

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

May 3, 2017

Elisabeth A. Shumaker
Clerk of Court

JERROLL SANDERS,

Plaintiff - Appellant,

and

KELLY SENNHOLZ,

Plaintiff,

v.

JOSEPH A. BIDEN; MEMBERS OF
THE U.S. HOUSE OF
REPRESENTATIVES (144th
CONGRESS); MEMBERS OF THE
UNITED STATES SENATE;
DONALD J. TRUMP, President of the
United States of America; MIKE
PENCE, Vice President of the United
States of America; DIRECTOR, U.S.
OFFICE OF PERSONNEL
MANAGEMENT (OPM),

Defendants - Appellees.

No. 17-1043
(D.C. No. 1:17-CV-00048-RBJ)
(D. Colo.)

ORDER AND JUDGMENT*

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Before **KELLY, MURPHY, and MATHESON**, Circuit Judges.**

Plaintiff-Appellant Jerroll Sanders and Plaintiff Kelly Sennholz filed a pro se emergency petition for a writ of mandamus seeking to enjoin the results of the November 2016 elections on the basis that Russia interfered with those elections. 1 R. 12–13. After “setting aside questions of jurisdiction, venue, and service” as well as standing, the district court sua sponte dismissed the action with prejudice, commenting that it was unaware of any “report or evidence that Russia or any other foreign power actually altered votes.” Id. at 67.

Ms. Sanders appeals from the district court’s sua sponte dismissal of the action with prejudice. Suffice it to say that the various events sought to be enjoined have already occurred, thereby rendering the case moot. Citizen Ctr. v. Gessler, 770 F.3d 900, 907 (10th Cir. 2014). Because the case became moot on appeal, we dismiss the appeal and instruct the district court to vacate its judgment and dismiss the action without prejudice. See McClendon v. City of Albuquerque, 100 F.3d 863, 868 (10th Cir. 1996).

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.