[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 15-10757
Non-Argument Calendar

Agency No. 49-15

JONATHAN CORBETT,

Petitioner,

versus

TRANSPORTATION SECURITY ADMINISTRATION,

Respondent.

Petition for Review of a Decision of the
Transportation Security Administration

Before ED CARNES, Chief Judge, JORDAN, and JULIE CARNES, Circuit Judges.

PER CURIAM:

The Transportation Security Administration (TSA) has implemented an Aircraft Operator Standard Security Program. The Program requires airline

employees to ask certain passengers some questions before allowing them to board international flights bound for the United States. The employees ask the questions to determine whether there is a reason to require the passenger or his baggage to undergo additional screening for explosives or other dangerous materials. The TSA has designated as Sensitive Security Information (SSI) the parameters used to select passengers for interviews and the criteria used to evaluate their responses.

On December 25, 2015, Jonathan Corbett was travelling to New York from London's Heathrow Airport aboard an American Airlines flight. American Airlines operates a departure lounge at Heathrow. After Corbett arrived at the lounge, an airline employee asked him a few screening questions required by the Program. When Corbett refused to answer some of the questions, he was allowed into the lounge. Before he boarded his flight, however, he was directed to a second airline employee who, as required by the Program, asked him a few more questions. Corbett answered the questions and boarded his flight without further incident. After he returned to the United States, he filed a petition to enjoin enforcement of the Program's pre-departure interview requirement on the ground that it violates the Fifth Amendment. His petition also challenges the TSA's decision to classify as SSI some of the older details of the Program.

One problem with both of the issues presented in Corbett's petition is that he lacks constitutional standing to raise them. A person seeking to litigate in federal

court must prove that he has constitutional standing to sue. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136 (1992). To do so, he must show, among other things, that he has "suffered an injury in fact — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." Id. When a litigant seeks prospective relief — and that is the only kind of relief Corbett seeks — the "actual or imminent" requirement means he must show a "real and immediate threat of future injury." Los Angeles v. Lyons, 461 U.S. 95, 101–102, 103 S. Ct. 1660, 1665 (1983).

Corbett has not shown "a real and immediate threat" that he will be subject to questioning under the Program in the future. To support his claims for relief, he filed a declaration. Part of it affirms that he was asked questions under the Program last Christmas Day. That part of the declaration does not support standing to seek prospective relief because past exposure to assertedly unlawful conduct does not, by itself, show a present case or controversy regarding prospective relief. Lujan, 504 U.S. at 564, 112 S. Ct. at 2138. A different part of Corbett's declaration attests that he intends to engage in international air travel sometime in 2016, although it does not state exactly when he plans to travel internationally or even that he has bought a ticket to do so. That part of the declaration does not support standing to seek prospective relief because it amounts

merely to a statement of Corbett's intention to travel internationally on some day in the future, and "[s]uch 'some day' intentions — without any description of concrete plans, or indeed even any specification of when the some day will be — do not support a finding of the 'actual or imminent' injury that [Supreme Court] cases require" for standing. Id.

Even if Corbett were to buy a ticket, moreover, there is no assurance that he will actually be subject to objectionable questioning under the Program. Corbett describes himself as "a frequent flyer regularly engaging in international air travel." For all we can tell, though, this was the first time that the Program has caused him to be subjected to the kind of questioning that he finds constitutionally objectionable, even though the Program has been in place for years. Furthermore, Corbett's account of events — particularly of his interaction with the second airline interviewer — suggests that not every airline interviewer asks objectionable questions when implementing the Program's requirements. That renders speculative his claim that he will be forced to respond to objectionable questioning in the future. And speculative claims do not support constitutional standing. See Whitmore v. Arkansas, 495 U.S. 149, 158, 110 S. Ct. 1717, 1724–25 (1990).

Corbett also lacks standing to seek an order requiring the TSA "to remove the SSI designation from significantly aged documents on an automatic basis, or to propose a scheme by which that result is accomplished." He lacks standing to

pursue that claim because he has not said how he has been injured by the SSI designation. Instead, it appears he just thinks declassifying older information is good policy, and that the public as a whole would benefit from declassification. "[A] plaintiff raising only a generally available grievance about government — claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large — does not state an Article III case or controversy" sufficient to confer constitutional standing. Lujan, 504 U.S. at 573–74, 112 S. Ct. at 2143.

The petition is **DISMISSED**.