UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED SOVEREIGN AMERICANS, INC., *et al.*,	)	CASE NO. 5:24-CV-01359
	)	JUDGE JOHN R. ADAMS
Petitioners,	)	
v.	)	
	)	REPLY IN SUPPORT OF FEDERAL RESPONDENT'S MOTION TO DISMISS AMENDED PETITION
STATE OF OHIO, *et al.*,	)	
Respondents.	)	

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Petitioners' response confirms that dismissal of their claims against the Federal Respondent is warranted. Petitioners cannot overcome the jurisdictional and pleading issues raised in the Federal Respondent's motion to dismiss. Accordingly, the Court should dismiss all of Petitioners' claims against the Federal Respondent.

I. PETITIONERS LACK STANDING TO SUE FEDERAL RESPONDENT.

First, Petitioners do not meet their burden to establish Article III standing for their claims against the Federal Respondent. As Petitioners acknowledge, Article III standing has three elements: (1) injury in fact, (2) causation, and (3) redressability. (ECF No. 17, PageID # 812.) Petitioners' response asserts that they meet these elements by alleging (1) that state officials did not appropriately respond to Petitioner James Rigano's information requests about Ohio's election law compliance, (2) that Petitioner Carrie Perkins lost her 2022 election by four votes, which was lower that Ohio's 2022 voter system error rate, (3) that Petitioner Jacqueline Loughman, a poll worker, was prevented from reconciling a machine vote in 2020, and (4) that Petitioners Joseph Healy and Mary Ann Brej cast their 2022 ballots in counties with highest registration and alleged voting violations. (ECF No. 17, PageID # 815.) But, as explained in

Respondent's opening brief, Petitioners' allegations regarding the 2022 election do not amount to injury in fact because Petitioners are not challenging the 2022 election in this case. (ECF No. 16-1, PageID # 794-97.) Nor do Petitioners allege any connection to Federal Respondent for their information requests. (*See* ECF No. 16-1, PageID # 797-99.) Petitioners thus cannot rely on these allegations to establish injury in fact.

Petitioners also claim to meet injury in fact based on their alleged fear that the "errors" they believe occurred in 2022 "will reoccur." (ECF No. 17, PageID # 817.) These allegations amount to nothing more than "speculative fear" of future injury, without any tangible connection to Federal Respondent. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 410 (2013). Petitioners cannot meet standing through such vague, unsupported allegations.

Further, Petitioners cannot meet standing based on all the alleged work they put in to "comb through" voter data, contact State officials, and create a report on their findings. (ECF No. 17, PageID # 816.) Petitioners' choices on how to spend their time do not constitute injury in fact; indeed, such allegations are quintessential examples of a plaintiff seeking to "manufacture standing" by choosing to expend resources in a certain way. (*See* ECF No. 16-1, PageID # 797 (citing *Clapper*, 568 U.S. at 416; *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 394 (2024)).) Simply put, because Petitioners' allegations do not amount to injury in fact, they lack standing to sue the Federal Respondent.

The authority Petitioners cite is inapposite given Petitioners' alleged harms.[1] None of these cases provide that a plaintiff meets Article III standing to sue the U.S. Attorney General (or

[1] Petitioners' Amended Complaint does not allege organizational standing, so the Court can disregard Petitioners' arguments on this point. (*See* ECF No. 12.) The Amended Complaint does not allege that any of the individual Petitioners are members of United Sovereign Americans; nor does it assert standing by United Sovereign Americans on its own. (*See id.*)

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similar Respondent) based on a fear that future election results will be inaccurate. (ECF No. 17, PageID # 812-15.) For example, *Gray v. Sanders*, 372 U.S. 368, 375 (1963), concerned a constitutional challenge against Georgia election officials over vote counting and a weighted vote system. The Court found the plaintiff, a qualified voter, had standing as a "person whose right to vote is impaired" under the weighted vote system. *Id.*

In *Federal Election Comm'n v. Akins*, 524 U.S. 11, 21 (1998), the Petitioners were a group of voters who sought review of a decision by the Federal Election Commission and brought suit under FECA, which specifically authorized a private action. The Court found the Petitioners had prudential standing given FECA's language authorizing suit for "aggrieved" parties and the injury Petitioners claimed. *Id.* at 19-20.

In *Baker v. Carr*, 369 U.S. 186, 208 (1962), the Petitioners were voters who challenged Tennessee's apportionment statute on the basis that the statute resulted in "a gross disproportion of representation to [the] voting population" based on counties of residence. Given these allegations, the Court found that Petitioners had standing because they asserted a "plain, direct, and adequate interest in maintaining the effectiveness of their votes," not just a claim that "the government be administered according to law." *Id.*

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And *Massachusetts v. EPA*, 549 U.S. 497 (2007) did not concern voting rights. There, the plaintiff was Massachusetts, which alleged specific environmental harms from greenhouse gas emissions. *Id.* at 521-22. The Court found standing because the plaintiff was a sovereign state, not a private individual, so entitled to "special solicitude in [the] standing analysis." *Id.* at 518, 520. Thus, these cases do not support Petitioners' attempts to establish standing to sue Federal Respondent.

Last, Petitioners do not respond to Federal Respondent's arguments regarding causation and redressability. (*See* ECF No. 16-1, PageID # 797-99.) Petitioners thus waive opposition to dismissal on these grounds. *See Humphrey v. U.S. Att'y Gen. Off.*, 279 F. App'x 328, 331 (6th Cir. 2008). Even if they did not waive these issues, Petitioners' complaint does not satisfy either element, as their alleged harms do not relate to action (or inaction) by Federal Respondent. Nor does this Court have authority to order Federal Respondent to perform discretionary duties. (*See* ECF No. 16-1, PageID # 800.) Because Petitioners cannot establish standing, their claims against Federal Respondent should be dismissed for lack of jurisdiction.

II. PETITIONERS' MANDAMUS CLAIM MUST BE DISMISSED FOR LACK OF JURISDICTION.

Petitioners' mandamus claims also fail for lack of jurisdiction. Petitioners attempt to assert a mandamus claim based on the notion that Federal Respondent has a duty to enforce and prosecute federal election laws. (ECF No. 17, PageID # 818.) But as Federal Respondent's opening brief makes clear, mandamus is not available "'if the action that the petitioner seeks to compel is discretionary.'" (ECF No. 16-1, PageID # 799 (quoting *Carson v. U.S. Off. of Special Counsel*, 633 F.3d 487, 491 (6th Cir. 2011)).) Because Petitioners do not identify a clear non-discretionary duty to act, their mandamus claim fails.

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III. PETITIONERS CANNOT PURSUE THEIR CLAIMS UNDER THE ALL WRITS ACT.

Finally, Petitioners concede that they have invoked the All Writs Act as a last-ditch effort because no other statute provides them a cause of action against Federal Respondent. (*See* ECF No. 17, PageID # 821-23.) This concession defeats their claim because the All Writs Act, alone, cannot sustain Petitioners' claims against Federal Respondent. "[T]he All Writs Act does not confer jurisdiction under federal courts." *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 33 (2002). Nor can Petitioners use the All Writs Act to create their own cause of action. (*See* ECF

No. 16-1 at PageID # 801-02.) At bottom, the All Writs Act provides no basis for Petitioners to sue Federal Respondent and compel discretionary action to be taken. Petitioners' claims under the All Writs Act must be dismissed accordingly.

CONCLUSION

For these reasons, and as stated in Federal Respondent's opening brief, the Court should grant Federal Respondent's motion and dismiss all claims against the Federal Respondent.

Respectfully Submitted,

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