

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second
2 Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square,
3 in the City of New York, on the 2nd day of November, two thousand twenty.

4
5 PRESENT:

6 JOHN M. WALKER, JR.,
7 RAYMOND J. LOHIER, JR.,
8 *Circuit Judges,*
9 TIMOTHY C. STANCEU,*
10 *Judge.*

11 _____
12
13 DAVID K. ROEMER,

14 *Plaintiff-Appellant,*

15
16
17 v.

20-127-cv

18

* Chief Judge Timothy C. Stanceu, of the United States Court of International Trade, sitting by designation.

1 PRESIDENT JERMAINE F. WILLIAMS, OF
2 NASSAU COMMUNITY COLLEGE,

3

4 *Defendant-Appellee.*

5

6 _____

7

8 FOR PLAINTIFF-APPELLANT:

DAVID K. ROEMER, *pro se*,
Brooklyn, NY.

9

10

11 FOR DEFENDANT-APPELLEE:

ROBERT F. VAN DER
WAAG, Appeals Bureau
Chief, Deputy County
Attorney, *on behalf of*
Jared A. Kasschau,
Nassau County
Attorney, Mineola, NY.

12

13

14

15

16

17

18

19 Appeal from a judgment of the United States District Court for the Eastern
20 District of New York (William F. Kuntz, II, *Judge*).

21 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
22 AND DECREED that the judgment of the District Court is AFFIRMED.

23 Plaintiff-Appellant David K. Roemer, proceeding pro se, appeals from the
24 January 9, 2020 judgment of the District Court (Kuntz, I.) dismissing his First
25 Amendment claims against the President of Nassau Community College,
26 Jermaine F. Williams. The District Court dismissed the complaint for lack of

1 jurisdiction, holding that Roemer lacked constitutional standing to bring suit
2 because he failed to allege that he suffered an injury in fact. We assume the
3 parties' familiarity with the underlying facts and prior record of proceedings, to
4 which we refer only as necessary to explain our decision to affirm.

5 "Where a district court dismisses an action for lack of subject matter
6 jurisdiction, we review factual findings for clear error and legal conclusions
7 de novo." Nike, Inc. v. Already, LLC, 663 F.3d 89, 94 (2d Cir. 2011) (quotation
8 marks omitted). A case is properly dismissed for lack of subject matter
9 jurisdiction where a court "lacks the statutory or constitutional power to
10 adjudicate it, . . . such as when (as in the case at bar) the plaintiff lacks
11 constitutional standing to bring the action." Cortlandt St. Recovery Corp. v.
12 Hellas Telecomms., S.à.r.l., 790 F.3d 411, 417 (2d Cir. 2015) (quotation marks
13 omitted). To establish standing, a plaintiff must allege, among other things, that
14 he has experienced "an injury in fact—an invasion of a legally protected interest
15 which is (a) concrete and particularized, . . . and (b) actual or imminent, not
16 conjectural or hypothetical." Lujan v. Defs. of Wildlife, 504 U.S. 555, 560 (1992)
17 (quotation marks omitted).

