

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

October 6, 2022

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

RALAND BRUNSON,

Plaintiff - Appellant,

v.

ALMA S. ADAMS, in their capacity as United States House Representatives; PETE AGUILAR, in their capacity as United States House Representatives; COLIN Z. ALLRED, in their capacity as United States House Representatives; MARK E. AMODEI, in their capacity as United States House Representatives; KELLY ARMSTRONG, in their capacity as United States House Representatives; JAKE AUCHINCLOSS, in their capacity as United States House Representatives; CYNTHIA AXNE, in their capacity as United States House Representatives; DON BACON, in their capacity as United States House Representatives; TROY BALDERSON, in their capacity as United States House Representatives; ANDY BARR, in their capacity as United States House Representatives; NANETTE DIAZ BARRAGAN, in their capacity as United States House Representatives; KAREN BASS, in their capacity as United States House Representatives; JOYCE BEATTY, in their capacity as United States House Representatives; AMI BERA, in their capacity as United States House Representatives; GUS M. ILIRAKIS, in their capacity as United States House Representatives; DONALD S. BEYER, JR., in their capacity as United States House Representatives; SANDFORD D.

No. 22-4007
(D.C. No. 1:21-CV-00111-JNP)
(D. Utah)

BISHOP, JR., in their capacity as United States House Representatives; EARL BLUMENAUER, in their capacity as United States House Representatives; LISA BLUNT ROCHESTER, in their capacity as United States House Representatives; SUZANNE BONAMICI, in their capacity as United States House Representatives; CAROLYN BOURDEAUX, in their capacity as United States House Representatives; JAMAAL BOWMAN, in their capacity as United States House Representatives; BRENDAN F. BOYLE, in their capacity as United States House Representatives; KEVIN BRADY, in their capacity as United States House Representatives; ANTHONY G. BROWN, in their capacity as United States House Representatives; JULIA BROWNLEY, in their capacity as United States House Representatives; VERN BUCHANAN, in their capacity as United States House Representatives; KEN BUCK, in their capacity as United States House Representatives; LARRY BUCSHON, in their capacity as United States House Representatives; CORI BUSH, in their capacity as United States House Representatives; CHERI BUSTOS, in their capacity as United States House Representatives; G.K BUTTERFIELD, in their capacity as United States House Representatives; SALUD O. CARBAJAL, in their capacity as United States House Representatives; TONY CARDENAS, in their capacity as United States House Representatives; ANDRE CARSON, in their capacity as United States House Representatives; MATT CARTWRIGHT, in their capacity as United States House Representatives; ED CASE, in their capacity as United States House Representatives; SEAN CASTEN, in their

capacity as United States House Representatives; KATHY CASTOR, in their capacity as United States House Representatives; JOAQUIN CASTOR, in their capacity as United States House Representatives; LIZ CHENEY, in their capacity as United States House Representatives; JUDY CHU, in their capacity as United States House Representatives; DAVID N. CICILLINE, in their capacity as United States House Representatives; KATHERINE M. CLARK, in their capacity as United States House Representatives; YVETTE D. CLARKE, in their capacity as United States House Representatives; EMANUEL CLEAVER, in their capacity as United States House Representatives; JAMES E. CLYBURN, in their capacity as United States House Representatives; STEVE COHEN, in their capacity as United States House Representatives; JAMES COMER, in their capacity as United States House Representatives; GERALD E. CONNOLLY, in their capacity as United States House Representatives; JIM COOPER, in their capacity as United States House Representatives; J. LUIS CORREA, in their capacity as United States House Representatives; JIM COSTA, in their capacity as United States House Representatives; JOE COURTNEY, in their capacity as United States House Representatives; ANGIE CRAIG, in their capacity as United States House Representatives; DAN CRENSHAW, in their capacity as United States House Representatives; CHARLIE CRIST, in their capacity as United States House Representatives; JASON CROW, in their capacity as United States House Representatives; HENRY CUELLAR, in their capacity as United States House

Representatives; JOHN R. CURTIS, in their capacity as United States House Representatives; SHARICE DAVIDS, in their capacity as United States House Representatives; DANNY K. DAVIS, in their capacity as United States House Representatives; RODNEY DAVIS, in their capacity as United States House Representatives; MADELEINE DEAN, in their capacity as United States House Representatives; PETER A. DEFAZIO, in their capacity as United States House Representatives; DIANA DEGETTE, in their capacity as United States House Representatives; ROSA L. DELAURO, in their capacity as United States House Representatives; SUZAN K. DELBENE, in their capacity as United States House Representatives; ANTONIO DELGADO, in their capacity as United States House Representatives; MARK DESAULNIER, in their capacity as United States House Representatives; THEODORE E. DEUTCH, in their capacity as United States House Representatives; DEBBIE DINGELL, in their capacity as United States House Representatives; LLOYD DOGGETT, in their capacity as United States House Representatives; MICHAEL F. DOYLE, in their capacity as United States House Representatives; TOM EMMER, in their capacity as United States House Representatives; VERONICA ESCOBAR, in their capacity as United States House Representatives; ANNA G. ESHOO, in their capacity as United States House Representatives; ADRIANO ESPAILLAT, in their capacity as United States House Representatives; DWIGHT EVANS, in their capacity as United States House Representatives; RANDY FEENSTRA, in their capacity as United States House Representatives; A. DREW

FERGUSON, IV, in their capacity as United States House Representatives; BRIAN K. FITZPATRICK, in their capacity as United States House Representatives; LIZZIE LETCHER, in their capacity as United States House Representatives; JEFF FORTENBERRY, in their capacity as United States House Representatives; BILL FOSTER, in their capacity as United States House Representatives; LOIS FRANKEL, in their capacity as United States House Representatives; MARCIA L. FUDGE, in their capacity as United States House Representatives; MIKE GALLAGHER, in their capacity as United States House Representatives; RUBEN GALLEGO, in their capacity as United States House Representatives; JOHN GARAMENDI, in their capacity as United States House Representatives; ANDREW R. GARBARINO, in their capacity as United States House Representatives; SYLVIA R. GARCIA, in their capacity as United States House Representatives; JESUS G. GARCIA, in their capacity as United States House Representatives; JARED F. GOLDEN, in their capacity as United States House Representatives; JIMMY GOMEZ, in their capacity as United States House Representatives; TONY GONZALES, in their capacity as United States House Representatives; ANTHONY GONZALEZ, in their capacity as United States House Representatives; VICENTE GONZALEZ, in their capacity as United States House Representatives; JOSH GOTTHEIMER, in their capacity as United States House Representatives; KAY GRANGER, in their capacity as United States House Representatives; AL GREEN, in their capacity as United States House Representatives; RAUL M. GRIJALVA, in

their capacity as United States House Representatives; GLENN GROTHMAN, in their capacity as United States House Representatives; BRETT GUTHRIE, in their capacity as United States House Representatives; DEBRA A. HAALAND, in their capacity as United States House Representatives; JOSH HARDER, in their capacity as United States House Representatives; ALCEE L. HASTINGS, in their capacity as United States House Representatives; JAHANA HAYES, in their capacity as United States House Representatives; JAIME HERRERA BEUTLER, in their capacity as United States House Representatives; BRIAN HIGGINS, in their capacity as United States House Representatives; J. FRENCH HILL, in their capacity as United States House Representatives; JAMES A. HIMES, in their capacity as United States House Representatives; ASHLEY HINSON, in their capacity as United States House Representatives; TREY HOLLINGSWORTH, in their capacity as United States House Representatives; STEVEN HORSFORD, in their capacity as United States House Representatives; CHRISSY HOULAHAN, in their capacity as United States House Representatives; STENY H. HOYER, in their capacity as United States House Representatives; JARED HUFFMAN, in their capacity as United States House Representatives; BILL HUIZENGA, in their capacity as United States House Representatives; SHEILA JACKSON LEE, in their capacity as United States House Representatives; SARA JACOBS, in their capacity as United States House Representatives; PRAMILA JAYAPAL, in their capacity as United States House Representatives; HAKEEM S. JEFFRIES, in their capacity

as United States House Representatives; DUSTY JOHNSON, in their capacity as United States House Representatives; EDDIE BERNICE JOHNSON, in their capacity as United States House Representatives; HENRY C. JOHNSON, JR., in their capacity as United States House Representatives; MONDAIRE JONES, in their capacity as United States House Representatives; DAVID P. JOYCE, in their capacity as United States House Representatives; KAIALI'I KAHELE, in their capacity as United States House Representatives; MARCY KAPTURE, in their capacity as United States House Representatives; JOHN KATKO, in their capacity as United States House Representatives; WILLIAM R. KEATING, in their capacity as United States House Representatives; RO KHANNA, in their capacity as United States House Representatives; DANIEL T. KILDEE, in their capacity as United States House Representatives; DEREK KILMER, in their capacity as United States House Representatives; ANDY KIM, in their capacity as United States House Representatives; YOUNG KIM, in their capacity as United States House Representatives; RON KIND, in their capacity as United States House Representatives; ADAM KINZINGER, in their capacity as United States House Representatives; ANN KIRKPATRICK, in their capacity as United States House Representatives; RAJA KRISHNAMOORTHY, in their capacity as United States House Representatives; ANN M. KUSTER, in their capacity as United States House Representatives; DARIN LAHOOD, in their capacity as United States House Representatives; CONOR LAMB, in their capacity as United States

House Representatives; JAMES R. LANGEVIN, in their capacity as United States House Representatives; RICK LARSEN, in their capacity as United States House Representatives; JOHN B. LARSON, in their capacity as United States House Representatives; ROBERT E. LATTA, in their capacity as United States House Representatives; JAKE LATURNER, in their capacity as United States House Representatives; BRENDA L. LAWRENCE, in their capacity as United States House Representatives; AL LAWSON, JR., in their capacity as United States House Representatives; BARBARA LEE, in their capacity as United States House Representatives; SUSIE LEE, in their capacity as United States House Representatives; TERESA LEGER FERNANDEZ, in their capacity as United States House Representatives; ANDY LEVIN, in their capacity as United States House Representatives; MIKE LEVIN, in their capacity as United States House Representatives; TED LIEU, in their capacity as United States House Representatives; ZOE LOFGREN, in their capacity as United States House Representatives; ALAN S. LOWENTHAL, in their capacity as United States House Representatives; ELAINE G. LURIA, in their capacity as United States House Representatives; STEPHEN F. LYNCH, in their capacity as United States House Representatives; NANCY MACE, in their capacity as United States House Representatives; TOM MALINOWSKI, in their capacity as United States House Representatives; CAROLYN B. MALONEY, in their capacity as United States House Representatives; SEAN PATRICK MALONEY, in their capacity as United States House Representatives;

KATHY E. MANNING, in their capacity as United States House Representatives; THOMAS MASSIE, in their capacity as United States House Representatives; DORIS O. MATSUI, in their capacity as United States House Representatives; LUCY MCBATH, in their capacity as United States House Representatives; MICHAEL T. MCCAUL, in their capacity as United States House Representatives; TOM MCCLINTOCK, in their capacity as United States House Representatives; BETTY MCCOLLUM, in their capacity as United States House Representatives; A. ADONALD MCEACHIN, in their capacity as United States House Representatives; JAMES P. MCGOVERN, in their capacity as United States House Representatives; PATRICK T. MCHENRY, in their capacity as United States House Representatives; DAVID B. MCKINLEY, in their capacity as United States House Representatives; JERRY MCNERNEY, in their capacity as United States House Representatives; GREGORY W. MEEKS, in their capacity as United States House Representatives; PETER MEIJER, in their capacity as United States House Representatives; GRACE MENG, in their capacity as United States House Representatives; KWEISI MFUME, in their capacity as United States House Representatives; MARIANETTE MILLER-MEEKS, in their capacity as United States House Representatives; JOHN R. MOOLENAAR, in their capacity as United States House Representatives; BLAKE D. MOORE, in their capacity as United States House Representatives; GWEN MOORE, in their capacity as United States House Representatives; JOSEPH D. MORELLE, in their capacity as United States House Representatives;

SETH MOULTON, in their capacity as United States House Representatives; FRANK J. MRVAN, in their capacity as United States House Representatives; STEPHANIE N. MURPHY, in their capacity as United States House Representatives; JERROLD NADLER, in their capacity as United States House Representatives; GRACE F. NAPOLITANO, in their capacity as United States House Representatives; RICHARD E. NEAL, in their capacity as United States House Representatives; JOE NEGUSE, in their capacity as United States House Representatives; DAN NEWHOUSE, in their capacity as United States House Representatives; MARIE NEWMAN, in their capacity as United States House Representatives; DONALD NORCROSS, in their capacity as United States House Representatives; ALEXANDRIA OCASIO-CORTEZ, in their capacity as United States House Representatives; TOM O'HALLERAN, in their capacity as United States House Representatives; ILHAN OMAR, in their capacity as United States House Representatives; FRANK PALLONE, JR., in their capacity as United States House Representatives; JIMMY PANETTA, in their capacity as United States House Representatives; CHRIS PAPPAS, in their capacity as United States House Representatives; BILL PASCRELL, JR., in their capacity as United States House Representatives; DONALD M. PAYNE, JR., in their capacity as United States House Representatives; NANCY PELOSI, in their capacity as United States House Representatives; ED PERLMUTTER, in their capacity as United States House Representatives; SCOTT H. PETERS, in their capacity as United States House Representatives;

DEAN PHILLIPS, in their capacity as United States House Representatives; CHELLIE PINGREE, in their capacity as United States House Representatives; MARK POCAN, in their capacity as United States House Representatives; KATIE PORTER, in their capacity as United States House Representatives; AYANNA PRESSLEY, in their capacity as United States House Representatives; DAVID E. PRICE, in their capacity as United States House Representatives; MIKE QUIGLEY, in their capacity as United States House Representatives; JAMIE RASKIN, in their capacity as United States House Representatives; TOM REED, in their capacity as United States House Representatives; KATHLEEN M. RICE, in their capacity as United States House Representatives; CATHY MCMORRIS RODGERS, in their capacity as United States House Representatives; DEBORAH K ROSS, in their capacity as United States House Representatives; CHIP ROY, in their capacity as United States House Representatives; LUCILLE ROYBAL-ALLARD, in their capacity as United States House Representatives; RAUL RUIZ, in their capacity as United States House Representatives; C.A. DUTCH RUPPERSBERGER, in their capacity as United States House Representatives; BOBBY L. RUSH, in their capacity as United States House Representatives; TIM RYAN, in their capacity as United States House Representatives; LINDA T. SANCHEZ, in their capacity as United States House Representatives; JOHN P. SARBANES, in their capacity as United States House Representatives; MARY GAY SCANLON, in their capacity as United States House Representatives; JANICE D.

SCHAKOWSKY, in their capacity as United States House Representatives; ADAM B. SCHIFF, in their capacity as United States House Representatives; BRADLEY SCOTT SCHNEIDER, in their capacity as United States House Representatives; KURT SCHRADER, in their capacity as United States House Representatives; KIM SCHRIER, in their capacity as United States House Representatives; AUSTIN SCOTT, in their capacity as United States House Representatives; DAVID SCOTT, in their capacity as United States House Representatives; ROBERT C. SCOTT, in their capacity as United States House Representatives; TERRI A. SEWELL, in their capacity as United States House Representatives; BRAD SHERMAN, in their capacity as United States House Representatives; MIKIE SHERRILL, in their capacity as United States House Representatives; MICHAEL K. SIMPSON, in their capacity as United States House Representatives; ALBIO SIRES, in their capacity as United States House Representatives; ELISSA SLOTKIN, in their capacity as United States House Representatives; ADAM SMITH, in their capacity as United States House Representatives; CHRISTOPHER H. SMITH, in their capacity as United States House Representatives; DARREN SOTO, in their capacity as United States House Representatives; ABIGAIL DAVIS SPANBERGER, in their capacity as United States House Representatives; VICTORIA SPARTZ, in their capacity as United States House Representatives; JACKIE SPEIER, in their capacity as United States House Representatives; GREG STANTON, in their capacity as United States House Representatives; PETE STAUBER, in their

capacity as United States House Representatives; MICHELLE STEEL, in their capacity as United States House Representatives; BRYAN STEIL, in their capacity as United States House Representatives; HALEY M. STEVENS, in their capacity as United States House Representatives; STEVE STIVERS, in their capacity as United States House Representatives; MARILYN STRICKLAND, in their capacity as United States House Representatives; THOMAS R. SUOZZI, in their capacity as United States House Representatives; ERIC SWALWELL, in their capacity as United States House Representatives; MARK TAKANO, in their capacity as United States House Representatives; VAN TAYLOR, in their capacity as United States House Representatives; BENNIE G. THOMPSON, in their capacity as United States House Representatives; MIKE THOMPSON, in their capacity as United States House Representatives; DINA TITUS, in their capacity as United States House Representatives; RASHIDA TLAIB, in their capacity as United States House Representatives; PAUL TONKO, in their capacity as United States House Representatives; NORMA J. TORRES, in their capacity as United States House Representatives; RITCHIE TORRES, in their capacity as United States House Representatives; LORI TRAHAN, in their capacity as United States House Representatives; DAVID J. TRONE, in their capacity as United States House Representatives; MICHAEL R. TURNER, in their capacity as United States House Representatives; LAUREN UNDERWOOD, in their capacity as United States House Representatives; FRED UPTON, in their capacity as United

States House Representatives; JUAN VARGAS, in their capacity as United States House Representatives; MARC A. VEASEY, in their capacity as United States House Representatives; FILEMON VELA, in their capacity as United States House Representatives; NYDIA M. VELAZQUEZ, in their capacity as United States House Representatives; ANN WAGNER, in their capacity as United States House Representatives; MICHAEL WALTZ, in their capacity as United States House Representatives; DEBBIE WASSERMAN SCHULTZ, in their capacity as United States House Representatives; MAXINE WATERS, in their capacity as United States House Representatives; BONNIE WATSON COLEMAN, in their capacity as United States House Representatives; PETER WELCH, in their capacity as United States House Representatives; BRAD R. WENSTRUP, in their capacity as United States House Representatives; BRUCE WESTERMAN, in their capacity as United States House Representatives; JENNIFER WEXTON, in their capacity as United States House Representatives; SUSAN WILD, in their capacity as United States House Representatives; NIKEMA WILLIAMS, in their capacity as United States House Representatives; FREDERICA S. WILSON, in their capacity as United States House Representatives; STEVE WOMACK, in their capacity as United States House Representatives; JOHN A. YARMUTH, in their capacity as United States House Representatives; DON YOUNG, in their capacity as United States House Representatives; TAMMY BALDWIN, in their capacity as U.S. Senators; JOHN BARRASSO, in their capacity as U.S.

Senators; MICHAEL F. BENNET, in their capacity as U.S. Senators; MARSHA BLACKBURN, in their capacity as U.S. Senators; RICHARD BLUMENTHAL, in their capacity as U.S. Senators; ROY BLUNT, in their capacity as U.S. Senators; CORY A. BOOKER, in their capacity as U.S. Senators; JOHN BOOZMAN, in their capacity as U.S. Senators; MIKE BRAUN, in their capacity as U.S. Senators; SHERROD BROWN, in their capacity as U.S. Senators; RICHARD BURR, in their capacity as U.S. Senators; MARIA CANTWELL, in their capacity as U.S. Senators; SHELLEY CAPITO, in their capacity as U.S. Senators; BENJAMIN L. CARDIN, in their capacity as U.S. Senators; THOMAS R. CARPER, in their capacity as U.S. Senators; ROBERT P. CASEY, JR., in their capacity as U.S. Senators; BILL CASSIDY, in their capacity as U.S. Senators; SUSAN M. COLLINS, in their capacity as U.S. Senators; CHRISTOPHER A. COONS, in their capacity as U.S. Senators; JOHN CORNYN, in their capacity as U.S. Senators; CATHERINE CORTEZ MASTO, in their capacity as U.S. Senators; TOM COTTON, in their capacity as U.S. Senators; KEVIN CRAMER, in their capacity as U.S. Senators; MIKE CRAPO, in their capacity as U.S. Senators; STEVE DAINES, in their capacity as U.S. Senators; TAMMY DUCKWORTH, in their capacity as U.S. Senators; RICHARD J. DURBIN, in their capacity as U.S. Senators; JONI ERNST, in their capacity as U.S. Senators; DEB FISCHER, in their capacity as U.S. Senators; KIRSTEN E. GILLIBRAND, in their capacity as U.S. Senators; LINDSEY GRAHAM, in their capacity as U.S. Senators; CHUCK GRASSLEY, in their capacity as U.S.

Senators; BILL HAGERTY, in their capacity as U.S. Senators; MAGGIE HASSAN, in their capacity as U.S. Senators; MARTIN HEINRICH, in their capacity as U.S. Senators; JOHN HICKENLOOPER, in their capacity as U.S. Senators; MAZIE HIRONO, in their capacity as U.S. Senators; JOHN HOEVEN, in their capacity as U.S. Senators; JAMES INHOFE, in their capacity as U.S. Senators; RON JOHNSON, in their capacity as U.S. Senators; TIM Kaine, in their capacity as U.S. Senators; MARK KELLY, in their capacity as U.S. Senators; ANGUS S. KING, JR., in their capacity as U.S. Senators; AMY KLOBUCHAR, in their capacity as U.S. Senators; JAMES LANKFORD, in their capacity as U.S. Senators; PATRICK LEAHY, in their capacity as U.S. Senators; MIKE LEE, in their capacity as U.S. Senators; BEN LUJAN, in their capacity as U.S. Senators; CYNTHIA M. LUMMIS, in their capacity as U.S. Senators; JOE MANCHIN, III, in their capacity as U.S. Senators; EDWARD J. MARKEY, in their capacity as U.S. Senators; MITCH MCCONNELL, in their capacity as U.S. Senators; ROBERT MENENDEZ, in their capacity as U.S. Senators; JEFF MERKLEY, in their capacity as U.S. Senators; JERRY MORAN, in their capacity as U.S. Senators; LISA MURKOWSKI, in their capacity as U.S. Senators; CHRISTOPHER MURPHY, in their capacity as U.S. Senators; PATTY MURRAY, in their capacity as U.S. Senators; JON OSSOFF, in their capacity as U.S. Senators; ALEX PADILLA, in their capacity as U.S. Senators; RAND PAUL, in their capacity as U.S. Senators; GARY C. PETERS, in their capacity as U.S. Senators; ROB

PORTMAN, in their capacity as U.S. Senators; JACK REED, in their capacity as U.S. Senators; JAMES E. RISCH, in their official capacity as U.S. Senators; MITT ROMNEY, in their capacity as U.S. Senators; JACKY ROSEN, in their capacity as U.S. Senators; MIKE ROUNDS, in their capacity as U.S. Senators; MARCO RUBIO, in their capacity as U.S. Senators; BERNARD SANDERS, in their capacity as U.S. Senators; BEN SASSE, in their capacity as U.S. Senators; BRIAN SCHATZ, in their capacity as U.S. Senators; CHARLES E. SCHUMER, in their capacity as U.S. Senators; RICK SCOTT, in their capacity as U.S. Senators; TIM SCOTT, in their capacity as U.S. Senators; JEANNE SHAHEEN, in their capacity as U.S. Senators; RICHARD C. SHELBY, in their capacity as U.S. Senators; KYRSTEN SINEMA, in their capacity as U.S. Senators; TINA SMITH, in their capacity as U.S. Senators; DEBBIE STABENOW, in their capacity as U.S. Senators; DAN SULLIVAN, in their capacity as U.S. Senators; JON TESTER, in their capacity as U.S. Senators; JOHN THUNE, in their capacity as U.S. Senators; THOM TILLIS, in their capacity as U.S. Senators; PATRICK J. TOOMEY, in their capacity as U.S. Senators; HOLLEN VAN, in their capacity as U.S. Senators; MARK R. WARNER, in their capacity as U.S. Senators; RAPHAEL G. WARNOCK, in their capacity as U.S. Senators; ELIZABETH WARREN, in their capacity as U.S. Senators; SHELDON WHITEHOUSE, in their capacity as U.S. Senators; ROGER F. WICKER, in their capacity as U.S. Senators; RON WYDEN, in their capacity as U.S. Senators; TODD YOUNG, in their capacity as U.S.

Senators; JOSEPH ROBINETTE BIDEN, JR., in his capacity of President of the United States; MICHAEL RICHARD PENCE, in his capacity as former Vice President of the United States; KAMALA HARRIS, in her capacity as Vice President of the United States,

Defendants - Appellees.

ORDER AND JUDGMENT*

Before **TYMKOVICH, BALDOCK** and **CARSON**, Circuit Judges.

Raland Brunson appeals the district court's dismissal of his action for lack of jurisdiction. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

I. Background

Mr. Brunson filed a pro se civil action in Utah state court against hundreds of members of Congress, President Joseph Biden, Vice President Kamala Harris, and former Vice President Michael Pence. He alleged that before accepting the electoral votes on January 6, 2021, defendants intentionally refused to investigate evidence that the November 2020 presidential election was fraudulent. Mr. Brunson likened defendants' conduct to an act of war against the United States Constitution that

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

violated their oath to uphold the Constitution and his right to participate in an honest and fair election. He advanced constitutional, tort, and promissory estoppel claims and sought almost three billion dollars in damages. He also asked for injunctive relief including removal of defendants from office and reinstatement of Donald Trump as President of the United States.

Defendants removed the case to federal district court and filed a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) (lack of jurisdiction) and 12(b)(6) (failure to state a claim). Mr. Brunson filed an opposition to the motion to dismiss. A magistrate judge issued a report and recommendation (Recommendation) that the action be dismissed for two independent reasons: (1) Mr. Brunson lacked constitutional standing because his claimed injury was not concrete and personal to him but only the same as any citizen, and (2) Eleventh Amendment sovereign immunity barred the claims against the defendants, who were sued in their official capacity only, and Mr. Brunson failed to identify any statute or other express provision that unequivocally waives that immunity for his claims.¹

Mr. Brunson filed a timely objection to the Recommendation, arguing only that the magistrate judge did not address the arguments in his opposition to the motion to dismiss and thereby deprived him of due process. The district court overruled the objection, concluding there was no authority for Mr. Brunson's proposition "that a reviewing court must specifically address arguments made in a

¹ The magistrate judge provided various alternative grounds for dismissal, but we need not consider them in this appeal.

brief,” and finding he “was afforded procedural due process by receiving notice of the motion to dismiss and having a reasonable opportunity to respond to it.”

R. at 510. Because Mr. Brunson did not assert any objections to the magistrate judge’s conclusions that he lacked standing or that the defendants were entitled to sovereign immunity, the district court determined he had “waived any objections to [those] conclusions.” *Id.* The court then adopted the Recommendation in full, dismissed the action without prejudice for lack of jurisdiction, and entered a separate judgment. This appeal followed.

II. Discussion

We review de novo a district court’s dismissal of an action under Rule 12(b)(1). *Chance v. Zinke*, 898 F.3d 1025, 1028 (10th Cir. 2018). We construe Mr. Brunson’s pro se filings liberally, but we may not act as his advocate. *Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

Mr. Brunson first argues that the district court’s separate judgment is invalid because it fails to set forth the legal basis for the judgment.² This argument is frivolous. Federal Rule of Civil Procedure 58 requires a district court to set out its judgment in a document separate from the court’s explanation of the reasons for the disposition. *See Taumoepeau v. Mfrs. & Traders Tr. Co. (In re Taumoepeau)*, 523 F.3d 1213, 1217 & n.4 (10th Cir. 2008). The district court’s judgment did just

² The body of the judgment states: “IT IS ORDERED AND ADJUDGED that plaintiff Raland Brunson’s action is dismissed without prejudice.” R. at 512.

that, and the reasons for the dismissal were thoroughly explained in the Recommendation and the district court's order adopting it.

Mr. Brunson next contests the merits of the magistrate judge's standing analysis. But as noted, in his objection, he did not address the standing analysis; he only faulted the magistrate judge for not discussing the arguments he raised in his opposition to the motion to dismiss. This court has "adopted a firm waiver rule" with regard to objections to a magistrate judge's findings and recommendations. *United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1059 (10th Cir. 1996) (internal quotation marks omitted). To avoid waiving appellate review of factual and legal questions, "a party's objections to [a] magistrate judge's report and recommendation must be both timely *and specific*." *Id.* at 1060 (emphasis added). This means the objection must be "sufficiently specific to focus the district court's attention on the factual and legal issues that are truly in dispute." *Id.*

Although Mr. Brunson's objection was timely, he did not specifically challenge the magistrate judge's standing analysis. The firm waiver rule therefore applies unless the interests of justice dictate otherwise.³ "[F]actors this court has considered in determining whether to invoke the [interests-of-justice] exception" are "a *pro se* litigant's effort to comply, the force and plausibility of the explanation for

³ This rule also does not apply when "a *pro se* litigant has not been informed of the time period for objecting and the consequences of failing to object." *Morales-Fernandez v. INS*, 418 F.3d 1116, 1119 (10th Cir. 2005). But Mr. Brunson received the proper warning in this case.

his failure to comply, and the importance of the issues raised.” *Morales-Fernandez v. INS*, 418 F.3d 1116, 1120 (10th Cir. 2005).

Mr. Brunson makes no effort to explain why he failed to specifically challenge the magistrate judge’s standing analysis. The first two factors therefore weigh against invoking the exception.

In considering the third factor, “the importance of the issues raised,” we conduct an analysis akin to plain-error review. *See id.* “Plain error occurs when there is (1) error, (2) that is plain, which (3) affects substantial rights, and which (4) seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 1122–23 (internal quotation marks omitted). We cannot say the district court’s conclusion that Mr. Brunson lacked standing is plainly erroneous. As the magistrate judge explained, the relevant Article III standing inquiry is “whether the party seeking relief has alleged such a personal stake in the outcome of the controversy as to assure concrete adverseness.” R. at 395 (ellipsis and emphasis omitted) (quoting *United States v. Richardson*, 418 U.S. 166, 173 (1974)). And a plaintiff like Mr. Brunson, who

raise[s] only a generally available grievance about government—claiming only harm to his and every citizen’s interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy.

Lujan v. Defs. of Wildlife, 504 U.S. 555, 573–74 (1992). Thus, the district court did not plainly err in concluding Mr. Brunson lacked standing.

Mr. Brunson’s argument does not persuade us otherwise. Essentially, he contends that because he alleged the defendants acted fraudulently, and because “fraud vitiates whatever it touches,” Aplt. Opening Br. at 5 (quoting *Est. of Stonecipher v. Est. of Butts*, 591 S.W.2d 806, 809 (Tex. 1979)), he has an “unfettered right to sue the Defendants,” *id.* at 2, and any federal law or case law is inapplicable if it “support[s] treason, acts of war or the violation of Brunson’s inherent unalienable (God-given) rights,” *id.* at 8. But none of his supporting authorities suggests that allegations of fraud, acts of war, or the violation of allegedly “inherent unalienable (God-given) rights,” *id.*, relieve a plaintiff from demonstrating Article III standing.

Finally, Mr. Brunson briefly mentions the magistrate judge’s Eleventh Amendment sovereign immunity analysis, but he develops no argument addressing the magistrate judge’s reasoning other than to direct us to his opposition to the motion to dismiss. That is insufficient to meet this court’s requirements for developing an argument on appeal. *See United States v. Patterson*, 713 F.3d 1237, 1250 (10th Cir. 2013). Thus, setting aside the antecedent inquiry whether the firm waiver rule precludes our review of this aspect of the dismissal, we conclude Mr. Brunson has waived appellate review of the sovereign-immunity basis for dismissal due to insufficient argument. *See id.*⁴

⁴ And even if we were to overlook this obstacle to review, Mr. Brunson’s lack of success on the merits of his arguments relating to standing is, by itself, a sufficient basis for affirming the district court’s judgment regardless of the merits of his

III. Conclusion

The district court's judgment is affirmed.

Entered for the Court

Bobby R. Baldock
Circuit Judge

argument relating to sovereign immunity. *See Murrell v. Shalala*, 43 F.3d 1388, 1390 (10th Cir. 1994).