

No. 23-5216

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BARBARA W. PALMER,
Plaintiff-Appellant,

v.

FEDERAL ELECTION COMMISSION,
Defendant-Appellee.

On Appeal from the United States District Court
for the District of Columbia

**FEDERAL ELECTION COMMISSION'S MOTION
FOR SUMMARY AFFIRMANCE**

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FEC Federal Election Commission

FECA Federal Election Campaign Act

INTRODUCTION

Appellee Federal Election Commission (“Commission” or “FEC”) respectfully moves for summary affirmance because the parties’ positions are so clear that further proceedings would offer no benefit. *See Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297-98 (D.C. Cir. 1987). Appellant Barbara W. Palmer’s appeal challenges the district court’s straightforward conclusion that Palmer failed to identify a concrete injury flowing from the Commission’s dismissal of her administrative complaint, and therefore failed to establish Article III standing. Palmer’s administrative complaint alleged that a non-profit organization violated campaign finance laws during the 2020 federal election cycle. After the Commission dismissed this administrative complaint, Palmer filed suit alleging that the FEC had failed to “properly” investigate it, and that she was injured as a result. However, Palmer’s desire to see federal law enforced is not a concrete and particularized injury sufficient to establish Article III standing. Furthermore, to the extent Palmer attempted to allege an informational injury resulting from the Commission’s dismissal of her administrative complaint, the bare allegations in her judicial complaint also fail to confer standing. Because the district court correctly determined that it lacked subject matter jurisdiction over Palmer’s suit, this Court should summarily affirm.

LEGAL AND FACTUAL BACKGROUND

A. The FEC and FECA's Administrative Enforcement Process

The Commission is a six-member independent agency of the United States vested with statutory authority over the administration, interpretation, and civil enforcement of FECA. *See generally* 52 U.S.C. §§ 30106-07. Congress authorized the Commission to “administer, seek to obtain compliance with, and formulate policy with respect to” FECA, *id.* § 30106(b)(1), and to investigate possible violations of the Act, *id.* § 30109(a)(1)-(2). The Commission has “exclusive jurisdiction” to initiate civil enforcement actions for violations of the Act in the United States district courts. *Id.* §§ 30106(b)(1), 30109(a)(6).

This case initiated after Palmer filed a judicial complaint alleging that the FEC's dismissal of her administrative complaint was contrary to law. FECA permits any person to file an administrative complaint with the Commission alleging a violation of the Act. *See* 52 U.S.C. § 30109(a)(1); *see also* 11 C.F.R. § 111.4. After reviewing the complaint and any response filed by the respondent whose conduct is at issue, the Commission considers whether there is “reason to believe” that FECA has been violated. 52 U.S.C. § 30109(a)(2). If at least four of the FEC's Commissioners vote to find such reason to believe, the Commission investigates the alleged violation. *Id.* §§ 30106(c), 30109(a)(2). To continue with enforcement action, the Commission must then determine whether there is

“probable cause” to believe FECA has been violated. 52 U.S.C. § 30109(a)(3)-(4).

If so, FECA then requires the Commission to attempt informal conciliation with the respondent to remedy the apparent violation, after which the FEC may institute a de novo civil enforcement action in federal district court. *Id.*

§ 30109(a)(4)(A)(i), (a)(6)(A). Each of these stages requires an affirmative vote of at least four Commissioners. *Id.* §§ 30106(c), 30109(a)(4)(A)(i), (a)(6)(A).

Federal law also provides administrative complainants who are “aggrieved by an order of the Commission dismissing a complaint” or “by a failure of the Commission to act” a cause of action to challenge the FEC’s handling of their complaint in federal court. *See* 52 U.S.C. § 30109(a)(8)(A). If a court finds that a Commission dismissal or failure to act was “contrary to law,” it may order the Commission to conform to the court’s decision within 30 days. 52 U.S.C. § 30109(a)(8)(C); *see FEC v. Rose*, 806 F.2d 1081, 1084 (D.C. Cir. 1986); *In re Nat’l Cong. Club*, Nos. 84-5701, 84-5719, 1984 WL 148396, at *1 (D.C. Cir. Oct. 24, 1984) (per curiam). If the Commission fails to conform within that time, the administrative complainant may bring a civil action to remedy the alleged violation. 52 U.S.C. § 30109(a)(8)(C); *see FEC v. Nat’l Conservative Political Action Comm.*, 470 U.S. 480, 488 (1985).

FECA expressly limits the scope of relief available to a plaintiff challenging an FEC dismissal decision or alleging that the Commission has failed to act on an

administrative complaint. The reviewing court may only (a) declare that the Commission's failure to act or dismissal was "contrary to law" and (b) order the Commission to "conform with" the court's declaration within 30 days. 52 U.S.C. § 30109(a)(8)(C).

B. FECA's Limits on Contributions

FECA defines a "contribution" as any "gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8); *accord* 11 C.F.R. § 100.52(a). The term "anything of value" includes in-kind contributions, such as "the provision of any goods or services without charge or at a charge that is less than the usual normal charge." 11 C.F.R. § 100.52(d)(1). The Act defines an expenditure as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 52 U.S.C. § 30101(9).

FECA prohibits any person from making a contribution in the name of another person or knowingly allowing his or her name to be used to make such a contribution. 11 C.F.R. § 100.52(a). FECA and the Commission's regulations also prohibit contributions during certain time periods by any person who enters into a contract with the United States or its departments or agencies for "furnishing any material, supplies, or equipment," if payment on such contract "is to be made

in whole or in part from funds appropriated by Congress.” *Id.* § 30119(a)(1); 11 C.F.R. § 115.2(a). Finally, FECA prohibits corporations from making contributions to federal candidates, and likewise bars candidates, political committees (other than independent expenditure-only political committees and committees with hybrid accounts), and other persons, from knowingly accepting or receiving corporate contributions. 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d). FECA also provides that “any officer or any director of any corporation” shall not “consent to any [prohibited] contribution or expenditure by the corporation.” 52 U.S.C. § 30118(a).

C. Agency Proceedings Related to Palmer’s Administrative Complaint

On November 7, 2021, Palmer filed an administrative complaint with the Commission which was designated Matter Under Review (“MUR”) 7946. Palmer supplemented her complaint on January 3, 2022. (Add. 3, Compl., *Palmer v. FEC*, 22-2876 (D.D.C. Sept. 21, 2022) (“Compl.”) ¶ 8.) *See also* Compl., MUR 7946, https://www.fec.gov/files/legal/murs/7946/7946_01.pdf (“Admin. Compl.”); Addendum to Complaint, MUR 7946, https://www.fec.gov/files/legal/murs/7946/7946_06.pdf. Palmer’s administrative complaint alleged that grants distributed during the 2020 election by the Center for Tech and Civic Life, (“CTCL”), a 501(c)(3) non-profit corporation, which were made to state and local election administrators ostensibly for the purpose of

assisting with the administration of elections during the COVID-19 pandemic, were, in fact, made for the purpose of increasing the turnout of Democratic voters, and therefore constituted contributions to various Democratic candidates or committees. (Admin. Compl. at 2 ¶ 6 (alleging that the grants were “designed with the intent to tilt the 2020 federal elections toward” Democratic candidates).) The administrative complaint points to the distribution of the grants, asserting that they were targeted at “urban cities . . . to turn out the progressive vote.” (*Id.* at 9 ¶ 46.) In addition to CTCL, Palmer’s administrative complaint requested that the Commission seek action against one CTCL employee, the Election Assistance Commission, (“EAC”), an independent federal agency, and two employees of the EAC. (*Id.* at 20.)

The administrative complaint alleged that there was an effort to “funnel funds from a wealthy individual and their related and/or controlled entities, through a federal contractor,” which Palmer alleges that CTCL was in the 2020 election. (*Id.* at 3 ¶ 8.)¹ The complaint further alleged that the EAC was also a source of the grants and that “taxpayer funds” were effectively “funnel[ed] . . . to assist with the 2020 election cycle campaigns of specific candidates and/or

¹ The text of Palmer’s administrative complaint identified two sources of funding for the grants as Mark Zuckerberg, the founder and CEO of Meta (formerly Facebook), and his wife Dr. Pricilla Chan. (Admin. Compl. at 44 ¶¶ 58-64.)

political parties.” (*Id.* at 3 ¶ 7.) Based on these allegations, Palmer claimed that the CTCL, EAC, and associated personnel violated a variety of FECA provisions. Palmer alleged that the CTCL grants were actually in-kind contributions, which CTCL was prohibited from making either because it is a corporation or because it was a federal contractor. (*Id.* at 3 ¶ 9 (citing 52 U.S. § 30119; 11 C.F.R. § 114.2).) Palmer further claimed that CTCL knowingly permitted its name to be used to make a contribution in the name of another, and that CTCL’s grants constituted contributions in excess of the limit. (*Id.* at 3 ¶ 10 (citing 52 U.S.C. § 30122).) Palmer requested that the Commission (1) “investiga[te]” CTCL’s alleged payments to the EAC; and (2) investigate all respondents for violations of 52 U.S.C. §§ 30119 and 30122 and 11 C.F.R. § 114.2. (*Id.* at 19-20.)

On July 26, 2022, after considering Palmer’s complaint and responses from persons referenced in the complaint, the Commission determined by a vote of 6-0 that there was no reason to believe a violation of FECA had occurred and dismissed the administrative complaint. (Add. 9, Mem. Op., *Palmer v. FEC*, 22-2876 (D.D.C. Aug. 29, 2023) (“Mem. Op.”) at 2.) The Commission notified Palmer on August 8, 2022, regarding the dismissal of her complaint and provided a Factual and Legal analysis that explained the Commission’s findings. (*See id.*) The Commission explained that there was no reasonable basis to conclude that the respondents funded or awarded grants for the purpose of influencing a federal

election or to increase votes for Democratic candidates. (*See id.*) Further, the Commission found that there was no indication that the respondents coordinated with any candidate or committee, and that therefore the grants were neither contributions nor expenditures under FECA. (*See id.*) The Commission's findings, responses, and certifications are all publicly available on the FEC's website. *See generally* Closed Matters Under Review, MUR 7946, <https://www.fec.gov/data/legal/matter-under-review/7946/>. Additional information about the CTCL grants Palmer challenges, including the amount and recipient information of CTCL's donations to local election officers, are disclosed in CTCL's IRS Form 990 that Palmer submitted to the FEC with her administrative complaint. (Addendum to Compl., MUR 7946, https://www.fec.gov/files/legal/murs/7946/7946_06.pdf.)

D. District Court Order Dismissing Palmer's Complaint

On September 21, 2022, Palmer filed a judicial complaint in the district court. (*See generally* Add. 1-6, Compl.) Palmer alleged that the Commission, "wholly failed to address the issues raised in Plaintiff's Administrative Complaint," or "make proper referral as required by law." (Add. 4, ¶ 14.) She sought the following relief: (1) a declaration "that the FEC failed to properly investigate Plaintiff's Administrative Complaint," (2) an order that "the FEC []

conform with such declaration within 30 days,” and (3) an award of attorney’s fees. (Add. 5.)

On January 3, 2023, the Commission filed a motion to dismiss Palmer’s complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. (FEC’s Mot. To Dismiss, *Palmer v. FEC*, 22-2876 (D.D.C. Jan. 3, 2023) (Docket No. 6).)² The Commission asserted that because Palmer only sought a general desire to see the law enforced, she failed to establish a concrete and particularized injury sufficient for Article III standing.

On August 29, 2023, the district court granted the FEC’s motion to dismiss, denied the FEC’s motion to defer the transmission of the administrative record as moot, and dismissed Palmer’s complaint in its entirety for lack of standing. (Add. 7, Order, *Palmer v. FEC*, 22-2876 (D.D.C. Aug. 29, 2023); *see also* Add. 8-13, Mem. Op.) In granting the FEC’s motion to dismiss, the Court first concluded that Palmer’s complaint appears to allege only a procedural injury, namely “that the FEC[] failed to properly investigate [her] Administrative Complaint.” (Add. 10, Mem. Op. at 3.) Although Palmer alleged that FECA allows her to file suit under its citizen-suit provision, the district court explained that “FECA’s citizen-suit

² The Commission also filed a motion to defer transmission of the administrative record concurrently with its motion to dismiss, pending the district court’s disposition of the Commission’s motion to dismiss. FEC’s Mot. To Defer Transmission of Admin. Record, *Palmer v. FEC*, 22-2876 (D.D.C. Jan. 3, 2023) (Docket No. 7.).

provision “confers a right to sue upon parties who otherwise already have standing.” *Id.* (citing *Common Cause v. FEC*, 108 F.3d 413, 419 (D.C. Cir. 1997).) Accordingly, the court stated that Palmer “thus must show she suffered a ‘discrete injury’ flowing from the supposed FECA violation she alleged in her administrative complaint.” (*Id.*)

Turning next to Palmer’s alleged injury, the district court found the allegations plainly insufficient to establish standing. Palmer stated that she was a “registered as a voter in the State of Texas” and “representative of all United States citizens . . . that seek to protect their most basic right to have meaningful participation in electing their political leaders.” (*Id.* (quoting Compl. ¶ 5).) Palmer failed to allege “any personal stake affected by, or a close relationship to any harm resulting from,” the Commission’s dismissal of her administrative complaint. (Add. 11, Mem. Op. at 4.) As such, her mere interest in “proper administration of the laws,” was not a concrete injury for Article III purposes. *Id.* (citing *Campaign Legal Ctr. v. FEC*, 860 F. App’x 1, 4 (D.C. Cir. 2021)).

Finally, the court held that Palmer’s informational theory of standing, raised for the first time in her opposition brief, was deficient as well. Although Palmer claimed an entitlement to the disclosure of information relating to certain transactions, she “fail[ed] to specify any omitted disclosures in her present complaint,” and the allegations contained solely in her opposition were untimely in

any event. (Add. 11-12, Mem. Op. at 4-5.) Furthermore, the Court noted that even if it were to consider Palmer's alleged informational injury, the assertions in the brief were insufficient as well. Palmer failed to explain "how she has been hurt in any way by the purported lack of disclosures or how the undisclosed information is 'related to [her] informed participation in the political process.'" Add. 12, Mem. Op. at 5 (citing *Campaign Legal Ctr. v. FEC*, 31 F.4th 781, 789 (D.C. Cir. 2022)). Moreover, to the extent Palmer sought disclosures about transactions between CTCL and others, that information contained in CTCL's IRS Form 990, a required disclosure form for certain 501(c)(3) organizations, was included in Palmer's own administrative filings.

Having concluded that Palmer failed to establish standing, the district court dismissed the Complaint. On September 26, 2023, Palmer appealed the district court's order.

ARGUMENT

I. STANDARD OF REVIEW

"Summary affirmance is appropriate where the merits are so clear as to justify summary action." U.S. Court of Appeals for the D.C. Circuit, Handbook of Practice and Internal Procedures at 35-36; *see also Jenkins v. District of Columbia*, No. 18-5021, 2018 WL 3726280, at *1 (D.C. Cir. July 20, 2018) (citing *Taxpayers Watchdog, Inc.*, 819 F.2d at 297). In circumstances where the merits are so clear,

“no benefit will be gained from further briefing and argument of the issues presented.” *Taxpayers Watchdog, Inc.*, 819 F.2d at 298; *Cascade Broad. Grp. Ltd. v. F.C.C.*, 822 F.2d 1172, 1174 (D.C. Cir. 1987) (per curiam) (“[S]ummary disposition will be granted where the merits of the appeal or petition for review are so clear that ‘plenary briefing, oral argument, and the traditional collegiality of the decisional process would not affect our decision.’” (quoting *Sills v. Fed. Bureau of Prisons*, 761 F.2d 792, 793-94 (D.C. Cir. 1985))).

This Court reviews a district court dismissal of a complaint for lack of subject matter jurisdiction *de novo*. *Ass’n of Civil Technicians, Inc. v. Federal Labor Relations Auth.*, 283 F.3d 339, 341 (D.C. Cir. 2002).

II. THE DISTRICT COURT CORRECTLY DISMISSED PALMER’S COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION

This Court should summarily affirm the district court’s order dismissing this action in its entirety because Palmer’s Article III standing is so clearly lacking as to warrant summary disposition. No further briefing or argument would cast doubt on this decision. To demonstrate Article III standing, a plaintiff must demonstrate that she has “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016) (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992)).

These three components of the Article III “case or controversy” requirement are designed to ensure that the “plaintiff has alleged such a personal stake in the outcome of the controversy as to warrant *his* invocation of federal court jurisdiction and to justify [the] exercise of the court’s remedial powers on his behalf.” *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 38 (1976) (internal quotation marks omitted). Moreover, “standing is not dispensed in gross” and “a plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought.” *Davis v. FEC*, 554 U.S. 724, 734 (2008) (internal quotation marks and alterations omitted).

Where a plaintiff asserts a procedural right, she must show that she has suffered a personal and particularized injury that impairs one of her concrete interests. *Int’l Bhd. Of Teamsters v. TSA*, 429 F.3d 1130, 1135 (D.C. Cir. 2005). Despite the fact that Congress passed section 30109(a)(8)(A)’s judicial review provision, “[i]t makes no difference that the procedural right has been accorded by Congress.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 497 (2009). “[D]eprivation of a procedural right without some concrete interest that is affected by the deprivation — a procedural right *in vacuo* — is insufficient to create Article III standing.” *Summers*, 555 U.S. at 496. Particularized means that “the injury must affect the plaintiff in a personal and individual way.” *Id.* at 560 n.1. And when, as here, “a plaintiff’s asserted injury arises from the government’s allegedly

unlawful regulation (or lack of regulation) of *someone else*,” standing is “substantially more difficult” to establish. *Id.* at 562; *accord Common*, 108 F.3d at 417; *see also Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) (“[A] private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.”)

Standing “focuses on the complaining party to determine ‘whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues.’” *Am. Legal Found. v. FCC*, 808 F.2d 84, 88 (D.C. Cir. 1987) (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). Thus, “a grievance that amounts to nothing more than an abstract and generalized harm to a citizen’s interest in the proper application of law does not count.” *Carney v. Adams*, 141 S. Ct. 493, 498 (2020) (quoting *Lujan*, 504 U.S. at 560). A plaintiff must demonstrate “that he has ‘a personal stake in the outcome,’ . . . distinct from a ‘generally available grievance about government.’” *Gill v. Whitford*, 138 S. Ct. 1916, 1923 (2018) (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962) and *Lance v. Coffman*, 549 U.S. 437, 439 (2009)).

Palmer fails to establish the required elements for Article III standing. As the district court correctly held, “the main gripe in Palmer’s suit is that the FEC failed to properly investigate and take action on her administrative complaint.” (Add. 13, Mem Op. at 6.) Palmer alleged no personal injury from the alleged

CTCL grants or from any other alleged FECA violation. Indeed, Palmer failed to explain how the Commission's decision to dismiss her administrative complaint caused her any concrete injury. Rather, Palmer relies on her statements that she has standing as a "representative of all United States citizens, regardless of political party affiliation, that seek to protect their most basic right to have meaningful participation in electing their political leaders." (Add. 2, Compl. ¶ 5). These generalized grievances are simply a desire to see the law enforced rather than a concrete injury necessary to establish Article III standing.

Furthermore, as the district court correctly determined, Palmer's assertion that she has standing to seek "additional information" is similarly unavailing. As an initial matter, Palmer only belatedly raised this allegation in her opposition brief rather than her judicial complaint, and therefore it was appropriate for the district court not to consider these allegations. *See Campaign Legal Ctr.*, 860 F. App'x at 5–6 (rejecting the plaintiff's alleged informational injury on appeal because neither the administrative complaint nor the federal court complaint contained allegations that the plaintiff was injured by asserted non-disclosure); *see also Arbitraje Casa de Cambio, S.A. de C.V. v. U.S. Postal Serv.*, 297 F. Supp. 2d 165, 170 (D.D.C. 2003) ("It is axiomatic that a complaint may not be amended by the briefs in opposition to a motion to dismiss."); *Dufur v. U.S. Parole Comm.*, 314 F. Supp. 3d

10, 23 (D.D.C. 2018) (finding that the plaintiff's arguments raised for the first time in his opposition were not "properly before the Court") (collecting cases).

But even if Palmer's allegations are considered, they are nonetheless insufficient. It is well-established that the denial of information may create an injury in fact. *See, e.g., FEC v. Akins*, 524 U.S. 11 (1998); *Public Citizen v. DOJ*, 491 U.S. 440 (1989). The Supreme Court has clarified, however, that an "asserted informational injury that causes no adverse effects cannot satisfy Article III." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2214 (2021) (quoting *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 1004 (11th Cir. 2020)); *see also Spokeo, Inc.*, 578 U.S. at 341. Palmer's administrative complaint alleged that grants distributed during the 2020 election by the non-profit corporation CTCL were unlawful contributions. (Admin. Compl. at 2 ¶ 6.) The complaint further alleged that the EAC was also a source of the grants and that "taxpayer funds" were effectively "funnel[ed] . . . to assist with the 2020 election cycle campaigns of specific candidates and/or political parties." (*Id.* at 3 ¶ 7.)

The information that Palmer appears to seek is proof that the respondents named in her administrative complaint violated the law by distributing or receiving certain grants. Yet, as established precedent makes clear, a plaintiff lacks standing to require an administrative agency to label certain conduct illegal, absent some other allegation of personalized injury. *See, e.g., Wertheimer v. FEC*, 268 F.3d

1070, 1075 (D.C. Cir. 2001) (holding that plaintiffs lacked standing to seek a legal determination that certain transactions constitute coordinated expenditures).

Moreover, the information Palmer seeks is already available from another source: the IRS 990 forms that plaintiff herself submitted to the Commission with her administrative complaint. (Add. 12, Mem. Op. at 5) (explaining that CTCL's Form 990 attached to Palmer's administrative filings "exhaustively lists every grant that CTCL provided in the 2020 tax year, by county and amount"). Thus, Palmer has not identified any information that is unavailable to her, and has no standing to sue on the basis that "the information withheld is simply the fact that a violation of FECA has occurred." *See Common Cause*, 108 F.3d at 417. As such, all of this "dooms any claim of informational standing." (Add. 12, Mem. Op. at 5.)

In sum, rather than showing how the FEC's dismissal of her administrative complaint affects her "in a personal or individual way," *Lujan*, 504 U.S. at 560 n.1, Palmer has merely asserted a general interest in seeing the agency enforce the law against others in the way that she desires. This is insufficient to establish injury in fact for Article III standing. And because the district court lacked subject matter jurisdiction over Palmer's claims, it correctly granted the FEC's motion and dismissed the case. *See Steel Co. v. Citizens for a Better Environ.*, 523 U.S. 83, 94 (1998) ("Without jurisdiction the court cannot proceed at all in any cause . . . and when it ceases to exist, the only function remaining to the court is that of

announcing the fact and dismissing the cause.” (quoting *Ex Parte McCordle*, 74 U.S. 506, 514 (1868)).

CONCLUSION

For the foregoing reasons, this Court should summarily affirm the district court’s order granting the Commission’s motion to dismiss Palmer’s complaint.

Respectfully submitted,

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I hereby certify, on this 13th day of November, 2023, that:

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/s/ Shaina Ward
Shaina Ward

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I hereby certify that on this 13th day of November, 2023, I electronically filed the foregoing document with the Clerk of the United States Court of Appeals for the D.C. Circuit by using the Court's CM/ECF system. In addition, I certify that on the same date I caused to be served a copy of the same document by first class mail, postage prepaid to pro se plaintiff-appellant Barbara W. Palmer at the following address as listed on the docket: PO Box 1386, Princeton, TX 75407.

/s/ Shaina Ward
Shaina Ward