

Raland J Brunson
4287 South Harrison Blvd., #132
Ogden, Utah 84403
Phone: 385-492-4898
Email: thedreamofthecentury@gmail.com
Pro Se

FILED US District Court-UT
MAY 15 '23 AM09:04

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

RALAND J BRUNSON,

Plaintiff,

vs.

SONIA SOTOMAYOR, et al.,

Defendants.

**OPPOSITION
TO MOTION TO DISMISS
FOR LACK OF SUBJECT-MATTER
JURISDICTION**

Case No. 1:23-cv-00042-HCN-JCB

Judge: Howard C. Nielsen

Magistrate Judge: Jared C. Bennett

Plaintiff Raland J Brunson (“Brunson”) hereby moves this court with his *Opposition To Motion To Dismiss For Lack Of Subject Matter-Jurisdiction* and states:

ARGUMENT

Under Defendants motion to dismiss (“Motion”) they legally argue that “a court must accept the factual allegations in the complaint as true.”¹ And that the burden of establishing subject-matter jurisdiction “rests upon the party asserting jurisdiction.”²

Brunson’s causes of actions are derived from the oath of office of the Constitution of the United States, and Brunson’s complaint alleges that Amendment I of the United States Constitution states that Congress shall make no law prohibiting Brunson’s right to petition the Government for redress of grievances. And that the Government is first subject to Brunson’s

¹ See page 2 including footnote 6 of Defendants motion to dismiss.

² See page 2 including footnote 5 of Defendants motion to dismiss.

rights, and that the Constitution grants no rights to the people, instead Brunson’s individual rights are guarded and protected by the Constitution. And, pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would violate Brunson’s individual rights which is the supreme law of the land, and that the Constitution is a restriction against the Government and not against Brunson’s rights. *See* pages 1-5 of Brunson’s complaint. Defendant’s Motion admits this as being true.

SUBJECT MATTER JURISDICTION AND SOVEREIGN IMMUNITY

The principle of sovereign immunity in US law was inherited from the English common law legal maxim *rex non potest peccare*, meaning “the king can do no wrong.”³ Our founding fathers incorporated themselves as “*We the People*” in order to establish a government away from the doctrine that a king that can do no wrong by having no king at all—no king, no sovereign immunity—this is the Constitution of the United States!

Over the years our legislative and judicial powers have together incorporated several types of immunity for government officials as clearly pointed out in Defendant’s Motion. But these and all other types of immunities are first subject to, and bound by the supreme law of the land. “This Constitution, and the Laws of the United States which shall be made Pursuance thereof; . . . shall be the supreme Law of the land; . . .”. (See Article VI, U.S. Constitution.⁴) These immunities can never be applied in ways that violate the Constitution.

This honorable court is first fundamentally bound to the Constitution under Article III, Section 1 “The judges . . . shall hold their Offices during good Behaviour” and under their oath of office. Therefore, this court’s first prominence is to protect and defend the Constitution against all enemies foreign and domestic—no king, no title of nobility, no sovereign immunity.

³ Wikipedia. Sovereign immunity in the United States.

⁴ See paragraph 14 of Brunson’s complaint.

“No title of Nobility shall be granted by the United States.” *See* Article I, Section 9, Clause 8 of the Constitution. Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the corner-stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people.⁵

What powers do “We the People” have over our government? What power does Brunson have over the Defendants? The Constitution.

“*We the People*” have commissioned Government to secure our rights—to secure Brunson’s rights. “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness, — That to secure these rights, governments are instituted among Men, deriving their just powers from the consent of the governed.”⁶ “These instruments measure the powers of the rulers, but they do not measure the rights of the governed . . . it grants no rights to the people, but is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers which they possessed before the constitution was made . . . It presupposes an organized society, law, order, property, personal freedom, a love of political liberty, and enough of cultivated intelligence to know how to guard it against the encroachments of tyranny.” *American Bush v. City Of South Salt Lake*, 2006 UT 40 140 P.3d.1235. A violation of the oath of office, as alleged in Brunson’s complaint, is an encroachment of tyranny upon which Brunson has a unfettered right to protect against tyranny which he is doing by way of his complaint. How can Defendants disagree with this without violating their oath?

⁵ The Federalist No.84 (Alexander Hamilton); accord the Federalist No. 39 James Madison.

⁶ See paragraph 6 of the complaint.

In securing Brunson's rights the first ten amendments to the Constitution was ratified in 1791 and defined by Congress as "further declaratory and restrictive clauses." They were set in place to restrict the Constitution from ever being a tool to create immunities for government officials when they violate their oath of office.

In addition, in a most recent decision by the Supreme Court of the United States stated that "... we have made clear that individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government". *New York State Rifle & Pistol Association, Inc., et al. v. Bruen, et al.*, 597 U. S. ____ (2022). This also means that this court can remove the Defendants from their elected offices⁷ for their violation of their oath of office.

"*We the People*"—Brunson (which also includes "YOU") have set into supreme law to which all courts are bound to follow, that Brunson's complaint of redress of his grievance against the Defendants when they violate their oath of office must be adjudicated and cannot be passed over by a motion to dismiss. Defendants motion to dismiss is nothing but a bold face attempt to eliminate the separation of powers by inferencing sovereign immunity as a developed Constitutional legal authority as though they "can do no wrong". There is no Constitutional authority that gives them any kind of immunity in this case! Defendants are attempting to hijack this court so that it will **not address** any of the specifics of Brunson's arguments in violation of its oath of office in order for Defendants to have their win.

⁷ Fourteenth Amendment, Section 3: "No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a 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."

Brunson has Article III Standing in this case because the right to bring his claims against the Defendants are protected under the First Amendment which states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”⁸ (Underline added)

Furthermore, once aggrieved by government action could use the courts to “petition the government for a redress of grievances.” [*Puerto Rico v Brandstad, Governor of Iowa* (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187]

Brunson’s right to bring his action against the Defendants for their violation of their oath of office gives Brunson subject-matter jurisdiction.

Defendants knowing full well that they have no immunity of any kind against Brunson’s claims for the violation of their oath of office have set out to circumvent the Constitution or rewrite it. Defendants cite the case of *Wyoming v. Unites States* which is a blatant attempt to eliminate Amendment 1 of the Constitution of the United States, thus giving themselves freedom to support actions that are above the law. Either the Constitution is the controlling legal authority of this case, or the case of *Wyoming* is because the two are in direct conflict and violation of each other. If this court rules in favor of Defendants, then this court by its own action will be making a new supreme law of the land—a direct and bold violation of this court’s sworn duty to protect and defend the Constitution and a violation of the separation of powers.

Also, Defendants citing of the case of *James v. Unites States* is another blatant audacious bold attempt to eliminate Amendment 1 of the Constitution in order to give freedom to the defendants to support actions that are above the law. Once again, either the Constitution is the controlling legal authority of this case, or the case of *James* is because the two are in direct

⁸ See paragraph 3 of the complaint.

conflict and violation of each other. If this Court rules in favor of Defendants, then this court, by its own action will be making a new supreme law of the land (because this case is of first impression)—a direct and bold violation of this court's sworn oath to support and defend the Constitution and a violation of the separation of powers.

This Court may not agree with the First Amendment in relation to the Defendants being Supreme Court Justices. And this court may not agree that Brunson has the right to petition the government for a redress of grievances against these Defendants. When the Defendants are accused of breaching their oath of office and claim that they are too important to be trifled with because they have entitlement above the law, Brunson recognizes that this court must make a choice. Either choose to rewrite the Constitution by making Defendants an exception, or trust that the Constitution was written by inspired men, who inspired this court to swear an oath to defend and support this sacred document.

Once again, Defendants argue that the *Tucker Act* and 28 U.S.C. § 1491(a)(1) & § 1346(a)(2) is the new and revised supreme law of the land, and that Brunson cannot readily seek a redress of grievances against Defendants' violation of their oath of office with damages in excess of \$3 billion dollars, and as such the Defendants' intention it to move this court to make a new supreme law of the land by ruling in their favor.

DEFENDANTS' MOTION FAILS TO ADDRESS THE COMPLAINT

Defendants do not argue against or address the fact that Brunson's complaint alleges that Amendment I of the United States Constitution states that Congress shall make no law prohibiting Brunson's right to petition the Government for redress of grievances, and that the Government is first subject to Brunson's rights, and that the Constitution grants no rights to the people. Brunson's individual rights are guarded and protected by the Constitution. And,

pursuant to Amendment IX of the Constitution, no law of any kind can be enacted that would violate Brunson's individual rights which is guarded by the supreme law of the land, and that the Constitution is a restriction against the Government and not against Brunson's rights. See pages 1-5 of Brunson's complaint. Defendant's Motion admits this as being true.

Embedded in the Constitution is the oath of office. The Defendants have freely taken upon themselves a sworn duty to protect Brunson's rights. This is a contract that they made to Brunson—it's a serious one, and a breach of this contract brings serious consequences that are NOT protected in the law and can bring the removal from office. See ¶ 21-27 of Brunson's complaint.

Noting that the Constitution is the supreme law of the land and that this court is bound by it, does not and cannot protect acts of treason which is also an act of fraud and fraud vitiates everything.⁹ Therefore, because Brunson has alleged acts of treason and fraud against Defendants, Defendants must answer Brunson's complaint as a matter of law.

Also taking note that "So help me God" are the last words found in the oath of office to which all the Defendants swore by, they have sworn to God. To those individuals who violate their oaths, Isaiah of the old testament has stated that "Therefore as the fire devoureth the stubble, and the flame consumeth the chaff, so their root shall be as rottenness, and their blossom shall go up as dust: because they have cast away the law of the LORD of hosts, and despised the word of the Holy One of Israel." See Isaiah 5:24. The "law of the Lord" as defined by Bible scholars is the Constitution. See page 5 of the complaint. "Therefore hell hath enlarged herself,

⁹ "Our courts have consistently held that fraud vitiates whatever it touches, *Morris v. House*, 32 Tex. 492 (1870)". *Estate of Stonecipher v. Estate of Butts*, 591 SW 2d 806. And "'It is a stern but just maxim of law that fraud vitiates everything into which it enters." *Veterans Service Club v. Sweeney*, 252 S.W.2d 25, 27 (Ky.1952)." *Radioshack Corp. v. ComSmart, Inc.*, 222 SW 3d 256.

Vitiate; "To impair or make void; to destroy or annul, either completely or partially, the force and effect of an act or instrument." West's Encyclopedia of American Law, edition 2.

and opened her mouth without measure: and their glory, and their multitude, and their pomp, and he that rejoiceth, shall descend into it.” Isaiah 5:14. This decree is set in place regardless of whether or not Defendants believe it.

Isaiah prophesied several things that pertain to us in modern times. He prophesied the birth of Jesus Christ, and then he prophesied something that had never before been revealed since the creation of the world; the Constitution—a law to guide how a government is to be.

When Isaiah prophesied the coming forth of the Constitution, he also warned of serious consequences that follow (as stated above) when the Constitution is violated.

Because it was prophesied that the Constitution would come forth, and is the law of the Lord, then it’s fitting and has bearing that the scriptures of Isaiah are cited and used herein.

It seems to be the practice of many courts under the doctrine of equitable maxim to shut its door against arguments it chooses not to address. In so doing it violates the doctrine of the object principle of justice which is couched in the Constitution.¹⁰ Should that be the position of this court in this matter, its these types of rulings that lead to the revolution in 1776¹¹.

WHEREFORE, in the name of justice, and in the name of “*We the People*” and as an act to preserve, defend and protect the Constitution Brunson moves this court to deny Defendants’ Motion with an order to answer Brunson’s complaint within 10 days or be in default.

Humbly submitted this the 15th day of May, 2023.


Raland J Brunson, Plaintiff


¹⁰ See petition under docket No. 18-1147 of SCOTUS.

¹¹ See amicus brief under docket No. 22-1028 of SCOTUS.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2023 I personally placed in the United States Mail to the individuals named below a true and correct copy of **OPPOSITION TO MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION**.

TRINA A. HIGGINS
AMANDA A. BERNDT
Attorneys of the United States of America
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111



Raland Brunson