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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

A.W. CLARK
Plaintiff,

vs.

SHIRLEY N. WEBER,
Defendant,

DONALD J. TRUMP,
Intervenor Defendant.

Case No. 2:23-CV-07489-DOC-DFMx

**ORDER SUA SPONTE DISMISSING
CASE FOR LACK OF STANDING**

1 Plaintiff A.W. Clark (“Plaintiff” or “Clark”) filed this suit to exclude former President
2 Donald J. Trump from the California ballot in the upcoming 2024 Presidential Primary and
3 General Elections. Plaintiff alleges that Mr. Trump is ineligible to be President under Section 3
4 of the Fourteenth Amendment,¹ because his actions on and leading up to the January 6th attack
5 on the U.S. Capitol constituted insurrection against the United States. The Court, on its own
6 motion, DISMISSES WITH PREJUDICE Plaintiff’s case for lack of standing.

7 I. BACKGROUND

8 Plaintiff A.W. Clark (“Plaintiff” or “Clark”) is a registered Republican voter in
9 California, who is eligible to vote in the upcoming March 2024 presidential primary election
10 and the November 2024 presidential election. First Amendment Complaint (“FAC”) (Dkt. 25)
11 ¶¶ 2, 11. Intervenor-Defendant Donald J. Trump has requested that his name appear as a
12 presidential candidate on both the primary and general election ballots in California. *Id.* ¶ 13.
13 Plaintiff alleges that he wants to vote for Mr. Trump—but only if Mr. Trump is eligible to be
14 President. Plaintiff alleges that he will be injured by Mr. Trump’s presence on the ballot
15 because, if he votes for Mr. Trump and Mr. Trump turns out to be constitutionally ineligible to
16 take office, his vote for Mr. Trump will have been “meaningless.” *Id.* ¶ 2; Plaintiff’s Response
17 to Order to Show Cause (“POSC”) (Dkt. 26), at 15.

18 For the reasons explained below, Plaintiff does not have standing to challenge Mr.
19 Trump’s eligibility for the presidency, and the Court dismisses the case.

20 II. DISCUSSION

21 “[S]tanding is an aspect of subject matter jurisdiction.” *Fleck and Assocs., Inc. v. City of*
22 *Phoenix*, 471 F.3d 1100, 1106 n.4 (9th Cir. 2006). As such, standing is a threshold question,
23 and this Court has “an independent obligation to ensure that” a plaintiff has standing. *See*
24 *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 434 (2011); *Negrete v. City of*
25 *Oakland*, 46 F.4th 811, 813 (9th Cir. 2022).

26 ¹ Section 3 provides: “No person shall be a Senator or Representative in Congress, or elector of President and Vice-President,
27 or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a
28 member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or
judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion
against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House,
remove such disability.” U.S. Const. amend. XIV, § 3.

1 Standing has three familiar elements: injury, causation, and redressability. *Lujan v.*
2 *Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). A plaintiff satisfies the injury requirement
3 when they suffer “an invasion of a legally protected interest which is (a) concrete and
4 particularized and (b) actual or imminent, not conjectural or hypothetical.” *Id.* at 560 (internal
5 quotations and citations omitted). To establish that their injury is particularized, a plaintiff must
6 show that the challenged conduct “affects the plaintiff in a personal and individual way.”
7 *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016); *see also Lance v. Coffman*, 549 U.S. 437, 440
8 (2007) (“[E]ven in a proceeding which he prosecutes for the benefit of the public...[the
9 plaintiff] must generally aver an injury peculiar to himself, as distinguished from the body of
10 his fellow citizens.”). That is, there must be some unique connection between the plaintiff and
11 defendant that “[d]ifferentiate[s]” the plaintiff so that his injury is not “common to all members
12 of the public.” *United States v. Richardson*, 418 U.S. 166, 177 (1974) (quoting *Ex Parte Le*
13 *Vitt*, 302 U.S. 633, 634 (1937)).

14 Plaintiff here has not pointed to any connection between himself, on the one hand, and
15 Defendant or Mr. Trump, on the other, that transforms the general harm he alleges into a
16 particularized one. Plaintiff is a registered voter who intends to vote for Mr. Trump in the
17 upcoming presidential elections. Plaintiff alleges that he will be deprived of his right to vote if
18 Mr. Trump is on the ballot, because, if Plaintiff votes for Mr. Trump and Mr. Trump is later
19 found ineligible to serve as president, his vote for Mr. Trump will have been “meaningless.”
20 POSC at 15. But the same is true for every person who intends to vote for Mr. Trump, and,
21 indeed, all voters who will have the option to vote for Mr. Trump in the upcoming presidential
22 elections. Because Plaintiff “has no greater stake in this lawsuit than any other” voter who may
23 vote for president in 2024, the harm he alleges is “too generalized to confer standing.” *See*
24 *Drake v. Obama*, 664 F.3d 774, 782 (9th Cir. 2011).

25 Courts across the country have similarly concluded that voters do not have standing to
26 challenge a candidate’s qualifications for office. For example, in *Berg v. Obama*, the plaintiff
27 alleged that then-candidate Barack Obama was ineligible to serve as President because he was
28 not a natural-born citizen. 586 F.3d 234, 237 (3d Cir. 2009). The court held that the voter

1 lacked standing because he “suffered no injury particularized to him.” *Id.* at 239. Similarly, in
 2 *Stencil v. Johnson*, the plaintiffs sought a declaratory judgment that three members of
 3 Wisconsin’s congressional delegation were ineligible to serve under the Fourteenth
 4 Amendment because their participation in the January 6th attack was an insurrection against the
 5 United States. 605 F. Supp. 3d 1109, 1112-13 (E.D. Wis. 2022). The court determined that
 6 plaintiffs lacked standing because “[e]very citizen and voter could claim to have suffered the
 7 same injury as the plaintiffs here,” and “[t]he relief that the plaintiffs seek would no more
 8 directly and tangibly benefit them than it would the public at large.” *Id.* at 1117; *see also Hill v.*
 9 *Mastriano*, No. 22-2464, 2022 WL 16707073, at * 1 (3d Cir. 2022) (concluding that a voter did
 10 not have standing to bring a Section 3 action to disqualify a candidate from the ballot because
 11 the voter did not suffer a particularized injury). Plaintiff has not cited, nor is the Court aware of,
 12 any case where a federal court adjudicated a claim like Plaintiff’s claim here.²

13 Plaintiff argues that he has three bases for standing, but none of them establish that he
 14 has suffered an imminent injury unique to him. First, Plaintiff argues that he has standing
 15 because his interests are adverse to those of Mr. Trump. POSC at 12. While Mr. Trump wants
 16 his name on the ballot, Plaintiff fears that this will put them in the “awful position of voting for
 17 a candidate who may be disqualified from office.” *Id.* at 15. As a practical matter, Plaintiff can
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19 ² *See, e.g., Drake*, 664 F.3d at 778, 780-84 (group of military personnel, state representatives, political candidates, and
 20 individual citizens did not have standing to challenge President Obama’s eligibility to hold office); *Robinson v. Bowen*, 567
 21 F. Supp. 2d 1144, 1146 (N.D. Cal. 2008) (finding that plaintiff lacked standing to challenge eligibility of candidate John
 22 McCain); *Const. Ass’n Inc. by Rombach v. Harris*, No. 20-CV-2379, 2021 WL 4442870, at *2 (S.D. Cal. Sept. 28, 2021),
 23 *aff’d*, No. 21-56287, 2023 WL 418639 (9th Cir. Jan. 26, 2023) (finding that plaintiffs challenging Vice President Harris’s
 24 candidacy failed to “adequately allege Article III standing”); *Chapman v. Obama*, 719 F. App’x 13 (D.C. Cir. 2018) (per
 25 curiam) (“The district court correctly concluded that appellant lacked standing to challenge President Barack Obama’s
 26 qualifications for holding office.”); *Const. Ass’n Inc. by Rombach v. Harris*, No. 20-cv-2379, 2021 WL 4442870, at *2-3
 27 (S.D. Cal. Sept. 28, 2021) (finding plaintiffs lacked standing to challenge Vice President Kamala Harris’ eligibility for office
 28 and dismissing case); *Christie v. President of the United States*, 532 F. App’x 88, 89 (3d Cir. 2013) (plaintiff lacked standing
 to assert claims that President committed treason); *Fischer v. Cruz*, No. 16-cv-1224, 2016 WL 1383493, at *2-3 (E.D.N.Y.
 Apr. 7, 2016) (plaintiff lacked standing to challenge Senator Ted Cruz’s eligibility for President and citing additional cases
 dismissed for lack of standing); *Hollander v. McCain*, 566 F. Supp. 2d 63, 71 (D.N.H. 2008) (voter lacked standing to
 challenge John McCain’s ability to run for presidency under Natural Born Citizen Clause); *Cohen v. Obama*, No. 08 2150,
 2008 WL 5191864, at * 1 (D.D.C. Dec. 11, 2008) (voter lacked standing to challenge then-candidate Obama’s eligibility for
 the presidency); *Booth v. Cruz*, No. 15- CV-518, 2016 WL 403153, at *2 (D.N.H. Jan. 20, 2016), *report and recommendation*
adopted, 2016 WL 409698 (D.N.H. Feb. 2, 2016) (“[A]n individual voter challenging the eligibility of a candidate for
 President lacks standing to assert a claim based on the general interests of the voting public.”) (citation omitted); *Sladek v.*
Trump, No. 23-CV-2089, CM/ECF No. 10, 12 (D. CO Sept. 20, 2023 and Oct. 18, 2023) (“Mr. Sladek’s challenge to former
 President Trump’s eligibility under Section 3 of the Fourteenth Amendment does not demonstrate that he has suffered or will
 suffer a concrete and particularized injury.”).

1 easily avoid this “awful position” by voting for a candidate whose qualifications for the
2 presidency he does not doubt. Legally, Plaintiff’s argument falls short, because having an
3 interest adverse to the defendant is not sufficient for standing. Instead, a plaintiff must show
4 that they suffered a specific type of injury, that the injury was caused by the defendant, and that
5 a favorable court ruling can redress their injury. *See Lujan*, 504 U.S. at 560-61. Contrary to
6 Plaintiff’s suggestion, adversariness does not equal standing.

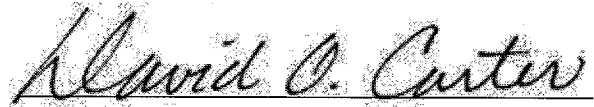
7 Second, Plaintiff analogizes himself to a plaintiff in a vote dilution suit. POSC at 14-15.
8 “Vote dilution can be the basis for standing when voters are harmed compared to ‘irrationally
9 favored’ voters from other districts.” *Wood v. Raffensperger*, 981 F.3d 1307, 1314 (11th Cir.
10 2020) (quoting *Baker v. Carr*, 369 U.S. 186, 206- 208 (1962)). Here, by contrast, no single
11 voter is disadvantaged relative to another voter if Mr. Trump’s name is on the ballot.

12 Finally, to show that his injury is different from the rest of the public, Plaintiff casts
13 himself as part of a subset of California voters. While most Californians are Democrats,
14 Plaintiff is a Republican who wants to vote to Mr. Trump only if Mr. Trump is not later
15 disqualified from holding office. FAC ¶¶ 3-6; POSC 16. But Plaintiff is no different than other
16 members of this class of Republicans. “[W]hen the asserted harm is... shared in substantially
17 equal measure by ... a large class of citizens,” the harm is not particularized. *See Warth v.*
18 *Seldin*, 422 U.S. 490, 499 (1975). Even if this class of Republicans is not a sufficiently “large
19 class,” the injury is still not cognizable because it depends on a speculative chain of events. For
20 Plaintiff’s injury to materialize, he would need to vote for Mr. Trump, Mr. Trump would then
21 need to win the presidency, and, finally, Mr. Trump would need to be found ineligible and
22 prevented from taking office. This injury is too hypothetical to support standing. *See Navajo*
23 *Nation v. Dept. of the Interior*, 876 F.3d 1144, 1161 (9th Cir. 2017) (“[A] purely speculative
24 sequence of occurrences will not meet [the standing requirements].”); *Clapper v. Amnesty*
25 *Intern. USA*, 568 U.S. 398, 401 (2013) (holding that, when seeking prospective relief, the
26 plaintiff’s injury must be “certainly impending”).

1 **III. DISPOSITION**

2 For the foregoing reasons, the Court **DISMISSES WITH PREJUDICE** this suit for
3 lack of standing. The hearing in this matter scheduled for Monday, October 23, 2023, is
4 **VACATED.**

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7 DATED: October 20, 2023

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9 DAVID O. CARTER

10 UNITED STATES DISTRICT JUDGE
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