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**MEMORANDUM\* OPINION, U.S COURT OF  
APPEALS FOR THE NINTH CIRCUIT  
(JULY 23, 2024)**

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**NOT FOR PUBLICATION**

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

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**DAVID JOHN THISTLE,**

*Plaintiff-Appellant,*

v.

**JOE BIDEN, President of the United States;  
MERRICK B. GARLAND, Attorney General,**

*Defendants-Appellees.*

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**No. 22-56167**

**D.C. No. 3:22-cv-00065-RSH-NLS**

**Appeal from the United States District Court  
for the Southern District of California  
Robert Steven Huie, District Judge, Presiding**

**Submitted July 16, 2024\*\***

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**\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.**

**\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).**

Before: SCHROEDER, VANDYKE, and KOH,  
Circuit Judges.

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## MEMORANDUM

David John Thistle appeals pro se from the district court's order dismissing for failure to comply with Federal Rule of Civil Procedure 4 his action alleging federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Omaya v. Sheehan (In re Sheehan)*, 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion in dismissing Thistle's action because Thistle failed to effect proper service on defendants after being given notice, opportunities, and directives to do so, and Thistle did not establish good cause for his failure to serve. *See Fed. R. Civ. P. 4(a)-(c)* (setting forth requirements for service of process, including that the summons must be served with a copy of the complaint); *Fed. R. Civ. P. 4(i)* (setting forth requirements for serving the United States and its officials); *Fed. R. Civ. P. 4(m)* (explaining that district court may dismiss for failure to serve after providing notice and absent a showing of good cause for failure to serve).

We reject as unsupported by the record Thistle's contentions that the district judge was biased against him.

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

**ORDER DISMISSING CASE WITHOUT  
PREJUDICE, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
(OCTOBER 4, 2022)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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DAVID JOHN THISTLE,

*Plaintiff,*

v.

JOSEPH ROBINETTE BIDEN, JR., President of the  
United States, and MERRICK BRIAN GARLAND,  
United States Attorney General,

*Defendants.*

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Case No.: 22-CV-65-RSH-NLS

Before: Robert S. HUIE,  
United States District Judge.

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**ORDER DISMISSING CASE  
WITHOUT PREJUDICE**

Over eight months after Plaintiff filed the Complaint, he has not properly served Defendants, despite the Court's repeated reminders. The Court must therefore dismiss this action without prejudice, pursuant to Federal Rule of Civil Procedure 4(m).

Plaintiff, proceeding *pro se*, filed the Complaint on January 18, 2022. ECF No. 1. On March 10, 2022, Plaintiff sent copies of the summons and Complaint, by first-class mail, to the U.S. Attorney's Office in Washington, DC and President Biden at the White House, ECF Nos. 6 at 3; 7 at 3.

On July 25, 2022, in denying Plaintiff's request for a court date and for disqualification of the assigned district judge, the Court advised Plaintiff that he "has not at this time properly served Defendants." ECF No. 11 at 1.

On August 1, 2022, instead of dismissing the Complaint for failure to effect service, the Court on its own extended Plaintiff's deadline to serve Defendants until September 30, 2022. ECF No. 12. In its Order, the Court informed Plaintiff that he had failed to make service in the manner prescribed by Federal Rule of Civil Procedure 4(i). *Id.* at 1-2. The Court also told Plaintiff that if he failed to properly serve Defendants by September 30, 2022, "the Court may dismiss this action for failure to prosecute." *Id.* at 2.

On August 12, 2022, Plaintiff filed two motions to amend the Complaint. ECF Nos. 13, 14. On August 24, 2022, the Court granted both motions and directed Plaintiff to file an amended Complaint by September 14, 2022. ECF No. 16. The Court again told Plaintiff about the impending deadline to serve Defendants. *Id.* at 1-2 ("Plaintiff must properly serve the operative complaint — the original Complaint, or if he file an amended complaint, the amended complaint — by September 30, 2022."). Plaintiff did not file an amended complaint.

On August 15, 2022, Plaintiff sent to Defendant Garland, by certified mail, the summons and the Court's August 1, 2022 Order extending Plaintiff's deadline to effectuate service.

On August 26, 2022, Plaintiff filed a "Motion To Expedite," seeking an immediate court date to address the merits of his case. ECF No. 18. In denying the motion, the Court explained that Plaintiff's case could not proceed until he properly served Defendants. ECF No. 19 at 3-4. The Court's Order set forth the complete, relevant text of Rule 4(i). *Id.* at 2-3. The Court also reminded Plaintiff of the September 30, 2022 deadline. *Id.* at 3.

Under Federal Rule of Civil Procedure 4(m), the Court "must dismiss the action without prejudice" if a defendant has not been timely served. The Court has extended Plaintiff's deadline to effectuate service by more than five months. Plaintiff has not properly served Defendants or shown good cause for his failure to do so.

The Court therefore DISMISSES this action without prejudice. The Clerk of Court is directed to terminate the case.

IT IS SO ORDERED.

Dated: October 4, 2022

/s/ Hon. Robert S. Huie  
United States District Judge

**ORDER DENYING MOTION TO EXPEDITE,  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
(SEPTEMBER 6, 2022)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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DAVID JOHN THISTLE,

*Plaintiff,*

v.

JOSEPH ROBINETTE BIDEN, JR., President of the  
United States, and MERRICK BRIAN GARLAND,  
United States Attorney General,

*Defendants.*

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Case No.: 22-CV-65-RSH-NLS

Before: Robert S. HUIE,  
United States District Judge.

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**ORDER DENYING MOTION TO EXPEDITE**

On August 26, 2022, Plaintiff David John Thistle filed a motion for an immediate court date, asking for “a Calendar date for the Case Complaint to be heard.” ECF No. 18. The allegations contained in a civil complaint are typically heard not at a motion hearing date that is provided before the defendants appear, but at a trial that happens at the end of the case,

where both sides present their evidence and arguments. In contrast, Plaintiff's case is at its earliest stages. Plaintiff filed his Complaint on January 18, 2022 against the defendants, President Joseph R. Biden, Jr. and Attorney General Merrick Garland. After filing a complaint, the next step in a civil case is to serve process on the defendants.

Rule 4(i), which addresses service of process on the United States and its officers, provides:

(i) **Serving the United States and Its Agencies, Corporations, Officers, or Employees.**

(1) *United States.* To serve the United States, a party must:

(A)

(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United

States, send a copy of each by registered or certified mail to the agency or officer.

- (2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity.* To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.
- (3) *Officer or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).
- (4) *Extending Time.* The court must allow a party a reasonable time to cure its failure to:
  - (A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or
  - (B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.

Rule 4(m) of the Federal Rules of Civil Procedure provides that “[i]f a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” On July 25, 2022 — over 180 days after Plaintiff filed his Complaint — the Court advised Plaintiff that he “has not at this time properly served Defendants.” ECF No. 11.

On August 1, 2022, the Court — rather than dismissing Plaintiff’s Complaint provided Plaintiff with an additional 60 days (until September 30, 2022) to properly effectuate service. ECF No. 12. The Court advised Plaintiff that he has failed to serve the United States in the manner prescribed by Rule 4(i)(1), and that with respect to defendant Merrick Garland, Plaintiff delivered the Complaint and summons to the incorrect office. Plaintiff thereafter caused a copy of the summons to be mailed to the U.S. Department of Justice in Washington. On August 24, 2022, in granting Plaintiff’s motion for leave to amend his Complaint, the Court advised Plaintiff again that he “has not yet properly served the Complaint.” ECF No. 16. The Court reiterated its earlier deadline, that Plaintiff must serve either the original Complaint, or (if he chooses to file one) an Amended Complaint, by September 30, 2022. *Id.*

Although Plaintiff would like an immediate court date so that he can argue his case, he must follow the same rules as all other parties before this Court. Unless Plaintiff has effectuated service of process consistent

with the Federal Rules of Civil Procedure, or unless the Defendants waive service or voluntarily appear, the Court lacks personal jurisdiction over the Defendants and the case cannot proceed.

Finally, Plaintiff is advised that there is no legitimate reason for his repeated phone calls to chambers. Chambers staff is not allowed to give him or other parties legal advice, accept documents for filing (these must be filed with the Clerk of Court), or speak with him about the merits of his case or the merits of motions he might file. Harassing, abusive, or threatening communications will not be tolerated.

Plaintiff's failure to effect service of process consistent with the rules is the reason his lawsuit is not moving forward. Plaintiff's motion to expedite is DENIED.

IT IS SO ORDERED.

Dated: September 6, 2022

/s/ Hon. Robert S. Huie  
United States District Judge

**ORDER DENYING PLAINTIFF'S MOTION  
FOR OFFICIAL COURT DATE AND  
DISQUALIFICATION OF JUDGE,  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
(JULY 25, 2022)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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DAVID JOHN THISTLE,

*Plaintiff,*

v.

JOSEPH ROBINETTE BIDEN, JR., President of the  
United States, and MERRICK BRIAN GARLAND,  
United States Attorney General,

*Defendants.*

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Case No.: 22-CV-65-RSH-NLS

Before: Robert S. HUIE,  
United States District Judge.

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**ORDER DENYING PLAINTIFF'S MOTION  
FOR OFFICIAL COURT DATE AND  
DISQUALIFICATION OF JUDGE**

On July 5, 2022, Plaintiff, who is proceeding *pro se*, filed a Motion For Official Court Date And Time And Disqualification Of Judge ("Motion"). ECF No. 9.

Plaintiff seeks a videoconference and requests Defendants' attendance. *Id.* at 1. Plaintiff, however, has not at this time properly served Defendants, and there is no basis to hold a conference at this time. Plaintiff also seeks the disqualification of the undersigned, pursuant to 28 U.S.C. § 455(a), but the Motion provides no factual basis to justify disqualification. Plaintiff's Motion is therefore DENIED. IT IS SO ORDERED.

Dated: July 25, 2022

/s/ Hon. Robert S. Huie  
United States District Judge

**COMPLAINT FILED IN THE  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
(JANUARY 18, 2022)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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DAVID JOHN THISTLE,

*Plaintiff,*

v.

JOSEPH ROBINETTE BIDEN, JR. PRESIDENT OF  
THE UNITED STATES AND MERRICK BRIAN  
GARLAND THE UNITED STATES' ATTORNEY  
GENERAL,

*Defendant.*

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COMPLAINT '22 CV0065 TWR N LS

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**A DECLARATION OF PEACE**

**INTRODUCTION**

The Plaintiff, DAVID JOHN THISTLE, prays that the COURT will fully understand the Gravity of this Case and Complaint. Furthermore, the Plaintiff, DAVID JOHN THISTLE, 1 out of many Citizens of these United States herby gives FAIR WARNING of the CLEAR and PRESENT GRAVE IMMINENT DANGER

to the CITIZENS, RESIDENTS, and GUESTS of these UNITED STATES further referred to as, THE PEOPLE.

The Plaintiff, DAVID JOHN THISTLE, prays THE PEOPLE will Support the Plaintiff in the FAIR and EQUAL SEEKING of JUSTICE by the means of DUE PROCESS of LAW.

The Plaintiff, DAVID JOHN THISTLE, prays The People will SET an EXAMPLE of PERSONAL RESTRAINT and NOT ENJAGE in the RIGHTFULLY WARRANTED Public Acts or Displays of SEDITION of the Rules of Law this CHRISTMAS and HOLIDAY SEASON in ORDER to Provide a Good Example to The Children of The World with regard to the Proper SEEKING of DUE PROCESS of LAW.

### **PLAINTIFF'S ORIGINAL PETITION**

I PRAY, PLEADE FOR, AND RESPECTFULLY REQUEST RELIEF UNDER COLOR OF LAW 18 U.S. CODE 242 & 33 U.S. CODE.

The Plaintiff, DAVID JOHN THISTLE prays this Complaint will be heard in Concert with the additional previously Filed Case Complaints for the reason of Preservation of the Integrity of the Spirit of the Framework and Structure set forth within the Constitution of these United States, creating a Separation of Powers for the Ultimate Reason of Preservation of the Peace, Freedoms and the Unity of these United States as intended by the Founding Fathers. This Framework is intentionally designed to Prevent Tyranny and the loss of Liberty. Currently, within the United States, a Justified Public Distrust has arisen due to the same Three Elements that were Historically present in the

13 Original Colonies of these United States resulting in the writ of the Declaration of Independence.

1. Abuse and Violations of the Separation of Powers,
2. Abuse of THE PEOPLE'S Ability to maintain a Fair Election.
3. The Abuse and Lack of Due Process of Law.

These Magnanimous Grievous Seditiously Justifiable Charges Also Spawned the Assembly of Rightfully Angry Christian American Men at St. John's Masonic Lodge, Tun Tavern, the Birthplace of the United States Marine Corps. And due to the Unacceptable Distorted Thoughts and Behaviors of the Officers of Authority Historically grew a Crimson Tide of Death and Destruction within the Original 13 Colonies.

The Plaintiff, DAVID JOHN THISTLE, prays that by bringing forth this Complaint it will Provide the Ounce of Prevention necessary to fully Avoid the aforementioned Justifiable Civil Unrest and Death and Blood Shed and will Promote an Increase to the Love and Consanguinity for the Families of the Union of these United States.

Moreover, the Plaintiff, DAVID JOHN THISTLE, brings forth before this Court, blatant Violations and Attacks against States' Rights as Protected under the Constitution of these United States, X Amendment, being Omitted from Investigation by the Executive Office of the Attorney General due to Political Party Affiliation providing further Irrefutable Proof of Unequal Protection of the Law by the Executive Office. These very Violations of the X Amendment or "States'

Rights, is the Original and Historical Reason for the spark of the Civil War.

The Plaintiff, DAVID JOHN THISTLE, brings forth to the Court the Evidence in this Formal Complaint against the Executive Office Under the Color of Law (18 U.S. Code 242) for the Abuse of Powers due to the Unequal Execution of the Execution of Criminal Justice Powers by the Executive Branch for the reason of the Advancement of Personal Party Politics and not the Commonwealth of The People. This Complainant, the Plaintiff, DAVID JOHN THISTLE, prays the Court will see with Clear and Unobstructed Vision this Complaint is filled with the Direct Explicit Unabashed Impartial Intention, to Preserve the Peace and in Order to maintain the Freedoms of Life, Liberty, and the Pursuit of Happiness, and the now Fragile Union of these United States.

The Plaintiff prays, this Court will Clearly see the Misuse and Abuse of Powers of Sworn Officers of the Individual States and Federal Governmental Offices Officially Charged with the Leadership Role of the Defense of the Law (Article 2, and 28 U.S. Code 509) are currently in Direct Opposition to the Spirit of the Law of the Constitution of these United States and the Nature of Liberty and Powers of Office as God Intended them; Separate but Equal. Whereby, the Defendant, seeking with First Priority an advancement of a Political Party Agenda by the Inconsistent Unequal Distribution of the Execution and Enforcement of the Color of the Law, by the very Sworn Officers, placed in an Official Executive Office and a Position of Authority as Protectors and Defenders of the Law of the Land, the Constitution of these United States, are consistently and unabashedly DISTORTED and Altered

in a way to Deny and Oppose The Peoples' Rights Under the Color of Law (18 U.S. Code 242) , to seek the Fair Due Process and Equal Protection of the Law, whereby, also utilizing said Post of Authority to Inhibit the Freedoms from and the Ability of The People to seek the Final Causes of the Right of Life, Liberty and The Pursuit of Happiness by the Unequal Execution of the Enforcement of the Laws or Protection of those Laws,, weather by Omission of Prosecution or by Prosecution, to advance a Political Party Agenda and not the Common Welfare of the Good of "The People," it is the Individual Citizen's Obligation having Irrefutable Impartial Concreate Evidence in a time of Civil Unrest or thereafter, has a Noble and Moral Duty, Responsibility, Privilege, and Irrefutable Right to present that Evidence to the Court for IMMEDIATE REVIEW and take the Proper Right Action to mitigate the Suffering of The People. It is then, and only through Proper Venue of the Due Process of Law by the Court that this Abuse of Executive Powers and the resulting Suffering of The People can and will be Properly Addressed and Mitigated in a Peaceful manner. The Plaintiff, DAVID JOHN THISTLE, therefore, also Exercises and Executes the Right as a Citizen Under Color of Law to bring forth suit against the Officers of Federal or States' Authority, weather Elected or Appointed under 33 U.S. Code for the Negligent Acts of Duty while Under Sworn Oath to Preserve and Defend the Constitution of these United States and also ask the Court to seek and Apply the Charges of 18 U.S. Code Chapter 115 for Treason and Sedition against the Commonwealth of The People of these United States due to the Blatant Abuse of the Intended Powers of Office and the Improper use of those Powers to Unjustly and Unequally pursue the

Execution of Law within the Jurisdictions of their Respected Offices of Trust and Authority for the sole Primary Purpose of advancement of Political Party Interests and NOT the Commonwealth of The People..

## **COMPLAINT**

### **1. Abuse of Executive Power By Way of No Fair and Equitable Punishment Under the Color of Law**

The Plaintiff, DAVID JOHN THISTLE, brings Irrefutable Impartial Evidence before the Court for the purpose of proof beyond a reasonable measure that the Executive Powers of Criminal Justice within the Attorney General's Office are being utilized for advancement of a Political Party Agenda and NOT in the best interests or Commonwealth of The People.

Evidence 1a. For the Advancement of Political Party Agendas, the Vice President, Kamala Harris, and the Speaker of the House of Representatives, Nancy Pelosi, did each Commit over 50 Counts of Violations the X Amendment and the States' Rights of Texas, by Harboring Fugitives of Justice, from States or Territory to State, District, or Territory 18 U.S. CODE 3182, by Writ of Subpoena Warrant of the Texas House, whereby, aiding in the Delay of the Sworn Duties and Responsibilities of the Texas Legislative Body causing Harm and a Fiduciary loss to The People of the Good State of Texas and these United States.

b. The United States Congress ordered the same Writ of Warrant and Subpoena for an Investigation Inquiry regarding actions or inactions of President Trump and the Officers within his Administration. Yet, the Rule of Fair and Unequal Treatment Under

the Color of Law Occurred with Criminal Charges Pursued by that same Body of Legislators under the Guidance of Vice President (Senate President) Kamila Harris and The Speaker of the House, Nancy Pelosi after their Blatant disregard for the Law, and the X Amendment Rules within the Constitution of these United States of America.

2. Governor Greg Abbott's reply was the authoring and implementation of a new Texas Law in Direct Conflict with the United States' Supreme Court Ruling of *Roe v. Wade*.

3. Dr. Fauci refuse to provide Subpoenaed Documents and Electronic Mail to the Senate Oversight Committee a Blatant Disregard for the Oversight of the Executive Branch by the Senate; a Clear Direct Violation of, 5 U.S. CODE 2954, without Arrest Charges or Prosecution within the Fairness and Equality by the Executive Branch and Attorney General's Office.

Each of the aforementioned are guilty of and also should be Charged and Prosecuted with 18 U.S. CODE, Inciting Treason and Sedition and 18 U.S. CODE 2101 Inciting a Riot.

## **2. Abuse of the People's Ability to Maintain Fair Elections**

The Plaintiff, DAVID JOHN THISTLE, prays this Court will review the following referenced Open Complaints: UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA.

1. DAVID JOHN THISTLE v. THE STATE OF OHIO Case Complaint Number 21CV2071 JLS KSC

2. DAVID JOHN THISTLE v. THE STATE OF NEW HAMPSHIRE Case Complaint Number 21CV2072 JLS BGS
3. DAVID JOHN THISTLE v. THE STATE OF ALABAMA Case Complaint Number 21CV-2073 JAH RBB
4. DAVID JOHN THISTLE v. THE STATE OF ALASKA Case Complaint Number 21CV-2074 MMA RBB
5. DAVID JOHN THISTLE v. THE STATE OF ARKANSAS Case Complaint Number 21CV2075 JLS MVG
6. DAVID JOHN THISTLE v. THE STATE OF COLORADO Case Complaint Number 21CV-2076 JAH MSB
7. DAVID JOHN THISTLE v. THE UNITED STATES DEPARTMENT OF VETERANS' AFFAIRS

Case Complaint Number:3:21-ev-81218-WQH-MDD

### **3. The Abuse and Lack of Due Process of Law**

The Plaintiff, DAVID JOHN THISTLE, prays the COURT will review the following referenced Open Complaints and Enclosures:

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA.

1. THISTLE v. UNITED STATES DEPARTMENT OF VETERANS AFFAIRS THISTLE v. OHIO for the following Evidentiary Examination. THE COURT & THE OHIO

OIG were in fact informed of the Obvious Irrefutable Violations to these United States Constitution and took no proper Action to Repair the Damages Caused by those who WITHOUT DUE PROCESS OF LAW did ALTER and CHANGE the Constitutional Requirements of Office for the US HOUSE OF REPRESENTATIVES Article I Sec 2 Paragraph 2 of these United States. No Corrective Action was taken by the COURT or THE OFFICE OF INSPECTOR GENERAL OF OHIO to Affect the Arrest of THE SECRETARTY OF STATE OF OHIO, FRANK LAROSE. Therefore, DUE PROCESS OF LAW was NOT GRANTED by the COURT.

Moreover, the Plaintiff, DAVID JOHN THISTLE does Posses ELECTION FRAUD and MISBEHAVIORS EVIDENCE to include False Arrest under NEW HAMPSHIRE TITLE XXXI MOTOR VEHICLES CHAPTER 261 SECTION 261: 141 VIII(a), thereby, Violating of FREE AND UNINIBITED TRAVEL THROUGHT STATE BOUNDRIES, 14 AMENDMENT SEC1.4.3.2.1 Interstate Travel while a CANDIDATE for PRESIDENT of these UNITED STATES.

#### **REQUEST FOR RELIEF**

The Plaintiff, DAVID JOHN THISTLE, also prays that the Court will grant MAXIMUM financial compensation for each Individual Charge and from each Aforementioned Individual Sworn Elected or Appointed Federal or State Officer under the Color of Law 18 U.S. Code 282 and 33 U.S. Code for the

maximum amount of fiscal funds allowed by the Law for a Citizen due to the Egregious Illegal Abuse of Powers inhibiting the Plaintiff, DAVID JOHN THISTLE, from actively pursuing Life, Liberty the Pursuit of happiness Unobstructed by the Negligent Criminal Duty of the Executive Officers of the Attorney General's Office not Executing the Law Fair and Equally for THE PEOPLE of these United States.

The Plaintiff, DAVID JOHN THISLTE, prays that this Court will without haste order the Elected and Appointed Officers of the EXECUTIVE BRANCH, immediately and without haste restore the *Fair and Equal Enforcement of the Law* and update all Policies, Documents, Publications, Internet and Website Postings to prevent any future harm to the Plaintiff or other Constitutionally qualified Citizens and to prevent misleading Educational understanding of the Law of the Constitution of the United States for The People and Citizens of the United States.

The Plaintiff, DAVID JOHN THISTLE, also respectfully requests he Court to provide and extend Witness Protection to the Plaintiff and his family due to the nature of the High Political Federal and State Offices held by the Defendants.

The Plaintiff, DAVID JOHN THISTLE, hereby requests the following relief to be the Biblical Relief Repayment of all Lost Items from the Unwarranted Illegal Arrest on VOTING DAY.

The Plaintiff, DAVID JOHN THISTLE, here also requests that the Members of The Military Order of Foreign Wars of the United States be granted Federal Constabulary Rights by this Court equal to that of the Constables combined with the powers of the Justices

of Peace of the Commonwealth of Massachusetts to prevent further Violations of the Constitution of these United States.

DEUS ET LIBERTAS,

/s/ David John Thistle, Pro-Se

Dated this day of 18 January 2022.

**PETITION FOR WRIT OF MANDAMUS  
(MAY 8, 2023)**

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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DAVID JOHN THISTLE,

*Plaintiff,*

v.

JOESEPH ROBINETTE BIDEN, President of the  
United States; MERRICK B. GARLAND,  
Attorney General, Et Al.

*Defendants.*

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Case No.: \_\_\_\_\_

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**PETITION FOR WRIT OF MANDAMUS**

The Plaintiff, Mr. David John Thistle, presents the following petition for writ of mandamus before this Court to preserve, protect, and defend the Constitution of the United States and maintain the peaceful Union of the individual States. The Plaintiff, Mr. David John Thistle prays that the Court in reviewing this petition for writ of mandamus will remain mindful that “[a] document filed Pro Se is to be liberally construed . . . and a Pro Se [pleading], however inartfully pleaded, must be held to less stringent standards than formal

pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)

This was case reported to the FBI again on Tuesday 25 April, 2023 with zero Public Arrests.

**United States Constitution,  
Article VI The Supreme Law**

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under the Constitution, as under the Confederation.

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, any 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 legislature, 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 this Constitution; but no religious test shall ever be required as a qualification to any office of public trust under the United States.

The Petitioner, is the Plaintiff of Case 22-56167, Mr. David John Thistle, and a 100% Combat Related Disabled Veteran of the United States Military proceeding Pro Se with a petition for a writ of mandamus. Evidence has been provided to the Defendants, several Federal, County and Local Law Enforcement Agencies and filed in several Court Cases that provides concrete evidentiary proof beyond a reasonable doubt that the

United States Constitution Article 1 Sec 2 Par 2 has been edited and altered by 6 States' Elections' Offices without the Due Process of Law as required by and under Article V of the United States Constitution without proper arrests or corrections made to prevent further harm to the Citizens of the United States and the Plaintiff. The Plaintiff, Mr. David John Thistle, filed these cases without haste and was disenfranchised from timely filing for Election Ballot Candidacy. Moreover, the fundraising necessary for Candidacy was blocked for several elections due to the misdirection and the malice of the elections Officers, Governors, Lt. Governors, National Guard Leadership, and Law Enforcement (both Local, State, and Federal) being in support of Elected Persons and Party Political Interests being placed above the sworn oaths and affirmations of their Offices of Public Trust in preserving, protecting, and defending the integrity of the construction of the United States Constitution.

A serious defamation of character resulted and injury to the Plaintiff, Mr. David John Thistle, due to misinformation presented to the Public by the States' Elected Officers. These Elections Officials in 6 States, with the knowledge of the Officers of the Governors, Lt Governors, Attorney Generals, National Guard Adjutant Generals and Local, State, and Federal Law Enforcement Officers, have in fact illegally edited and altered the Requirements for the Office of U.S. Representatives found in Article 1 Sec 2 Par 2 of the Constitution of the United States. These Officers in positions of Public Trust knowingly altered the Constitutional Requirements of Office to alter the outcome of the Elections. The tampering with Elections or the illegal editing and altering of the Constitution of the

United States to effect the outcome of an Election is classified as Domestic Terrorism by the Department of Justice.

These illegal altering and editing of Article 1 Sec 2 Par 2 were viewed on the “States’ Official World Wide Websites” and the illegal changes of Article 1 Sec 2 Par 2 have to this day not been corrected, with the exception of New Hampshire, on those “World Wide Websites.”

Moreover, even when the State’s Attorney made the corrections on the Secretary of State’s Official World Wide Website in New Hampshire, “THE PEOPLE” or the Public was NOT INFORMED of the illegal editing and altering of the Constitution whereby additional unconstitutional requirements for Office were added. Unfortunately, in an Official Public Television Address by the Governor, Chris Sununu, he praised the “Fair and Impartial” work of the Secretary of State for 45 years. This embellishment only added additional concerns for The People. Now, the People understood the Governor was also part of the problem and Fair Elections would still be questionable under his future leadership in the State of New Hampshire.

This misleading of “THE PEOPLE” after illegal editing and altering of Article 1 Sec 2 Par 2 before the 2022 Midterm Elections provides “reasonable suspicion” that every Election that took place under the supervision of the Secretary of State William “Bill” Gardner were fraudulent, tainted, and or altered to control the outcome and narrative of the Elections. When accountability does not exist for Elected and or Appointed members in positions of Public Trust how do we maintain a safe and peaceful society? When the Federal Court and FBI have been made aware of concrete irrefutable evidence

of the corruption of Fair Elections and has been provided the Evidence of Domestic Terrorism at 6 States Leadership Levels without arrests, it becomes a Clear and Present Danger to the Citizens of the United States.

Currently, the Laws for Elections' Leadership is clearly not being enforced due to Political Party influence and in the Public's View the needed Public Accountability for the illegal editing or altering of the Constitution of the United States if not properly immediately addressed or corrected at a time when the Nation's Loss of Public Trust in Fair Elections has recently caused an insurrection on January 6th, 2021 at the Capitol Building of the United States, could in fact trigger another insurrection or a Revolutionary War.

The aforementioned changes to Article 1 Sec 2 Par 2 to control an Election by limiting select cohorts or individuals, including the Plaintiff, Mr. David John Thistle, from becoming uninhibited Ballot Candidates fully displays and supports a breach of contract, negligence of duty, and a failure to act as sworn Officers of the Executive Branch under Oath and or Affirmation of Office to prevent loss of the integrity of the Constitution of the United States whereby infringing on individual's and cohort's rights and liberties protected by the XIV Amendment of the Constitution of the United States.

It is the understanding of the General Public that the Loss of the Public Trust in Fair Elections was the root causation of the insurrection of January 6th, 2021. This proof of the altering of Article 1 Sec 2 Par 2 before Elections for U.S. Representative without due process in accordance with Article V this concrete irrefutable evidence provides a clear immediate imminent threat to the safety and security of the American Citizens,

the Public, and their quests. Therefore, when States' and the several Federal and Local Law Enforcement Agencies were notified of the Tampering with the Elections by States Officers, a Domestic Terrorism charge in accordance with the Department of Justice, immediate actions by the Court and FBI were warranted. In accordance with The Supreme Law of the Land or supremacy Clause listed previously, all Federal and States Officers and Judges have an immediate "Duty to Act" when the evidence indicates that the Constitution of the United States has been altered to disenfranchise a Citizen or cohort of citizens from their Constitutional Rights and Liberties.

It is clear that the altering and editing of Article 1 Sec 2 Par 2 or any line item in the Constitution of the United States without the due process of law in accordance with Article V by any Federal or States Officers in a position of Public Trust to effect a change in Fair Elections is Domestic Terrorism.

At minimum these changes are Article V, X Amendment and XIV Amendment Violations. To have the Sworn and or Affirmed Officers of the Federal or 6 States Elected Leadership not being held accountable by the Executive Branch after a loss of life resulting from an insurrection on January 6th, 2021 due to the loss of Public Trust in Fair Elections is throwing gasoline on the fire and asking for a repeat of the events or worse.

The powder keg of the recent changes in the demographic statistics of registered Voters, those registered voters unwilling to VOTE in UNFAIR ELECTIONS (42% in the last 2 Presidential Elections and over 82% in the 2022 Midterm Elections), it is unacceptable for the two major Political Parties trying desperately to hold onto power control in the Federal and States

Governments to violate the Constitution of the United States without arrests. Moreover, it is unrealistic to think that the Clear and Present Danger to the Public doesn't exist and that the Public or The People are not in preparation to respond to the attacks upon the Constitution of the United States by the Minority currently in the Elections Offices illegally. This Court is asked to review THISTLE v. NEW HAMPSHIRE 21-cv-2072 and all attached documentation and evidence. New Hampshire clearly and unabashedly illegally edited and altered Article 1 Sec 2 Par 2 to include the verbiage "candidate must be . . . domiciled . . . and a registered voter of the state." In no way does Article 1 Sec 2 Par 2 use this verbiage and/or have these requirements. Please also review the attached email dated 2021-12-10 09:29 within which the Election's Legal Counsel notified me, ". . . The Secretary of State's Website has been revised: . . . ". The desired application by the Court of the governing legal principles in the manner urged by the Plaintiff;

First, the Petitioner, [Plaintiff,] Mr. David John Thistle, requests of this Court to mandate the 6 states to immediately and without delay restore the verbiage of the United States Constitution on all State Documents and Official Websites. The Court has a duty to preserve, protect, and defend the Constitution of the United States.

Secondly, assign a former impartial Federal Prosecutor to represent the Plaintiff, Mr. David John Thistle in each one of the States individual complaints to fully restore the Rights, Liberties, and Freedoms granted to the Petitioner, and members of the disenfranchised cohorts and to restore the complete Constitution of the

United States and also the Faith in the Public Trust in Fair Elections.

The 6 States' Leadership Authorities are placing "Political Party Interests" over the safety and well-being of "The People" of the United States. It is now the DUTY of this Court to resurrect the Constitution of the United States in the 6 States that illegally edited and altered it without due process in accordance with Article V. It is also the duty of this Court to charge through indictments, arrest, and seize all property of these Domestic Terrorists in order to provide safety to the general public and citizens of the United States. In addition, due to the historical evidence of the January 6th, 2021 insurrection, and the precedent that never before in the history of the United States has any State, let alone 6 States, illegally edited and/or altered the verbiage of the Constitution of the United States to control the outcome of an Election a serious clear and present physical danger exists and these Federal and States Public Officers need to be Publicly Charged and Arrested. This is quite possibly a RICO Act style of crime.

The 7 Related Case Complaints and list of all 6 States can be found for review of this Court for evidence of the aforementioned crimes are as follows:

THISTLE v. La ROSE 21-cv-1414

THISTLE v. OHIO 21-cv-2071

THISTLE v. NEW HAMPSHIRE 21-cv-2072

THISTLE v. ALABAMA 21-cv-2073

THISTLE v. ALASKA 21-cv-2074

THISTLE v. ARKANSAS 21-cv-2075

THISTLE v. COLORADO 21-cv-2076

Thirdly, the Petitioner, [Plaintiff], Mr. David John Thistle, PRAYS the Court will immediately and without delay MANDATE all 50 States and United States Territories to implement UNITED STATES CONSTITUTIONAL LAW CLASSES in every and all Classrooms and Grades of all United States Public Schools and any and all Schools Receiving Federal Funding to prevent any possibility of reoccurrences of events of Elected and Appointed Officers of States or the Federal Government illegally altering the United States Constitution without due process in accordance with Article V.

Signed under penalty of perjury this 8th day of May, 2023,

Dues et Libertas,

/s/ David John Thistle

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## EVIDENCE ENCLOSURE 1

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### STATE OF ALASKA DIVISION OF ELECTIONS

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#### **QUALIFICATIONS FOR HOLDING OFFICE**

**STATEWIDE CANDIDATES** are those seeking the office of United States Senator, United States Representative, Governor or Lieutenant Governor. The qualifications for these offices are as follows:

##### **United States Senator**

- ◆ 30 years of age;
- ◆ citizen of the United States for 9 years; and
- ◆ an inhabitant of the state from which elected.

##### **United States Representative**

- ◆ 25 years of age;
- ◆ citizen of the United States for 7 years; and
- ◆ an inhabitant of the state from which elected.

##### **Governor and Lieutenant Governor**

- ◆ At least 30 years of age on the first Monday in December following the election;
- ◆ citizen of the United States for at least 7 years;
- ◆ qualified voter of the state;
- ◆ resident of Alaska for at least 7 years immediately preceding filing for office.

**DISTRICTWIDE CANDIDATES** are those seeking the office of State Senator and State Representative. The qualifications for these offices are as follows:

**State Senator**

- ◆ At least 25 years of age on the first scheduled day of the first regular session of the legislature convened after the election;
- ◆ 3 year resident of Alaska; and
- ◆ 1 year resident of the district from which elected immediately preceding filing for office.

**State Representative**

- ◆ At least 21 years of age on the first scheduled day of the first regular session of the legislature convened after the election;
- ◆ 3 year resident of Alaska; and
- ◆ 1 year resident of the district from which elected immediately preceding filing for office.

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## EVIDENCE ENCLOSURE 2

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COLORADO SECRETARY OF STATE  
JENA GRISWOLD

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### Candidate Qualifications

#### Federal

**Office:** President

**Age:** 35 [1]

**State residence**

**District residence:** n/a

**US citizen:** Natural born [1]

**Length of term:** 4 years [2]

**Number of terms:** 2 terms [3]

**Office:** US Representative

**Age:** 25

**State residence:** Yes

**District residence:** No

**US citizen:** 7 years [4]

**Length of term:** . . .

[ . . . ]