

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Andy Michael Thompson,

Plaintiff

v.

Nevada Secretary of State,

Defendant

Case No. 2:25-cv-01284-CDS-EJY

**Order to Show Cause Why this Action
Should not be Dismissed for Lack of
Standing**

Pro se plaintiff Andy Thompson moves for a temporary restraining order (TRO) (ECF No. 9) and for an expedited hearing (ECF No. 10).¹ In his TRO motion, Thompson seeks to enjoin defendant Nevada Secretary of State from “authorizing or implementing the Dominion Voting System 5.20 update.” ECF No. 9 at 1. Thompson also seeks an expedited hearing on July 28, 2025, or soon thereafter, to “prevent spoliation of evidence critical to Plaintiff’s election challenge.” ECF No. 10 at 1–2.

The defendant opposes both motions, arguing that the court should deny Thompson’s motions on the basis that it violates the “Rooker-Feldman Doctrine,” alternatively, if the court determines that it should look at the merits, Plaintiff will still lose “for the same reasons that he lost in Nevada State Court.” *See* Opp’n, ECF No. 15. The motions are now fully briefed. Reply, ECF No. 16. Because it appears Thompson lacks standing to bring this action, I order him to show cause as to why this action should not be dismissed for lack of standing.

¹ I previously entered an order denying plaintiff’s **emergency** motion for temporary restraining order and expedited hearing. *See* Order, ECF No. 8 Further, following Thompson’s filing of his emergency motion for TRO (ECF No. 9) and a separate emergency motion for expedited hearing (ECF No. 10), I entered an order striking the emergency designation of both motions. *See* Order, ECF No. 11.

1 **I. Background²**

2 Thompson is a registered voter in Clark County, Nevada, and “a participant” in the 2024
3 federal election. Compl., ECF No. 1. In his complaint, he brings this 42 U.S.C. § 1983 action
4 seeking declaratory and injunctive relief to prevent alleged “imminent and deliberate destruction
5 of federal protected election records in violation of 52 U.S.C. § 20701.” ECF No. 1 at 1.
6 Specifically, Thompson seeks “[i]mmediate injunctive relief (TRO and permanent injunction);
7 “[a] declaratory judgment affirming the violation of federal rights”; “[a] mandamus order
8 compelling the Secretary of State to preserve all records under 52 U.S.C. § 20701”; and “[r]eferral
9 of Ott and all involved state officials to appropriate disciplinary boards, the U.S. Department of
10 Justice, and the FBI for potential criminal prosecution under 18 U.S.C. § 2071.” ECF No. 1 at 2–3.

11 Thompson asserts that the “Nevada Secretary of State, through Chief Deputy Attorney
12 General Gregory D. Ott, confirmed that beginning July 21, 2025, [the] Dominion Voting Systems
13 equipment used in the 2024 federal election will be overwritten with software version 5.20.”
14 ECF No. 1 at 1. Thompson asserts that this operation will permanently erase “cast vote records”
15 (CVRs), election system logs, memory contents, audit metadata, and election artifacts—despite
16 the mandatory 22-month federal retention requirement and the fact that litigation is pending.
17 *See id.*

18 Thompson alleges deprivation of rights under 42 U.S.C. § 1983, alleging his procedural
19 due process rights were violated, that he was denied access to the courts, and his right to
20 petition the government was obstructed. *See* ECF No. 1. Thompson also alleges a violation of
21 federal election record preservation law under 52 U.S.C. § 20701. *Id.* at 4. Last, Thompson seeks a
22 mandamus relief for an alleged failure to perform non-discretionary duty under 28 U.S.C. § 1361.
23 *Id.*

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26 ² Unless otherwise noted, the court only cites Thompson’s original complaint (ECF No. 1) to provide
context to this action, not to indicate a finding of fact.

1 **II. Legal standard**

2 Those seeking to have their case heard in federal court “must satisfy the threshold
3 requirement imposed by Article III of the Constitution by alleging an actual case or
4 controversy.” *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011) (quoting *City of Los Angeles v.*
5 *Lyons*, 461 U.S. 95, 101 (1983)). To satisfy Article III, “a plaintiff must show it has (1) suffered an
6 ‘injury in fact’ that is (a) concrete and particularized and (b) actual or imminent, not conjectural
7 or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and
8 (3)[t]he injury will be redressed by a favorable decision.” *Friends of the Earth, Inc. v. Laidlaw Env’t*
9 *Servs., Inc.*, 528 U.S. 167, 180–81 (2000).

10 **III. Discussion**

11 Under the Federal Rules of Civil Procedure, Rule 8, a complaint must include “a short
12 and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P.
13 8(a)(2); *see also* Fed. R. Civ. P. 8(d)(1) (each allegation in a complaint “must be simple, concise,
14 and direct”). Further, a district court must construe pro se pleadings liberally and hold such
15 pleadings “to less stringent standards than formal pleadings drafted by lawyers.” *Haines v. Kerner*,
16 404 U.S. 519, 520 (1972). However, a pro se complaint must still comply with the requirements
17 of Rule 8(a). *Hebbe v. Pliler*, 627 F.3d 338, 341–42 (9th Cir. 2010) (although pro se pleadings are
18 construed liberally, a plaintiff must present factual allegations sufficient to state a plausible
19 claim for relief). A pro se litigant must comply with Rule 8(a)(2), and noncompliance may be
20 met with sua sponte dismissal. *See Hearn v. San Bernadino Police Dep’t*, 530 F.3d 1124, 1131 (9th Cir.
21 2008).

22 A review of Thompson’s complaint, motion for a temporary restraining order, and motion
23 for an expedited hearing reveals there is no basis for standing. It is also unclear what grounds
24 and support Thompson is relying on to bring his claims in the complaint and motion for a
25 temporary restraining order. I first address the issue of standing. Indeed, injury-in-fact is the
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1 “[f]irst and foremost of standing’s three elements.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338–39
2 (2016) (quoting *Steel Co. v. Citizens for Better Env’t*, 523 U.S. 83, 103 (1998)).

3 Thompson asserts that he has suffered a concrete injury because of the loss of election
4 records. He further argues that his rights have been deprived under 42 U.S.C. § 1983, namely that
5 his procedural due process rights were violated and he was denied access to the courts. *See* ECF
6 No. 1 at 3; ECF No. 9 at 2. But these conclusory allegations are insufficient to demonstrate
7 standing.

8 For Thompson to state a claim “under § 1983, [he] must allege the violation of a right
9 secured by the Constitution and laws of the United States, and must show that the alleged
10 deprivation was committed by a person acting under color of state law.” *Ochoa v. Pub. Consulting*
11 *Grp., Inc.*, 48 F.4th 1102, 1108 (9th Cir. 2022) (quoting *West v. Atkins*, 487 U.S. 42, 48 (1988)).
12 Although Thompson does have due process rights, it is unclear how Thompson’s due process
13 rights were violated. However, it appears that Thompson has access to the judicial court system
14 and has previously filed a petition in state court. *See* ECF No. 15-1 at 52 (Judge Reynolds entering
15 an order granting the motion to dismiss and denying the motion to preserve records). Even if the
16 state court decision was not the outcome Thompson desired, he does not automatically establish
17 standing based on conclusionary statements asserting that his procedural rights were violated.
18 Further, Thompson has not established that he had “a personal stake in the outcome” of the
19 2024 elections, *Baker v. Carr*, 369 U.S. 186 (1962), a link between his voter status and the 2024
20 election, nor has he provided support to establish he suffered “an invasion of [a] legally
21 protected interest.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). Moreover, Thompson has
22 not shown that there is a substantial likelihood that the relief requested would redress his
23 “injury.” *See McMichael v. Napa Cnty.*, 709 F.2d 1268, 1270 (9th Cir. 1983). Without Thompson
24 establishing “actual injury and redressability, there is no case or controversy under Article III of
25 the federal constitution and no federal jurisdiction.” *See Bell v. City of Kellog*, 922 F.2d 1418, 1422
26 (9th Cir. 1991) (explaining federal courts are not forums for hearing generalized grievances by

1 citizens, and a party must assert his own rights). So I find that Thompson lacks standing to
2 bring a claim under 42 U.S.C. § 1983.

3 Thompson also fails to establish standing under 28 U.S.C. § 1361. *See Fitzpatrick v. Lens.com*,
4 2024 U.S. Dist. LEXIS 234489, *15 (D. Nev. Dec. 31, 2024) (explaining a plaintiff must separately
5 establish standing for each form of relief that he seeks). Thompson seeks mandamus relief
6 asserting that the secretary's authorization of the 5.20 update on the mechanical voting systems
7 pursuant to NRS 293B.1045(6) violated 28 U.S.C. § 1361 because preserving records is a non-
8 discretionary duty. *See* ECF No. 1 at 2; ECF No. 9 at 3.

9 A writ of mandamus is a request to the court that it compel an officer or employee of the
10 United States or any agency to perform a duty owed to the plaintiff. *See Cruz v. United States Gov't*,
11 2025 U.S. Dist. LEXIS 104060, *4 (D. Nev. May 29, 2025) (citing 28 U.S.C. § 1361). Further,
12 "mandamus is an extraordinary remedy" and is available "only if: (1) the individual's claim is
13 clear and certain; (2) the official's duty is nondiscretionary, ministerial, and so plainly prescribed
14 as to be free from doubt, and (3) no other adequate remedy is available." *See Patel v. Reno*, 134 F.3d
15 929 (9th Cir. 1997). Here, Thompson does not sufficiently assert that he suffered an injury in
16 fact. *See McAllister v. Clark Cnty*, 746 F. Supp. 3d 918, 930 (D. Nev. 2024) (explaining that the
17 injury must be concrete and particularized; to be particular, it must affect the plaintiff in a
18 personal and individual way; to be concrete, an injury must actually exist). "An injury in fact is
19 an invasion of a legally protected interest that is concrete and particularized and actual or
20 imminent, not conjectural or hypothetical." *Novak v. United States*, 795 F.3d 1012, 1018 (9th Cir.
21 2015) (quotation marks and alteration omitted) (citing *Lujan*, 504 U.S. at 560). "For an injury to
22 be 'particularized,' it 'must affect the plaintiff in a personal and individual way.'" *Spokeo*, 578 U.S.
23 at 339 (quoting *Lujan*, 504 U.S. at 560 n.1)). A grievance that is too "generalized" for standing
24 purposes is one characterized by its "abstract and indefinite nature—for example, harm to the
25 common concern for obedience to law." *Novak*, 795 F.3d at 1018.

Thompson asserts in his complaint that he is a registered voter in Clark County, and the injury he faces is “imminent loss of election records he needs to challenge the 2024 federal election.” See ECF No. 1 at 2. But it is unclear how this personally injures Thompson or what sort of injury he has or will suffer. Stated otherwise, the complaint fails to set forth a particularized injury. See *Warth v. Seldin*, 422 U.S. 490, 499 (1975) (“[T]he Court has held that when the asserted harm is a ‘generalized grievance’ shared in substantially equal measure by all or a large class of citizens, that harm alone normally does not warrant exercise of jurisdiction.”); *Drake v. Obama*, 664 F.3d 774, 782 (9th Cir. 2011) (affirming the district court’s dismissal of claims for lack of standing and finding that the plaintiff, as a voter, had “no greater stake in this lawsuit than any other United States citizen” and that his alleged injury was merely a “generalized interest of all citizens in constitutional governance” which is insufficient to satisfy the requirements of standing.) (citation omitted).³

Thompson also fails to demonstrate standing to bring a claim under 52 U.S.C. § 20701 because that statute does not provide a private right of action. See *Ayyadurai v. Galvin*, 560 F. Supp. 3d 406, 408–09 (D. Mass. 2021) (explaining plaintiff failed to plead a plausible claim for which relief would be granted as 52 U.S.C. § 20701 did not provide a private right of action); see also *Pirtle v. Nago*, 2022 U.S. Dist. LEXIS 209354, at *5 n.1 (D. Hawaii Nov. 18, 2022) (explaining that plaintiff sought a TRO to restrain defendant from destroying election data as scheduled 22 months after the election, and finding that 52 U.S.C. § 20701 does not confer a private right of action).

Accordingly, Thompson is ordered to show cause why this action should not be dismissed for lack of standing. Thompson has until October 24, 2025, to respond to this show cause order for his claims brought under 42 U.S.C. § 1983 and 28 U.S.C. § 1361. Failure to set

³ Without standing, Thompson is also not entitled to mandamus relief. See *Ingraham v. Off. the Comptroller of Currency of U.S. Dep’t of the Treasury*, 2025 U.S. Dist. LEXIS 136620, at *3 (C.D. Cal. June 24, 2025) (discussing that 28 U.S.C. § 1361 provides federal district courts with original jurisdiction to issue writs of mandamus in extraordinary circumstances but holding that the plaintiffs must nevertheless satisfy Article III’s standing requirements in order to seek mandamus relief.).

1 forth a proper basis for standing—or Thompson’s failure to respond—will result in dismissal of
2 the action without further notice.

3 **Conclusion**

4 IT IS HEREBY ORDERED that Thompson must show cause, in writing, by October 27,
5 2025, why this action should not be dismissed for lack of standing. If Thompson does not timely
6 and fully respond to this order, this action will be dismissed without prejudice and without
7 further notice.

8 Dated: October 6, 2025

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10 Cristina D. Silva
11 United States District Judge
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