

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

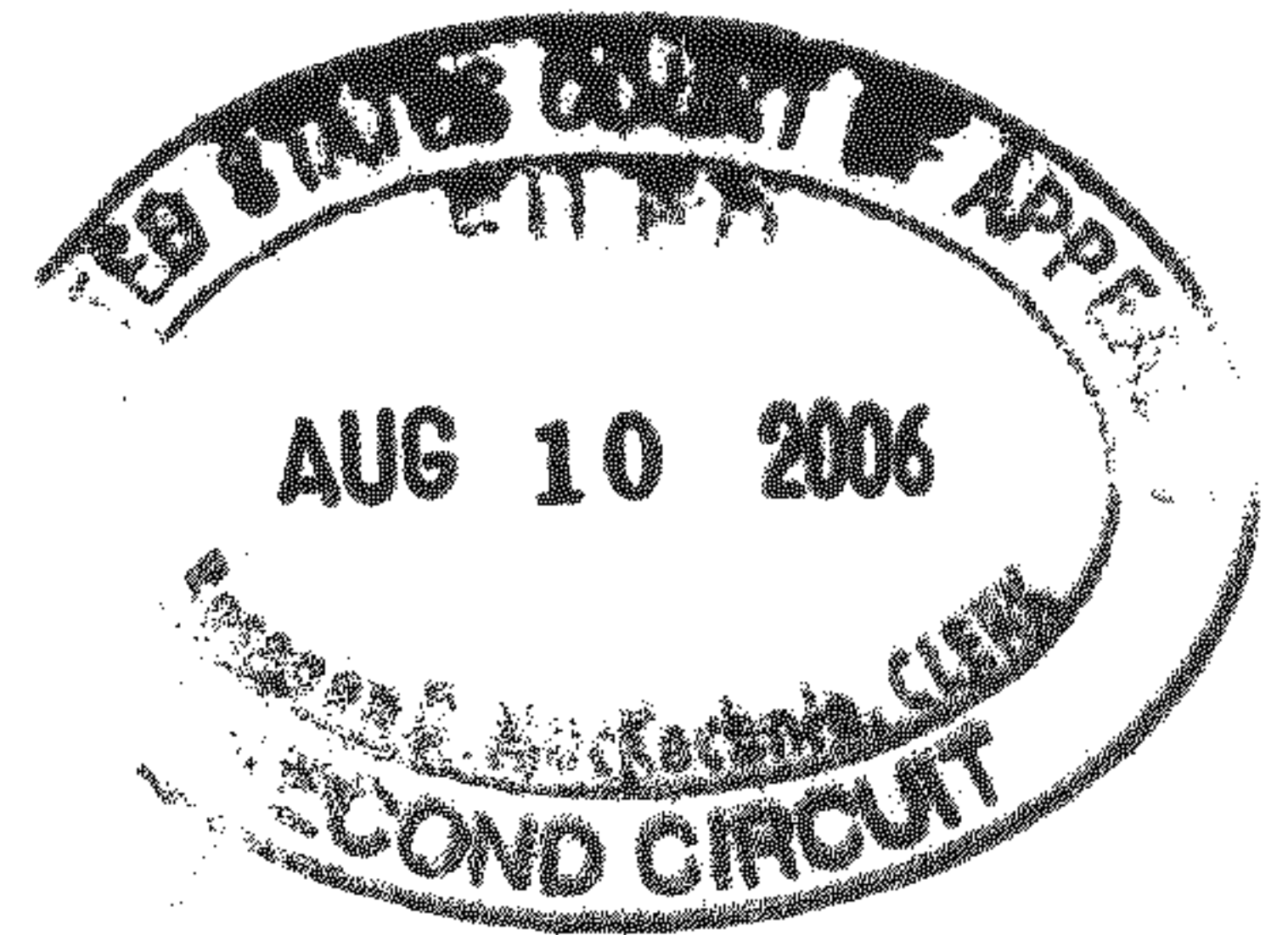
SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 10th day of August, Two thousand and six.

PRESENT:

HON. BARRINGTON D. PARKER,
HON. RICHARD C. WESLEY,
HON. PETER W. HALL,
Circuit Judges.



GERSH KORSINSKY,

Plaintiff-Appellant,

-v.-

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA),
N.Y.S. DEPARTMENT OF ENVIRONMENTAL
PROTECTION, N.Y.C. DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Defendants-Appellees.

SUMMARY ORDER
No. 05-6802-cv

For Plaintiff-Appellant: Gersh Korsinsky, *pro se*, Brooklyn, New York.

For Defendants-Appellees: Lawrence H. Fogelman, Assistant United States Attorney for the Southern District of New York, New York, NY; Simon Wynn, Assistant Attorney General (Michael Belohlavek, Senior Counsel, Daniel J. Chepaitis, Assistant Solicitor General, *on the brief*), Office of the Attorney General, New York, NY; Elizabeth S. Natrella, Senior Counsel, Appeals Division, The City of New York Law

1 Department, New York, NY.
2

3 Appeal from the United States District Court for the Southern District of New York
4 (Naomi Reice Buchwald, *Judge*).
5

6 **UPON DUE CONSIDERATION WHEREOF, IT IS HEREBY ORDERED,**
7 **ADJUDGED AND DECREED** that the judgment of the District Court be and it hereby is
8 **AFFIRMED.**
9

10
11 Gersh Korsinsky, *pro se*, appeals from the district court's judgment dismissing his suit
12 for lack of subject matter jurisdiction. We assume the parties' familiarity with the factual and
13 procedural history.

14 Article III, § 2 of the United States Constitution limits federal courts to deciding only
15 cases or controversies, and, thus, at a minimum, a plaintiff seeking relief in federal court must
16 "allege, and ultimately prove, that he has suffered an injury-in-fact that is fairly traceable to the
17 challenged action of the defendant, and which is likely to be redressed by the requested relief."
18 *Baur v. Veneman*, 352 F.3d 625, 632 (2d Cir. 2003). "At the pleading stage, general factual
19 allegations of injury resulting from the defendant's conduct may suffice, for on a motion to
20 dismiss [it is] presum[ed] that general allegations embrace those specific facts that are necessary
21 to support the claim." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (internal
22 quotation marks omitted). Nonetheless, the injury must be "actual" or "imminent," rather than
23 "conjectural" or "hypothetical." *Id.* at 560 (internal quotation marks omitted).

24 Korsinsky's primary claim, that global warming and carbon dioxide emissions may cause
25 him a future injury, is too speculative to establish standing. *See Jaghory v. N.Y. State Dep't of*
26 *Educ.*, 131 F.3d 326, 330 (2d Cir. 1997) ("The keystone for determining injury in fact is the
27 requirement that it be distinct and palpable . . .") (internal quotation marks omitted). Korsinsky
28 does not explain exactly what injury may be caused by the appellees' actions, nor does he

1 explain how the appellees' actions have increased any possible risk to his health. Moreover,
2 Korsinsky has failed to sufficiently allege that his injury is likely to be redressed by any relief the
3 district court could grant.

4 For these reasons, the judgment of the district court is hereby AFFIRMED. The mandate
5 shall issue forthwith.

6
7
8
9
10
11
12

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: 