

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

DAVID CAICEDO, RAJIB  
CHOWDHURY, and FLORIDA  
RISING TOGETHER, INC.,

Plaintiffs,

v.

Case No: 6:23-cv-2303-JSS-RMN

RON DESANTIS,

Defendant.

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**ORDER**

Defendant, Governor Ron DeSantis, moves to dismiss the amended complaint filed by Plaintiffs, David Caicedo, Rajib Chowdhury, and Florida Rising Together, Inc., for lack of standing and for failure to state a claim. (Dkt. 58.) Plaintiffs oppose the motion. (Dkt. 65.) For the reasons outlined below, the court grants the motion, dismisses Mr. Caicedo’s and Mr. Chowdhury’s claims for lack of standing and Florida Rising’s claims for failure to state a claim, and denies Plaintiffs leave to amend.

**FACTS<sup>1</sup>**

Plaintiffs claim to have been injured by Defendant’s August 9, 2023 removal of State Attorney Monique Worrell. (Dkt. 54.) Mr. Caicedo and Mr. Chowdhury are individual residents of Orlando, Florida, who voted for Ms. Worrell in 2020 “because

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<sup>1</sup> The court “accept[s] the factual allegations of [Plaintiffs’ amended] complaint as true and construe[s] them in [Plaintiffs’] favor.” *See Wiand v. ATC Brokers Ltd.*, 96 F.4th 1303, 1306 (11th Cir. 2024).



programs[,] and educational initiatives to counteract the community impact” of Ms. Worrell’s removal. (*Id.* ¶ 13.) “In preparation for and in response to” the removal, Florida Rising “diverted resources to encourage and uplift the community and to keep residents updated” about the removal. (*Id.* ¶ 18.) “Florida Rising estimates” that “[b]etween March 2023 and September 2023,” it “spent at least 360 hours of staff time in combating and communicating about” Ms. Worrell’s removal. (*Id.* ¶ 76.) Moreover, “[w]ithin [twenty-four] hours of” Ms. Worrell’s removal, Florida Rising “diverted all [its] resources to host a press conference for [its] members and the Orlando community.” (*Id.* ¶ 80.) Florida Rising allegedly continues to “face[] an increased obligation to uplift a community left despondent by the fundamental unfairness and chilling effects of having [votes] nullified.” (*Id.* ¶ 13.) Thus, it seeks “compensation for ongoing operational demands and resource expenditures.” (*Id.*)

## **PROCEDURAL HISTORY**

In

(Count Two). (*Id.* ¶¶ 73–95) As relief, Plaintiffs sought a declaration that Defendant’s order removing Ms. Worrell violates the First and Fourteenth Amendments, an injunction requiring Defendant to reinstate Ms. Worrell as State Attorney for the Ninth Judicial Circuit of Florida, and Plaintiffs’ legal fees under 42 U.S.C. § 1988. (Dkt. 1 at 21–22.)

Defendant moved to dismiss the initial complaint for lack of standing and for failure to state a claim. (Dkt. 29.) Plaintiffs opposed the motion. (Dkt. 34.) After a hearing on the motion, (*see* Dkt. 48), and supplemental briefing on the redressability requirement of standing, (Dkts. 49 & 50), the court granted the motion and dismissed the initial complaint without prejudice for lack of standing, (Dkt. 51). The court explained that Mr. Caicedo and Mr. Chowd95118 (2 ( C)10.1 (s1r3i)7.3 (ni)7.h)2 )

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Fourteenth Amendments, as well as legal fees pursuant to 42 U.S.C. § 1988, (Dkt. 54 at 30–31). However, whereas the initial complaint sought injunctive relief, (Dkt. 1 at 21), t

to declare the law.’” (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998))).

The party invoking federal jurisdiction bears the burden of establishing the constitutional requirements for standing. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). To establish standing, the plaintiff must have “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). “At the pleading stage, general factual allegations of injury resulting from the defendant’s conduct may suffice, for on a motion to dismiss,” the court presumes “that general allegations embrace those specific facts that are necessary to support the claim.” *Lujan*, 504 U.S. at 561 (quoting *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 889 (1990)); *accord*

the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “[D]etailed factual allegations” are generally not required, but “[a] pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Id.* (quoting *Twombly*, 550 U.S. at 555). When analyzing a motion to dismiss for failure to state a claim, a court typically limits its consideration to the four corners of the complaint. *See Turner v. Williams*, 65 F.4th 564, 583 n.27 (11th Cir. 2023).

### **ANALYSIS**

The court considers in turn the topics of standing, failure to state a claim, and





Florida law” and “set[] aside the results of a fair and free election” for “pretextual reasons.” (*Id.* ¶ 129.) Like “[m]any voters,” Plaintiffs “were discouraged” and “frustrat[ed]” by Ms. Worrell’s removal and felt “concerned that voting for candidates” with policies contrary to Defendant’s could be a pointless endeavor. (*Id.* ¶¶ 11, 77–78, 89–90.) Florida Rising also claims that it was injured because Ms. Worrell’s removal caused it to divert its resources to combat an increase in voter apathy. (*Id.* ¶ 13.)

As the court previously concluded, Mr. Caicedo, Mr. Chowdhury, and Florida Rising’s members have failed to allege an invasion of a legally protected interest in Defendant’s removal of Ms. Worrell from her position pursuant to the Florida Constitution. (See Dkt. 51 and the cases cited therein.) Their injury is derivative of Ms. Worrell’s own injury in being removed, *see Crist*, 262 F.3d at 195; *Berg*, 586 F.3d at 240, and as voters who cast successful ballots for her, they do not establish that they had any legally protectable interest in her remaining in office through her term, *cf. McGraw v. Banko*, No. 22-12987, 2023 U.S. App. LEXIS 28503, at \*5 (11th Cir. Oct. 26, 2023) (holding that no clearly established constitutional right was violated when “voters exercised their right to vote” but “elected someone who [Defendant] determined was ineligible” for the position). Further, Mr. Caicedo, Mr. Chowdhury, and Florida Rising’s members have failed to allege a particularized injury aside from being among the 400,000 individuals who voted for Ms. Worrell. Plaintiffs argue that their injury is particularized because Defendant “negat[ed] the effect and natural consequences of the electoral process in which they participated” and “diminish[ed]



a diversion-of-resources theory when the defendant’s “actions directly affect[] and interfere[] with [the organization]’s core business activities.” *Id.* at 395; *accord Ariz. All. for Retired Ams. v. Mayes*, No. 22-16490, 2024 U.S. App. LEXIS 23963, at \*31 (9th Cir. Sep. 20, 2024) (“[A] plaintiff group has organizational standing if it can show harm to its ‘core business activities’ . . . .”). (*See* Dkt. 58 at 11 (“Organizations have standing under a diversion-of-resources theory only if the defendant’s actions directly affected and interfered with their core business activities.” (cleaned up).) Defendant contends that Florida Rising lacks organizational standing for two reasons. (*Id.* at 9–12.) First, Florida Rising “do[es] not allege a single fact suggesting that [Ms. Worrell’s removal] interfered with [its] core business activities.” (*Id.* at 11.) Second, Florida Rising fails to plead from where it diverted its resources. (*Id.* at 11–12.) The court disagrees on both points.

First, although the amended complaint does not speak of Florida Rising’s operations in terms of “core business activities,” it contains enough allegations about Florida Rising for the court to infer what those activities are. (*See* Dkt. 54.) According to the amended complaint, Florida Rising has the mission of “increas[ing] the voting

can reasonably infer that Florida Rising is in the business of organizing members of marginalized communities, facilitating their civic engagement, and encouraging them to vote and to engage in politics in ways likely to increase

members and the Orlando community” to “call out” Defendant’s conduct. (*Id.* ¶¶ 79–81.) At this stage of the case, these statements suffice. *See Ga. Ass’n of Latino Elected Offs.*, 36 F.4th at 1115 (holding that a “broad allegation of diversion of resources is enough at the pleading stage” for the injury-in-fact requirement). Further, the allegation that usually, Florida Rising “actively engages” in programs for “voter registration, education, engagement, and election protection” and the corresponding inference that these programs require at least some of Florida Rising’s resources support that Florida Rising diverted resources from these programs in response to Ms. Worrell’s removal. (Dkt. 54 ¶ 16.) Accordingly, Florida Rising satisfies the injury-in-fact requirement for organizational standing.

The remaining standing “requirements—traceability and redressability—often travel together.” *Support Working Animals*, 8 F.4th at 1201. To satisfy the traceability requirement, Florida Rising “must demonstrate that there is a ‘causal connection’ between [its] injury and the conduct of which [it] complains—*i.e.*, the injury must be ‘fairly traceable’ to [D]efendant’s challenged actions and not the result of ‘the independent action of some third party not before the court.’” *Id.* (quoting *Lujan*, 504 U.S. at 560). To satisfy the redressability requirement, Florida Rising “must show that it is ‘likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.’” *Id.* (quoting same). According to the amended complaint, Defendant’s removal of Ms. Worrell caused “[m]



Fourteenth Amendment because the removal “undermined the fundamental fairness and integrity of the electoral process.” (Dkt. 54 ¶ 111.) Count Two asserts that the removal amounted to an “abrogat[ion]” of the “associational and expressional First Amendment rights” that voters exercised when they elected Ms. Worrell. (*Id.* ¶¶ 127–29.)

“The functional structure embodied in the Constitution, the nature of the federal court system[,] and the limitations inherent in the concepts both of limited federal jurisdiction and of the remedy afforded by [section] 1983’ operate to restrict federal relief in the state[-]election context.” *Curry v. Baker*, 802 F.2d 1302, 1314 (11th Cir. 1986) (quoting *Gamza v. Aguirre*, 619 F.2d 449, 452 (5th Cir. 1980)). “Not every state[-]election dispute . . . leads to possible federal[-]court intervention.” *Roe v. Alabama*, 43 F.3d 574, 580. “If the election process itself reaches the point of patent and fundamental unfairness,” relief under section 1983 may be “in order,” but “[s]uch a situation must go well beyond the ordinary dispute.” *Duncan v. Poythress*, 657 F.2d 691, 703 (5th Cir. 1981) (quoting *Griffin v. Burns*, 570 F.2d 1065, 1077 (1st Cir. 1978)).

Plaintiffs frame Defendant’s conduct as a Fourteenth Amendment violation of the “fundamental right to an effective vote,” (Dkt. 54 ¶ 112), arguing that the votes cast for Ms. Worrell were rendered ineffective when Defendant removed her from office before the end of her term. However, the votes cast for Ms. Worrell were effective because Ms. Worrell assumed office after being elected. (*See id.* ¶¶ 6–7.) *See Smith v. Winter*, 717 F.2d 191, 198 (5th Cir. 1983) (“[T]he right to an ‘effective’ vote refers to the citizen’s right to make his voice heard in the electoral process, and not to

the ability to command results in the public office. That is to say, a vote for a losing candidate is as 'effective' as a vote for a winning candidate, if voting opportunities are equal. Moreover, a vote for a winning candidate is 'effective' even though that candidate, after becoming an officeholder, might be consistently outvoted or otherwise rendered '



established substantive due process right” because “voters exercised their right to vote” but “elected someone who another state official determined was ineligible to hold the position under state law”). Plaintiffs’ theory would lead to the very judicial expansion of substantive due process rights against which the Supreme Court has cautioned. *See A.W.*, 110 F.4th at 1317. Because Florida Rising fails to allege a constitutional violation, it

conduct so obviously violates the [C]onstitution that prior case[llaw is unnecessary.”  
*Id.* (quotation omitted).

Plaintiffs concede that Defendant “acted as part of a discretionary government function” when he removed Ms. Worrell, but they contend that even “in the absence of case[llaw with indistinguishable facts,” the law at the time established with “obvious clarity” that Defendant’s conduct was unconstitutional. (Dkt. 65 at 20–23.) Because as explained above, Plaintiffs do not establish a constitutional violation, Defendant is entitled to qualified immunity on the individual-capacity claims. *See Garczynski v. Bradshaw*, 573 F.3d 1158, 1170 (11th Cir. 2009) (“No constitutional violation occurred. Without this element, we need not assess whether the alleged violation was clearly established. Accordingly, the district court correctly afforded the officers qualified immunity . . . .” (citation omitted)).


Defendant is also entitled to qualified immunity because any constitutional violation was not clearly established. “[Og  
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claim.

5. This case is **DISMISSED**.
6. The Clerk is **DIRECTED** to terminate any pending motions and deadlines and to close the case.

**ORDERED** in Orlando, Florida, on November 8, 2024.

  
A horizontal line is drawn across the page, with the signature written in blue ink above it. Below the signature, the text "JULIE S. SNEED" is printed in a bold, black, sans-serif font. Below that, the text "UNITED STATES" is printed in a smaller, black, sans-serif font. The signature and text are partially obscured by a yellow and black horizontal bar.

Copies furnished to:  
Counsel of Record