

**In the Supreme Court of the United States**

Mark Kelly,

Petitioner,

v.

Daniel Dorman et al

Respondent.

On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Seventh Circuit

**Application For Extension of Time to File a Petition For a Writ of Certiorari**

**To: Justice Amy Coney Barrett. Case: 7th Circuit. From Petitioner Mark Kelly.**

Petitioner Mark Kelly respectfully requests an extension of 60 days, until September 6, 2024, to submit his Petition for Certiorari to this Court. Review of the judgment from the United States Court of Appeals for the Seventh Circuit final Order in Case 23-1765 (Document: 28, copy enclosed) is sought in the Petition for Certiorari by Plaintiff-Appellant-Petitioner Mark Kelly. The Order denying the petition for rehearing was entered on April 9, 2024. (Case 23-1765, Document 33, copy enclosed).

My symptoms from pre-existing Lyme disease have flared up in the past weeks, which slowed me down and are now impairing my research and writing efficiency. I am proceeding *pro se*. I have limited resources and no assistance with this petition.

Respectfully submitted,

Mark Kelly

Date: June 25, 2024

Mark Kelly, pro se  
10955 South Fork Road  
Dillsboro, IN 47018  
(812) 667-6546

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals****For the Seventh Circuit****Chicago, Illinois 60604**

Submitted February 8, 2024\*

Decided February 9, 2024

**Before**FRANK H. EASTERBROOK, *Circuit Judge*MICHAEL B. BRENNAN, *Circuit Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1765

MARK KELLY,  
*Plaintiff-Appellant,**v.*DANIEL DORMAN, et al.,  
*Defendants-Appellees.*Appeal from the United States District  
Court for the Southern District of Indiana,  
New Albany Division.

No. 4:22-cv-00071-TWP-KMB

Tanya Walton Pratt,  
*Chief Judge.***ORDER**

Mark Kelly, formerly a chemist at a private research laboratory, appeals the dismissal of his lawsuit challenging the Nuclear Regulatory Commission's investigation

---

\* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 23-1765

Page 2

of his complaints of his former employer's wrongdoing. The district court concluded that Kelly lacked standing and dismissed the case for lack of jurisdiction. We affirm.

We recite the facts according to the allegations in Kelly's amended complaint. *See A.F. Moore & Assoc. v. Pappas*, 948 F.3d 889, 891 (7th Cir. 2020). In the 1990s, Kelly worked for Lambda Research, Inc., a company that provided technical reports to customers in the nuclear industry. In 1999, Kelly came to believe that these reports contained erroneous calculations about the texture of zirconium, an element used to manufacture nuclear reactor components. Fearing that such errors could cause or exacerbate nuclear accidents, Kelly reported his concerns to his boss, who reacted angrily. Kelly then complained to the Nuclear Regulatory Commission, which investigated and then informed him that errors in Lambda's texture analysis were "not a safety concern." Dissatisfied and facing an increasingly hostile workplace, he resigned from Lambda.

In 2000, Kelly sued Lambda in federal court for retaliation and constructive discharge under the state whistleblower statute. The district court granted summary judgment to Lambda and the Sixth Circuit affirmed. *See Kelly v. Lambda Research, Inc.*, 89 Fed. Appx. 535, 545 (6th Cir. 2004).

In 2022, Kelly brought this suit against the Nuclear Regulatory Commission and several of its officials. In a sprawling complaint, he alleged that the Commission—through its flawed 1999 investigation and related reports—had concealed errors to protect Lambda, put public safety at risk, and harmed his own reputation, career, and general well-being. He asked that the Commission be ordered to correct all reports concerning zirconium texture analysis and review any influence that its reports may have had on public safety.

The district court screened Kelly's complaint, *see* 18 U.S.C. § 1915(e), and dismissed it for lack of jurisdiction. The court explained that Kelly lacked standing because he appeared to raise only a general grievance about a government agency that did not present a case or controversy as required by Article III of the Constitution. The court granted Kelly leave to amend his claim, warning that if he did not address the errors identified in his complaint, his case would be dismissed.

Kelly amended his complaint to additionally allege that the Commission's flawed investigation violated his rights to due process and free speech by dooming his later employment-discrimination lawsuit. The court, adopting a magistrate judge's

No. 23-1765

Page 3

report and recommendation, reiterated that Kelly lacked standing because his conclusory allegations of harm were insufficient to suggest how any conduct by the defendants concretely harmed him.

On appeal, Kelly asserts only that his allegations of injury are sufficient for purposes of standing. But a complaint fails for lack of standing “unless the complaint plausibly alleges concrete injury caused by the asserted wrong.” *Baysal v. Midvale Indemnity Co.*, 78 F.4th 976, 978 (7th Cir. 2023) (citing *Dep’t of Ed. v. Brown*, 600 U.S. 551 (2023)). The injury must be traceable to the asserted wrong and likely rather than conjectural. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Kelly’s complaint does not meet this standard because he failed to plausibly allege that any injury he suffered—the loss of a job he resigned from, harm to his reputation, his unsuccessful lawsuit—is remotely traceable to the Commission’s 1999 response.

AFFIRMED

# United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

April 9, 2024

*Before*

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1765

MARK KELLY,  
*Plaintiff-Appellant,*

*v.*

DANIEL DORMAN, et al.,  
*Defendants-Appellees.*

Appeal from the United States District  
Court for the Southern District of  
Indiana, New Albany Division.

No. 4:22-cv-00071-TWP-KMB

Tanya Walton Pratt,  
*Chief Judge.*

## ORDER

On consideration of the petition for rehearing and for rehearing en banc filed by Plaintiff-Appellant on March 25, 2024, no judge in active service has requested a vote on the petition for rehearing en banc, and the judges on the original panel have voted to deny rehearing.

Accordingly, the petition for rehearing is DENIED.


To: Clerk of Courts  
Supreme Court of the United States

Date: June 25, 2024

**Certificate of Service For “Application For Extension of Time to File a Petition For a Writ of Certiorari From Petitioner Mark Kelly”, On Appeal From Seventh Circuit Case No. 23-1765 final Order.**

Copies of the enclosed “Application For Extension of Time to File a Petition for a Writ of Certiorari” have been sent by first class US Mail to Council for Defendants, Ms. Shelese M. Woods, Offices of the United States Attorney, 10 West Market Street, Suite 2100, Indianapolis, Indiana 46204 and to the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave, NW, Washington DC 20530-001 on June 25, 2024, as required by Supreme Court Rule 29.

Respectfully submitted,

  
\_\_\_\_\_

Date: June 25, 2024

Mark Kelly, pro se  
10955 South Fork Road  
Dillsboro, IN 47018  
(812) 667-6546

