

IN THE UNITED STATES COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LAURA PRESSLEY, ROBERT
BAGWELL,
TERESA SOLL, THOMAS L. KORKMAS,
and MADELON HIGHSMITH,

Plaintiffs,

v.

JANE NELSON, *in her official capacity as
the Texas Secretary of State*, et al.,

Defendants.

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CIVIL ACTION NO. 1:24-CV-318-DII

**DEFENDANT WILSON’S REPLY TO PLAINTIFFS’ RESPONSE TO DEFENDANT’S
MOTION TO DISMISS PURSUANT TO RULES 12(b)(1) AND 12(b)(6)**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Andrea Wilson, in her official capacity as Llano County Elections Administrator, files this Reply to Plaintiffs’ Response to Defendant’s Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and would show the Court as follows:

As discussed in the First Amended Complaint, Plaintiffs include one registered voter of Llano County in this lawsuit, Plaintiff Madelon Highsmith. Dkt. No. 32, ¶ 16. Plaintiff Madelon Highsmith fails to make any allegations that are specific or particular to Elections Administrator Wilson. As previously discussed in the Motion to Dismiss, Plaintiff Highsmith’s Declaration focuses on Williamson County and provides no factual support for any allegations against Llano County and/or Elections Administrator Wilson. The generalized grievance of Plaintiffs – that Llano County relies upon state-issued advice and certifications of elections systems – does not constitute a showing that Elections Administrator Wilson has harmed Plaintiff Madelon Highsmith or treated her any differently than any other member of the general public in Llano County.

“Plaintiffs want the Llano County election administrator to cease wrongful interpretations of ballot numbering laws, stop waiving existing ballot numbering laws, stop utilizing ballot numbering methods outside the legislative process, and stop enabling the resulting breach of ballot secrecy, and for Llano County to stop adopting the State Defendants’ improper legal interpretations.” Doc. No. 54, Response at ¶8. Plaintiffs continue to focus on the fact that one of the Plaintiffs, Laura Pressley, a Williamson County resident, alleges that “[t]he secrecy of the Williamson County Plaintiffs’ ballots has already been violated [by Plaintiffs’ undefined algorithm];” therefore, because “Llano County utilizes ballot tracking through voting system software like Williamson County” there must be harm. *Id.* at ¶¶12-13.

“No principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.” *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 397, 144 S. Ct. 1540, 1565 (2024)(quoting *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 37, 96 S.Ct. 1917 (1976)). “Article III does not contemplate a system where 330 million citizens can come to federal court whenever they believe that the government is acting contrary to the Constitution or other federal law.” *Id.* at 382. Most importantly, “Article III standing screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular government action.” *Id.* at 381. As the Supreme Court notes “a citizen does not have standing to challenge a government regulation simply because the plaintiff believes that the government is acting illegally.” *Id.* (citing *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 473, 487, 102 S.Ct. 752 (1982)). It is the function of Congress and the Chief Executive to “vindicate” “the public interest (including the public interest in Government observance of the Constitution and laws)” – thus, federal courts do

not become “a vehicle for the vindication of the value interests of concerned bystanders.” *Id.* at 382 (internal citations omitted). “Federal courts do not operate as an open forum for citizens ‘to press general complaints about the way in which government goes about its business.’” *Id.* at 368, 379 (internal citations omitted). In order to establish standing, an injury in fact “must be ‘concrete,’ meaning that it must be real and not abstract[, ... —] ‘particularized’; the injury must affect the plaintiff in a personal and individual way and **not be a generalized grievance.**” *Id.* at 381.

As demonstrated by Plaintiffs’ First Amended Complaint and addressed in Defendant Wilson’s Motion to Dismiss, Plaintiffs’ allegations are “too ‘speculative’ to provide a basis for standing” and fail to state an Article III case or controversy. *See Eubanks v. Nelson*, No. 23-10936, 2024 WL 1434449 *2 (5th Cir. Apr. 3, 2024) and *Lutoszanski v. Brown*, 88 F.4th 582, 586-7 (5th Cir. 2023). As Plaintiffs lack standing, the Court should dismiss this lawsuit for want of jurisdiction. Therefore, Llano County Elections Administrator Andrea Wilson respectfully requests that the Court dismiss Plaintiffs’ claims asserted against her.

Respectfully submitted,

/s/ J. Eric Magee

J. Eric Magee

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CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of July, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will automatically send notification of such filing to each attorney who has made an appearance in this case.

/s/ J. Eric Magee
J. Eric Magee

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