against the Government and not against Bronson's rights. See pages 1-5 of Bronson's complaint. The case of Alden supports this while the R&R has decided otherwise in violation of the oath of office.

Bronson's claims supersede the necessity of requiring a waiver of sovereign immunity and inherently invokes subject matter jurisdiction under the supreme law of the land as cited by legal authority found in Bronson's opposition. Again, the R&R did not address how that this is wrong only that it says it is.

WHERFORE, in the name of justice and of due process, and in the name of "We the People" and as an act to preserve, defend and protect the Constitution in honor of the oath of office, which was inspired by God, Brunson moves this court to deny both the R&R and Defendants' Motion with an order to answer Brunson' s complaint within 10 days or be in default.

Humbly submitted this the 17th day of July, 2023.

/s/ Raland J Brunson
Raland J Brunson

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of July, 2023 I personally placed in the United States Mail to the individuals named below a true and correct copy of **OBJECTION TO REPORT AND RECOMMENDATION.**

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RALAND J BRUNSON, Plaintiff, vs. SONIA SOTOMAYOR, et al., Defendants.	**OPPOSITION TO MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION** Case No. 1:23-cv-00042-HCN-JCB Judge: Howard C. Nielsen Magistrate Judge: Jared C. Bennett

Plaintiff Raland J Brunson ("Brunson") hereby moves this court with his Opposition To Motion To Dismiss For Lack Of Subject Matter-Jurisdiction and states:

ARGUMENT

Under Defendants motion to dismiss ("Motion") they legally argue that "a court must accept the factual allegations in the complaint as true."[1] And that the burden

[1] See page 2 including footnote 6 of Defendants motion to dismiss.

of establishing subject-matter jurisdiction "rests upon the party asserting jurisdiction."[2] Brunson' s causes of actions are derived from the oath of office of the Constitution of the United States, and Brunson's complaint alleges that Amendment I of the United States Constitution states that Congress shall make no law prohibiting Brunson' s right to petition the Government for redress of grievances. And that the Government is first subject to Brunson's rights, and that the Constitution grants no rights to the people, instead Bronson's individual rights are guarded and protected by the Constitution. And, pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would violate Bronson's individual rights which is the supreme law of the land, and that the Constitution is a restriction against the Government and not against Bronson's rights. See pages 1-5 ofBrunson's complaint. Defendant's Motion admits this as being true.

SUBJECT MATTER JURISDICTION AND SOVEREIGN IMMUNITY

The principle of sovereign immunity in US law was inherited from the English common law legal maxim rex non potest peccare, meaning "the king can do no wrong."[3] Our founding fathers incorporated themselves as "We the People" in order to establish a government away from the

[2] See page 2 including footnote 5 of Defendants motion to dismiss.

doctrine that a king that can do no wrong by having no king at all-no king, no sovereign immunity-this is the Constitution of the United States!

Over the years our legislative and judicial powers have together incorporated several types of immunity for government officials as clearly pointed out in Defendant's Motion. But these and all other types of immunities are first subject to, and bound by the supreme law of the

land. "This Constitution, and the Laws of the United States which shall be made Pursuance thereof; ... shall be the supreme Law of the land; ... ". (See Article VI, U.S. Constitution.[4]) These immunities can never be applied in ways that violate the Constitution.

This honorable court is first fundamentally bound to the Constitution under Article III, Section 1 "The judges ... shall hold their Offices during good Behaviour" and under their oath of office. Therefore, this court's first prominence is to protect and defend the Constitution against all enemies foreign and domestic-no king, no title of nobility, no sovereign immunity. "No title of Nobility shall be granted by the United States." See Article I, Section 9, Clause 8 of the Constitution. Nothing need be said to illustrate the importance of the prohibition of titles of

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[3] Wikipedia. Sovereign immunity in the United States.

[4] See paragraph 14 ofBrunson's complaint.

nobility. This may truly be denominated the comer-stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people.[5]

What powers do "We the People" have over our government? What power does Brunson have over the Defendants? The Constitution.

"We the People" have commissioned Government to secure our rights-to secure Bronson's rights. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness, - That to secure these rights, governments are instituted among Men, deriving their just powers from the consent of the governed."[6] "These instruments measure the powers of the rulers, but they do not measure the rights of the governed . . . it grants no rights to the people, but is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers which they possessed before the constitution was made ... It presupposes an organized society, law, order, property, personal freedom, a love of political liberty, and enough of

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[5] The Federalist No.84 (Alexander Hamilton); accord the Federalist No. 39 James Madison.

[6] See paragraph 6 of the complaint.

cultivated intelligence to know how to guard it against the encroachments of tyranny." American Bush v. City Of South Salt Lake, 2006 UT 40 140 P.3d.1235. A violation of the oath of office, as alleged in Bronson's complaint, is an encroachment of tyranny upon which Brunson has a unfettered right to protect against tyranny which he is doing by way of his complaint. How can Defendants disagree with this without violating their oath?

In securing Bronson's rights the first ten amendments to the Constitution was ratified in 1791 and defined by Congress as "further declaratory and restrictive clauses." They were set in place to restrict the Constitution from ever being a tool to create immunities for government officials when they violate their oath of office.

In addition, in a most recent decision by the Supreme Court of the United States stated that" ... we have made clear that individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government". New York State Rifle & Pistol Association, Inc., et al. v. Bruen, et al., 597 U. S. __ (2022). This also means that this court can remove the Defendants

from their elected offices[7] for their violation of their oath of office.

"We the People"-Brunson (which also includes "YOU") have set into supreme law to which all courts are bound to follow, that Brunson' s complaint of redress of his grievance against the Defendants when they violate their oath of office must be adjudicated and cannot be passed over by a motion to dismiss. Defendants motion to dismiss is nothing but a bold face attempt to eliminate the separation of powers by inferencing sovereign immunity as a developed Constitutional legal authority as though they "can do no wrong". There is no Constitutional authority that gives them any kind of immunity in this case! Defendants are attempting to hijack this court so that it will not address any of the specifics of Brunson's arguments in violation of its oath of office in order for Defendants to have their win.

Brunson has Article III Standing in this case because the right to bring his claims against the Defendants are protected under the First Amendment which states:

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[7] Fourteenth Amendment, Section 3: "No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."[8] (Underline added)

Furthermore, once aggrieved by government action could use the courts to "petition the government for a redress of grievances." [Puerto Rico v Brandstad, Governor of Iowa (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187]

Brunson's right to bring his action against the Defendants for their violation of their oath of office gives Brunson subject-matter jurisdiction.

Defendants knowing full well that they have no immunity of any kind against Brunson's claims for the violation of their oath of office have set out to circumvent the Constitution or rewrite it. Defendants cite the case of Wyoming v. Unites States which is a blatant attempt to eliminate Amendment 1 of the Constitution of the United States, thus giving themselves freedom to support actions that are above the law. Either the Constitution is the controlling legal authority of this case, or the case of Wyoming is because the two are in direct conflict and violation of each other. If this court rules in favor of

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[8] See paragraph 3 of the complaint.

Defendants, then this court by its own action will be making a new supreme law of the land-a direct and bold violation of this court's sworn duty to protect and defend the Constitution and a violation of the separation of powers.

Also, Defendants citing of the case of James v. Unites States is another blatant audacious bold attempt to eliminate Amendment 1 of the Constitution in order to give freedom to the defendants to support actions that are above the law. Once again, either the Constitution is the controlling legal authority of this case, or the case of James is because the two are in direct conflict and violation of each other. If this Court rules in favor of Defendants, then this court, by its own action will be making a new supreme law of the land (because this case is of first impression)-a direct and bold violation of this court's sworn oath to support and defend the Constitution and a violation of the separation of powers.

This Court may not agree with the First Amendment in relation to the Defendants being Supreme Court Justices. And this court may not agree that Brunson has the right to petition the government for a redress of grievances against these Defendants. When the Defendants are accused of breaching their oath of office and claim that they are too important to be trifled with

because they have entitlement above the law, Brunson recognizes that this court must make a choice. Either choose to rewrite the Constitution by making Defendants an exception, or trust that the Constitution was written by inspired men, who inspired this court to swear an oath to defend and support this sacred document.

Once again, Defendants argue that the Tucker Act and 28 U.S.C. § 1491(a)(l) & § 1346(a)(2) is the new and revised supreme law of the land, and that Brunson cannot readily seek a redress of grievances against Defendants' violation of their oath of office with damages in excess of $3 billion dollars, and as such the Defendants' intention it to move this court to make a new supreme law of the land by ruling in their favor.

DEFENDANTS MOTION FAILS TO ADDRESS THE COMPLAINT

Defendants do not argue against or address the fact that Brunson's complaint alleges that Amendment I of the United States Constitution states that Congress shall make no law prohibiting Bronson's right to petition the Government for redress of grievances, and that the Government is first subject to Bronson's rights, and that the Constitution grants no rights to the people. Bronson's individual rights are guarded and protected by the Constitution. And, pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would

violate Brunson's individual rights which is guarded be the supreme law of the land, and that the Constitution is a restriction against the Government and not against Brunson's rights. See pages 1-5 of Brunson's complaint. Defendant's Motion admits this as being true.

Embedded in the Constitution is the oath of office. The Defendants have freely taken upon themselves a sworn duty to protect Brunson' s rights. This is a contract that they made to Brunson-it's a serious one, and a breach of this contract brings serious consequences that are NOT protected in the law and can bring the removal from office. See~ 21-27 of Brunson's complaint.

Noting that the Constitution is the supreme law of the land and that this court is bound by it, does not and cannot protect acts of treason which is also an act of fraud and fraud vitiates everything.[9] Therefore, because Brunson has alleged acts of treason and fraud against Defendants, Defendants must answer Brunson' s complaint as a matter of law.

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[9] "Our courts have consistently held that fraud vitiates whatever it touches, }.{orris v. House, 32 Tex. 492 (1870)". Estate of Stonecipher v. Estate of Butts, 591 SW 2d 806. And ""It is a stem but just maxim oflaw that fraud vitiates everytlring into which it enters." Veterans Senlice Club v. Sweeney, 252 S. W.2d 25, 27 (Ky.1952)." Radioshack Corp. v. ComSmart, Inc., 222 SW 3d 256.
Vitiate; "To impair or make void; to destroy or annul, eitl1er completely or partially, tl1e force and effect of an act or instrument." West's Encyclopedia of American Law, edition 2.

Also taking note that "So help me God" are the last words found in the oath of office to which all the Defendants swore by, they have sworn to God. To those individuals who violate their oaths, Isaiah of the old testament has stated that "Therefore as the fire devoureth the stubble, and the flame consumeth the chaff, so their root shall be as rottenness, and their blossom shall go up as dust: because they have cast away the law of the LORD of hosts, and despised the word of the Holy One of Israel." See Isaiah 5:24. The "law of the Lord" as defined by Bible scholars is the Constitution. See page 5 of the complaint. "Therefore hell hath enlarged herself, and opened her mouth without measure: and their glory, and their multitude, and their pomp, and he that rejoiceth, shall descend into it." Isaiah 5: 14. This decree is set in place regardless of whether or not Defendants believe it.

Isaiah prophesied several things that pertain to us in modern times. He prophesied the birth of Jesus Christ, and then he prophesied something that had never before been revealed since the creation of the world; the Constitution-a law to guide how a government is to be.

When Isaiah prophesied the coming forth of the Constitution, he also warned of serious consequences that follow (as stated above) when the Constitution is violated.

Because it was prophesied that the Constitution would come forth, and is the law of the Lord, then it's fitting and has bearing that the scriptures of Isaiah are cited and used herein.

It seems to be the practice of many courts under the doctrine of equitable maxim to shut its door against arguments it chooses not to address. In so doing it violates the doctrine of the object principle of justice which is couched in the Constitution.[10] Should that be the position of this court in this matter, its these types of rulings that lead to the revolution in 1776.[11]

WHERFORE, in the name of justice, and in the name of" We the People" and as an act to preserve, defend and protect the Constitution Brunson moves this court to deny Defendants' Motion with an order to answer Bronson's complaint within 10 days or be in default.

Humbly submitted this the 15th day of May, 2023.

/s/ Raland J Brunson
Raland J Brunson, Plaintiff

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[10] See petition under docket No. 18-1147 of SCOTUS.
[11] See amicus brief under docket No. 22-1028 of SCOTUS.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2023 I personally placed in the United States Mail to the individuals named below a true and correct copy of **OPPOSITION TO MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION**.

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Raland J Brunson