

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

1
2
3 JOHN ANTHONY CASTRO,)
4)
5 Plaintiff,)
6 vs.)
7 SECRETARY OF STATE FRANCISCO V.)
8 AGUILAR, *et.al.*,)
9 Defendants.)

Case No.: 2:23-cv-01387-GMN-BNW

**ORDER DISMISSING CASE FOR LACK
OF STANDING**

10 Plaintiff John Anthony Castro filed this lawsuit alongside several similar lawsuits in
11 other courts. Castro’s lawsuits ultimately ask, does Section 3 of the Fourteenth Amendment to
12 the U.S. Constitution bar former President Donald J. Trump from holding office? (*See*
13 *generally* First Am. Compl. (“FAC”), ECF No. 21). This is a politically charged question of
14 significant interest to the American public. But because federal courts are courts of limited
15 jurisdiction, this Court must first consider whether it can answer this question at all. *See Castro*
16 *v. Scanlan*, 86 F.4th 947, 949 (1st Cir. 2023) (declining to address merits of Castro’s nearly
17 identical suit because he lacked standing). For the reasons discussed below, the Court finds
18 that Castro lacks standing, and the Court therefore lacks jurisdiction to hear this case.

19 Article III of the Constitution limits federal court jurisdiction to “Cases” and
20 “Controversies.” U.S. Const., Art. III, § 2. From this constitutional limitation to its authority,
21 the Supreme Court has developed the doctrine of standing. *Lujan v. Defs. of Wildlife*, 504 U.S.
22 555, 560 (1992). To have standing to sue in federal court, a plaintiff must have suffered a
23 concrete, particularized, and actual or imminent injury in fact that was caused by the
24 defendant’s challenged conduct and is redressable by a favorable decision. *Id.* at 560–61. “This
25 limitation on the judicial power prevents a plaintiff from invoking the Article III jurisdiction of

1 a federal court by asserting what is merely a ‘general interest common to all members of the
2 public.’” *Scanlan*, 86 F.4th at 955 (quoting *Carney v. Adams*, 592 U.S. 53, 59 (2020)). “[L]ack
3 of Article III standing requires dismissal for lack of subject matter jurisdiction under Federal
4 Rule of Civil Procedure 12(b)(1).” *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011)
5 (emphasis omitted).

6 Here, Castro asserts that he has standing to pursue a claim as a political competitor
7 because Castro has declared himself to be a candidate for President and his name will be
8 appearing on the primary ballot. (FAC ¶¶ 21–24). He maintains that he has political competitor
9 standing based on an injury of receiving fewer votes than he would if Trump was prohibited
10 from appearing on the ballot. (*Id.*). Courts that have recognized political competitor standing
11 require a plaintiff to “show that he personally competes in the same arena with the same party
12 to whom the government has bestowed the assertedly illegal benefit.” *Gottlieb v. Fed. Election*
13 *Comm’n*, 143 F.3d 618, 621 (D.C. Cir. 1998) (quoting *In re U.S. Cath. Conf. (USCC)*, 885 F.2d
14 1020, 1029 (2d Cir. 1989)).

15 Multiple federal courts have already dismissed Castro’s Fourteenth Amendment claim
16 for lack of standing, without addressing the merits of whether Trump is eligible to run for
17 office. At least five federal courts¹ have specifically rejected Castro’s political competitor
18 standing argument. *See, e.g., Castro v. New Hampshire Sec’y of State*, No. 23-cv-416-JL, 2023
19 WL 7110390 (D.N.H. Oct. 27, 2023), *aff’d sub nom. Scanlan*, 86 F.4th 947; *Castro v. Sec’y of*
20 *State Gregg Amore*, No. CV 23-405 JJM, 2023 WL 8191835 (D.R.I. Nov. 27, 2023); *Castro v.*
21 *Trump*, No. 23-80015-CIV, 2023 WL 7093129 (S.D. Fla. June 26, 2023), *cert. denied before*
22 *judgment*, 144 S. Ct. 265 (2023); *Castro v. Fed. Election Comm’n*, No. CV 22-2176 (RC), 2022
23 WL 17976630 (D.D.C. Dec. 6, 2022), *aff’d*, No. 22-5323, 2023 WL 2899541 (D.C. Cir. Apr.

24
25 ¹ The District of New Hampshire, the District of Rhode Island, the Southern District of Florida, the District of
Columbia, and the District of Arizona have all dismissed Castro’s Fourteenth Amendment claim for lack of
standing.

1 10, 2023); *Castro v. Fontes*, No. CV-23-01865-PHX-DLR, 2023 WL 8436435 (D. Ariz. Dec.
2 5, 2023). In rejecting his political competitor standing argument, courts have found that Castro
3 improperly manufactured his standing merely to file this lawsuit. *New Hampshire Sec’y of*
4 *State*, 2023 WL 7110390, at *5 (“[T]he evidence indicates that Castro is creating his own injury
5 in order to manufacture standing to challenge Trump’s eligibility to run for president. Indeed,
6 by his own admission, Castro declared as a candidate and paid the filing fee to show the
7 impermissibility of Trump’s presidency.”); *Fontes*, 2023 WL 8436435, at *4 (“Castro is
8 attempting to manufacture a competitive injury solely for purposes of pursuing litigation.”).

9 In an Associated Press article that Castro invited the courts to consider, Castro is quoted
10 as stating, “I’m not going to lie and pretend my candidacy is anything more than trying to
11 enforce the United States Constitution, and that’s what I’m here to do[.]” *Fontes*, 2023 WL
12 8436435, at *4 (quoting Holly Ramer, *New Hampshire’s presidential primary filing period*
13 *opens with candidates critical of Biden and Trump*, THE ASSOCIATED PRESS (Oct. 11, 2023),
14 [https://apnews.com/article/new-hampshire-presidential-primary-2024-](https://apnews.com/article/new-hampshire-presidential-primary-2024-5bd66ceac3df40f3b0ec7676422f40bc)
15 [5bd66ceac3df40f3b0ec7676422f40bc](https://apnews.com/article/new-hampshire-presidential-primary-2024-5bd66ceac3df40f3b0ec7676422f40bc), archived at <https://perma.cc/GK47-64HM>). Castro
16 invited this Court to consider the same Associated Press article when examining whether he has
17 standing. (Aff. of Campaign Expenses and Media Coverage, Ex. 2 to Supplement, ECF No. 34-
18 2). Having reviewed Castro’s filings, this Court agrees with the other courts that have already
19 decided this issue and finds that Castro admits he “is creating his own injury in order to
20 manufacture standing”² See *New Hampshire Sec’y of State*, 2023 WL 7110390, at *5.

21 ///

22 _____
23 ² Castro’s lack of Article III standing is even more apparent in this case because Trump and Castro are not even
24 competing on the same ballot in Nevada. As Castro indicates in his FAC, the Nevada Republican Party is
25 holding a caucus separate from the state-run Presidential Preference Primary (“PPP”). (See FAC ¶ 16). Castro
intends on running in the Nevada Republican PPP. (*Id.* ¶ 21). Trump is not participating in the PPP and is
instead appearing on the caucus ballot. 2024 Presidential Caucus, NEVADA GOP, [https://nevadagop.org/2024-](https://nevadagop.org/2024-presidential-caucus/)
[presidential-caucus/](https://nevadagop.org/2024-presidential-caucus/), archived at <https://perma.cc/3P87-FH7Q>.

