

**UNITED STATES COURT OF APPEALS**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**JULIAN MARCUS RAVEN,**  
Appellant,

v.

**TRUMP, ROBERTS, BUNCH,**  
**SMITHSONIAN INSTITUTION, et al.,**  
  
Appellees.

No. 26-5081

(On Appeal from the United States District Court for the District of Columbia  
Case No. **1:25-cv-02332-TNM** Hon. Trevor N. McFadden)

BRIEF FOR APPELLANT

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## CORPORATE DISCLOSURE STATEMENT

(Fed. R. App. P. 26.1; D.C. Cir. Rule 26.1)

Appellant Julian Marcus Raven is an individual proceeding pro se. He is not a corporation, does not issue stock, and has no parent corporation or publicly held entity owning 10% or more of any interest in this litigation.

To the extent required, Appellant states that no publicly held corporation has a financial interest in the outcome of this appeal.

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**JURISDICTIONAL STATEMENT**

The district court had subject-matter jurisdiction under 28 U.S.C. § 1331 because this action arises under federal law, including the Smithsonian Act of 1846, 20 U.S.C. § 41 et seq., and Article III of the United States Constitution.

The district court entered final judgment dismissing the case for lack of standing on January 26, 2026.

Appellant timely filed a notice of appeal pursuant to Federal Rule of Appellate Procedure 4(a), or alternatively moved for extension within the time permitted by Rule 4(a)(5).

This Court has appellate jurisdiction under 28 U.S.C. § 1291.

## STATEMENT OF ISSUES PRESENTED

1. Whether the district court erred in dismissing for lack of Article III standing where Appellant alleged denial of impartial administration within a congressionally structured public charitable trust instrumentality.
2. Whether beneficiaries of an active public charitable trust instrumentality may possess a legally protected interest sufficient to satisfy Article III when alleging breach of fiduciary duties of loyalty and impartial administration.
3. Whether the Smithsonian Institution’s legal status — as a trust instrumentality, federal entity, or hybrid — must be clarified where that classification determines the existence of enforceable legal duties.
4. Whether resignation of an individual fiduciary moots claims alleging completed breaches of fiduciary duty and ongoing institutional obligations.

## STATEMENT OF THE CASE

### **I. Statutory and Structural Background**

The Smithsonian Institution was created by Congress in 1846 pursuant to the bequest of James Smithson “for the increase and diffusion of knowledge among men.” Act of Aug. 10, 1846, ch. 178, 9 Stat. 102 (codified at 20 U.S.C. § 41 et seq.).

Congress structured the Institution as a Board-governed entity whose Regents include federal officials from all three branches of government. 20 U.S.C. § 42.

The National Portrait Gallery is statutorily directed to function for the exhibition and study of portraiture “and of the artists who created such portraiture.” 20 U.S.C. § 75b(b).

In 2007, an Independent Review Committee commissioned by the Chancellor described the Smithsonian as a “trust instrumentality” whose Regents owe “the highest possible fiduciary duty” to the American people.

## **II. Appellant’s Allegations**

Appellant is an artist who submitted portraiture consistent with the National Portrait Gallery’s statutory mission.

He alleges:

- Repeated denial of impartial consideration;
- Administration under alleged partisan influence;
- Knowledge of such influence by superior fiduciaries;
- Failure to cure or investigate alleged breach.
- Violation of the Separation of Powers

He alleges breach of duties of loyalty, impartiality, and faithful administration recognized under established trust principles.

## **III. District Court Proceedings**

The district court dismissed the action solely on Article III standing grounds, concluding that Appellant alleged only a generalized grievance and had not suffered a concrete, particularized injury.

The court did not resolve the Smithsonian’s legal classification or examine the consequences of its acknowledged trustee status.

This appeal followed.



## INTRODUCTION

This appeal presents a structural question of federal law with separation-of-powers implications: what is the legal character of the Smithsonian Institution, and what judicially enforceable duties follow from that classification?

The district court dismissed this action solely on Article III standing grounds. In doing so, it assumed—without resolving—that the Smithsonian’s trust origin and fiduciary framework do not give rise to legally protected beneficiary interests. That assumption was dispositive. Yet the antecedent question—whether the Smithsonian operates as a charitable trust instrumentality, a federal entity, or a hybrid of both—remains unsettled in federal jurisprudence.

The Smithsonian occupies a singular position in our constitutional structure. It originated in a private testamentary bequest accepted by Congress as trustee. 20 U.S.C. § 41. It is governed by a Board of Regents that includes federal officials from all three branches of the federal government. 20 U.S.C. § 42. It exercises ongoing discretionary authority over trust property and participation in a congressionally defined mission that expressly includes “the artists who created

such portraiture.” 20 U.S.C. § 75b(b). At the same time, it receives federal appropriations, although not as originally intended, and operates institutions of national scope.

This layered structure is not incidental. In federal law, duties follow status. When entity classification determines whether constitutional constraints apply, whether fiduciary principles govern, or whether beneficiary rights are enforceable, courts resolve that classification before denying judicial review. See *Lebron v. National Railroad Passenger Corp.*, 513 U.S. 374 (1995); *Pennsylvania v. Board of Directors of City Trusts*, 353 U.S. 230 (1957).

Here, the structural ambiguity has practical consequences. The Executive Branch has publicly asserted authority over Smithsonian leadership and content. The Board of Regents has asserted institutional independence. If the Institution is governmental, constitutional accountability attaches. If it is a charitable trust instrumentality, fiduciary obligations govern. If it is a hybrid, both bodies of law may operate simultaneously. But standing analysis cannot coherently proceed while the governing framework remains undefined.

Article III requires invasion of a “legally protected interest.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). Whether such an interest exists here depends upon what legal duties bind the Institution and its trustees. By declining to

clarify that structural question, the district court effectively foreclosed review of whether fiduciary obligations are judicially enforceable at all.

Appellant does not seek judicial supervision of artistic discretion. He seeks only recognition that beneficiaries of an active, congressionally structured trust instrumentality may invoke federal jurisdiction when alleging breach of fiduciary duties of loyalty and impartial administration.

The relief requested is narrow: reversal of the standing dismissal and remand for adjudication under a clarified legal framework.

Standing doctrine safeguards the separation of powers by ensuring that courts resolve concrete disputes grounded in law. It does not require courts to avoid defining the legal status of uniquely federal institutions when that definition determines whether enforceable rights exist. Clarification here would not expand judicial authority—it would define the legal boundaries within which the political branches and trustees operate.

This Court is uniquely positioned to provide that clarification.

**THE DISTRICT COURT ERRED BY MINIMIZING THE  
SMITHSONIAN’S TRUST STATUS AND THE ENFORCEABILITY  
OF FIDUCIARY DUTIES RECOGNIZED IN THE IRC REPORT**

1. The Memorandum Opinion states that the Smithsonian “acts as a ‘trustee,’ in that it administers the original Smithson trust property and later accretions,” yet concludes that such status does not create enforceable obligations to individual beneficiaries.

**That conclusion cannot be reconciled with the Smithsonian’s own commissioned governance findings.**

2. In 2007, following a governance scandal, John J. Roberts, the Chancellor of the Smithsonian commissioned an Independent Review Committee (“IRC”) chaired by former Comptroller General Charles A. Bowsher. The resulting **Report to the Board of Regents (June 18, 2007)** is part of the Smithsonian’s official governance record. It directly addresses the Institution’s legal status and fiduciary obligations.

**The IRC Confirms the Smithsonian Is a Trust Instrumentality (IRC p. 28–29)**

3. The IRC expressly states: “The Smithsonian is a trust instrumentality that was established by Congress in 1846 to hold in trust property donated by James Smithson and to carry out the provisions of his will for the ‘increase and diffusion of knowledge.’” (IRC Report at 28).
4. It further explains: “Like other quasi-governmental entities, the Smithsonian, though a creation of federal law, has an independent organizational existence and is ***not an agency of the United States government.***” (IRC Report at 28–29). (Bold and italics added)
5. Thus, the Smithsonian’s own governance experts affirm that the Institution is not an executive agency, but a **trust instrumentality** operating under fiduciary constraints.
6. The District Court’s standing analysis treated Appellant’s claims as though they challenged ordinary governmental policy. That framework ignores the Smithsonian’s self-acknowledged trust structure.

**The Regents Are Trustees Owing Heightened Fiduciary Duties to the American People (IRC p. 29–31)**

7. The IRC is unequivocal: “The Regents are trustees charged with managing the original Smithson trust for the benefit of the American people.” (IRC Report at 29).

8. It continues: “The Board of Regents bears the responsibility of the United States as trustee for carrying out the Smithsonian bequest and the public trust for which it provided. The primary obligation of the Board of Regents is to manage the resources of the Institution for the benefit of all mankind.” (IRC Report at 29–30).
9. The IRC grounds these obligations in established trust doctrine: “A trust is a fiduciary relationship whereby a trustee holds and administers property for stated purposes on behalf of named beneficiaries... A trustee must exercise prudent oversight of trust assets, keep strict accounts, make every effort to further trust purposes, and account for stewardship of the trust to all proper authorities.” (IRC Report at 30).
10. The Report further emphasizes the heightened standard applicable to trustees:
11. Trustees are subject to a “higher standard of care and stricter duty of loyalty generally imposed upon trustees under trust law.” (IRC Report at 30, citing Bogert). And critically: “Regents owe the highest possible fiduciary duty to the Smithsonian and the American people.” (IRC Report at 31).

12. This is not aspirational language. It is a formal governance finding grounded in trust law. The beneficiaries are expressly identified as **“the American people”** and **“all mankind.”** (IRC Report at 29–30).
13. The District Court’s conclusion that Appellant’s claims amount to a “generally available grievance” does not address this fiduciary framework. Where trustees owe enforceable duties to defined beneficiaries, allegations of breach implicate fiduciary nonfeasance—not mere policy disagreement.

**The Trust Corpus Is Real Property Held Under Fiduciary Constraint  
(IRC p. 28–29; 44–50)**

14. The Court recognized that the Smithsonian administers “the original Smithsonian trust property and later accretions.” The IRC confirms that the Smithsonian administers:
  15. 1. The original Smithsonian bequest;
  16. 2. Endowment funds;
  17. 3. Gifts made by will or trust;
  18. 4. Non-appropriated funds held under donor restriction. (IRC Report at 28–29; see also §§ 6.01–6.02).
19. Under trust law, trustees must administer such property strictly in accordance with trust purposes and donor intent. (IRC Report at 30).

Appellant’s claims allege breach of fiduciary duty and deviation from donor intent. Those allegations go directly to the trustee obligations the IRC identifies.

20. The Memorandum Opinion did not analyze whether a beneficiary of a federally chartered trust may seek review where trustees allegedly depart from trust purposes. Instead, it treated the matter solely through Article III generalized grievance doctrine.

**The IRC Acknowledges the Absence of Developed Federal Common Law — But Not the Absence of Fiduciary Duties (IRC p. 29)**

21. The IRC candidly observed:
22. “Unlike the vast majority of nonprofit organizations... *there is no developed body of federal common law setting forth the duties and obligations of the Board.*” (IRC Report at 29). (Bold and italics added)
23. That statement does not negate fiduciary duties. It confirms that the Smithsonian operates in a structurally unique posture—one that heightens the need for judicial clarification. The IRC was commissioned precisely because fiduciary duties were real, enforceable, and capable of breach. (See Executive Summary at 1–3).

24. If trustees owe the “highest possible fiduciary duty” to the American people (IRC at 31) but no beneficiary may invoke judicial review absent a uniquely individualized injury beyond trust membership itself, then the fiduciary architecture recognized by the Smithsonian becomes effectively unenforceable and absurd.
25. Trust law does not render beneficiaries passive spectators.

### **The Structural Question the District Court Declined to Resolve**

26. The controlling question is unavoidable:
  27. 1. The Smithsonian is a trust instrumentality (IRC at 28).
  28. 2. The Regents are trustees (IRC at 29).
  29. 3. Trustees owe heightened fiduciary duties (IRC at 30–31).
  30. 4. The beneficiaries are the American people (IRC at 29–30).
31. If those premises are true—and they are established by the Smithsonian’s own governance record—then the enforceability of fiduciary compliance cannot be dismissed as a generalized grievance without addressing the trust structure itself.
32. The Memorandum Opinion acknowledged trustee status but declined to examine its legal consequences.
33. That omission is dispositive!

## **Fiduciary Duties**

34. The IRC Report (June 18, 2007), commissioned by the Chancellor and incorporated into the Smithsonian's official governance record, confirms that the Institution operates as a trust instrumentality whose Regents are trustees owing the highest fiduciary duties to the American people.
35. **[https://www.si.edu/content/governance/pdf/irc\\_report.pdf](https://www.si.edu/content/governance/pdf/irc_report.pdf)**
36. The District Court's standing analysis effectively nullifies that fiduciary structure by collapsing trustee obligations into generalized political grievance doctrine.
37. Where property is held in trust for defined beneficiaries, and trustees owe heightened fiduciary duties grounded in established trust law, allegations of breach raise enforceable legal questions—not abstract policy disputes.
38. For these reasons, dismissal for lack of standing was error, and the matter should be remanded for adjudication on the merits.

**THE SMITHSONIAN IS AN ACTIVE PUBLIC CHARITABLE TRUST, AND BENEFICIARIES OF ACTIVE TRUSTS POSSESS ENFORCEABLE RIGHTS TO IMPARTIAL ADMINISTRATION**

## **The Passive–Active Trust Distinction Defines the Scope of Beneficiary Enforcement**

39. Trust law distinguishes between passive trusts (sometimes termed “dry trusts”) and active trusts.
40. A passive trust exists where the trustee holds bare legal title and exercises no meaningful managerial discretion; the beneficiary’s equitable interest is effectively complete. Restatement (Third) of Trusts § 7 cmt. b; Bogert, *Trusts & Trustees* § 206.
41. An active trust, by contrast, exists where the trustee is charged with ongoing discretionary duties in administering the trust and carrying out the settlor’s purposes. Restatement (Third) of Trusts §§ 76 (duty to administer in accordance with terms and purposes), 79 (duty of impartiality); Scott & Ascher on Trusts § 17.2.
42. Public charitable trusts are paradigmatic active trusts. Their trustees:
43.
  - Exercise continuing discretionary judgment;
  - Select beneficiaries or define access;
  - Manage institutional assets;
  - Interpret and implement donor purpose.
44. Where discretion is active and continuous, fiduciary obligations are enforceable. The breadth of the beneficiary class does not eliminate

enforceability; it modifies the mechanism of enforcement. Restatement (Third) of Trusts § 94; Bogert § 414.

45. Thus, whether a beneficiary may seek judicial review turns not on whether the trust is public, but whether the trustee exercises active discretionary power affecting beneficiary participation.

### **Public Charitable Trusts Recognize Beneficiary Use and Participation as Central to Trust Purpose**

46. In *Kapiolani Park Preservation Society v. City & County of Honolulu*, 69 Haw. 569, 751 P.2d 1022 (1988), the park was held in trust for public use. The trustee-government's discretionary decisions affected how beneficiaries accessed and enjoyed the trust res. The Hawai'i Supreme Court recognized that when institutional guardians (trustee and Attorney General) aligned in a manner allegedly inconsistent with trust purposes, beneficiaries could seek equitable protection to prevent effective insulation of trustee discretion.
47. Similarly, in *Pennsylvania v. Board of Directors of City Trusts*, 353 U.S. 230 (1957), the trust governing Girard College actively selected and admitted beneficiaries under the will of Stephen Girard. The Supreme Court recognized that classification of the governing body determined whether constitutional constraints attached, because active selection of beneficiaries

implicates enforceable legal duties. Both cases share a common structural feature: the trust was active. Trustees exercised gatekeeping authority over access or participation. That authority triggered fiduciary and, where applicable, constitutional scrutiny.

### **The Smithsonian Is Structurally an Active Trust Instrumentality**

48. James Smithson’s bequest created an institution “for the increase and diffusion of knowledge among men.” Congress accepted the bequest as trustee and structured the Institution by statute. 20 U.S.C. § 41 et seq. The National Portrait Gallery is directed to function for the exhibition and study of portraiture “and of the artists who created such portraiture.” 20 U.S.C. § 75b(b).
49. The Smithsonian does not passively hold assets. It:
50.
  - Solicits submissions from the public;
  - Accepts donations;
  - Acquires works;
  - Loans and borrows works;
  - Curates exhibitions;
  - Exercises ongoing discretionary selection authority.

51. This is the definition of an active charitable trust. See Scott & Ascher § 17.2 (trust is active where trustees must exercise discretion in carrying out purposes). Because the Smithsonian exercises discretionary authority over which works fulfill its mission, its trustees owe enforceable duties of:
52. • Loyalty;
- Good faith administration;
  - Impartiality among beneficiaries;
  - Fidelity to donor intent.
- (Restatement (Third) §§ 76, 78, 79.)

### **Beneficiary Participation Is Integral to Mission Fulfillment**

53. Unlike passive public facilities, the Smithsonian's mission requires interaction with creators and contributors. Historically, the Institution has acquired works:
54. • By open request to the American public;
- By donation;
  - By acquisition;
  - By loan for special exhibitions;
  - Through internally generated research.

55. The National Portrait Gallery has displayed multiple works for presidential inaugurations, including donated or loaned works in addition to permanent collection pieces. Where trustees establish precedent for beneficiary participation and invite submissions consistent with mission, artists fall within a defined participant class. See 20 U.S.C. § 75b(b).
56. Appellant's submissions:
57. • Fell within a historically recognized category (presidential portraiture);
- Were sponsored by elected representatives;
  - Relied upon established precedent for inaugural installations;
  - Sought participation in a programmatic exhibition consistent with mission.
58. The trustee's exercise of discretionary gatekeeping authority in this context constitutes active trust administration affecting a statutorily identified beneficiary class.

### **Active Discretion Triggers the Duty of Impartiality**

59. The duty of impartiality requires a trustee to act with due regard to the respective interests of beneficiaries. Restatement (Third) § 79. Impartiality does not require equal outcomes. It requires that discretionary judgments be made in good faith and consistent with articulated trust purposes. Where trustee discretion is allegedly influenced by partisan animus or uneven

application of criteria, the question becomes whether discretion has departed from fiduciary norms. Because the Smithsonian operates as an active trust instrumentality, its discretionary curatorial decisions are not beyond legal characterization. They remain subject to fiduciary structure where beneficiary participation is implicated.

### **Hybrid Status Intensifies—Rather Than Eliminates—Enforceability**

60. The Smithsonian’s hybrid character—trust origin, statutory structure, federal appropriations, and governance by federal officers—does not dissolve fiduciary accountability.
61. If the Institution is classified as:
  62. • A federal instrumentality, constitutional constraints apply. See *Lebron v. Nat’l R.R. Passenger Corp.*, 513 U.S. 374 (1995).
  - A charitable trust instrumentality, fiduciary duties apply. See Restatement (Third) § 76.
  - A hybrid entity, both frameworks may operate.
63. The unresolved entity status directly affects whether beneficiary participation rights are judicially cognizable. Standing cannot be determined without clarifying that framework.

## **Judicial Clarification Is Necessary to Prevent Structural Insulation of Active Trustee Discretion**

64. In active public trusts, unchecked discretionary authority risks effective insulation from judicial review where:
65. • Trustees exercise gatekeeping power;
- Beneficiaries are broadly defined;
- The Attorney General declines to act;
- Institutional leadership is accused of partisan bias;
- Executive-branch conflict emerges regarding governance.
66. *Kapiolani* recognized that beneficiaries must not be left “without protection, or a remedy” when institutional guardians fail to safeguard trust purpose. The Smithsonian’s national scope and hybrid governance amplify the need for clarity. If beneficiary participation mechanisms operate without defined fiduciary constraint, discretionary power becomes structurally unreviewable.
67. Article III standing doctrine does not require courts to ignore trust classification questions that determine the existence of legally protected interests. See *Sprint Commc’ns*, 554 U.S. at 274 (legal interests grounded in assignment sufficient for standing); *Lujan*, 504 U.S. at 560 (injury requires invasion of legally protected interest). Because the Smithsonian functions as an active public charitable trust instrumentality exercising discretionary

gatekeeping authority over a statutorily identified participant class, beneficiaries possess a legally cognizable interest in impartial administration. Clarifying the Institution’s legal status is therefore not ancillary—it is the predicate necessary to resolve standing, define fiduciary duties, and prevent recurrence of structural governance disputes.

**The Relief Sought on Appeal Is Reversal of the Standing Dismissal and Remand for Merits Adjudication**

68. The district court dismissed this action solely on Article III standing grounds. It did not adjudicate the merits of Appellant’s fiduciary and structural claims.
69. Accordingly, the relief sought in this Court is limited and procedural:
70. 1. Reversal of the dismissal for lack of standing;
71. 2. Recognition that Appellant has alleged a legally protected interest sufficient to invoke Article III jurisdiction; and
72. 3. Remand to the district court for adjudication of the merits in the ordinary course.
73. This appeal does not request that the Court of Appeals order the display of any artwork, supervise curatorial decisions, or substitute judicial judgment for institutional discretion. The question at this stage is jurisdictional.

74. If Appellant is a statutorily identified participant in an active public trust, and if he has plausibly alleged breach of fiduciary duties of impartial administration, then the district court possesses subject-matter jurisdiction to determine whether those allegations are legally and factually substantiated. Article III redressability requires only that the requested judicial action be capable of remedying the alleged injury. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). Where a Appellant seeks declaratory or injunctive relief addressing allegedly unlawful procedures, reversal and remand are sufficient to satisfy redressability. See *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021).
75. Here, if the district court erred in concluding that Appellant lacked standing, the appropriate remedy is to restore the case to the posture it would have occupied absent that legal error: one in which the court may evaluate fiduciary obligations, entity status, and the merits of the claims. Courts routinely reverse jurisdictional dismissals and remand for merits adjudication when standing has been improperly denied. See, e.g., *Massachusetts v. EPA*, 549 U.S. 497, 516–26 (2007).
76. The limited nature of the appellate relief underscores that this case does not seek judicial control over artistic judgment. It seeks only recognition that beneficiaries of an active, congressionally structured public trust may invoke

federal jurisdiction when alleging breach of fiduciary duties. Whether Appellant ultimately prevails on the merits is a question for the district court after full briefing and record development. The sole relief sought here is restoration of judicial review.

**STANDING ARGUMENT- *KAPIOLANI* IS PERSUASIVE  
CHARITABLE-TRUST BENEFICIARY STANDING AUTHORITY;  
FEDERAL COURTS ROUTINELY TREAT OPINIONS OF THE FIVE  
JUSTICES FROM THE HAWAI‘I SUPREME COURT DECISIONS  
AS AUTHORITATIVE; THE DISTRICT COURT’S ONE-SENTENCE  
DISMISSAL IS ANALYTICALLY INCOMPLETE**

**The district court did not *distinguish Kapiolani*; it *categorically excluded* it because it is “Hawaii state law.”**

77. The Memorandum Opinion rejects Appellant's charitable-trust beneficiary standing theory in a single step—stating that Appellant's authority “comes from Hawaii state law and thus does not affect this case.” That reasoning does not engage the operative question for Article III: whether the Appellant has alleged invasion of a **legally protected interest** (often defined by trust/property law) sufficient to constitute injury-in-fact.

***Kapiolani*'s holding is an explicit, broad public-beneficiary standing rule tied to use of the trust corpus, not a narrow “special-interest beneficiary” label.**

78. *Kapiolani* holds that a court of equity has inherent jurisdiction to determine alleged breaches of charitable trust, and that ordinarily the trustee or the Attorney General as *parens patriae* seeks instructions. *Kapiolani Park Pres. Soc’y v. City & Cnty. of Honolulu*, 69 Haw. 569, 571–72, 751 P.2d 1022, 1024–25 (1988). But critically, where (i) the trustee is a governmental agency that does not file periodic accountings and refuses to seek court instructions despite a genuine controversy about its power, and (ii) the Attorney General as *parens patriae* joins the alleged breach, the Hawai‘i Supreme Court held: “[T]he citizens of this State would be left without protection, or a remedy, unless we hold, as we do, that members of the public, as beneficiaries of the trust, have standing to bring the matter to the attention of the court.” *Id.* at 572, 751 P.2d at 1025. (Bold added)
79. That is not a boutique Hawaii doctrine; it is a classic charitable-trust enforcement rationale: beneficiaries may be heard when the institutional guardians (trustee + AG) will not protect the trust res.

**Federal courts repeatedly treat Hawai‘i Supreme Court decisions as “clear and controlling” when Hawai‘i law governs, and they also cite Hawai‘i Supreme Court decisions as persuasive authority in broader federal analyses.**

80. The proposition that “Hawai‘i state law ... does not affect” a federal analysis is not a rule of federal practice. Federal courts routinely rely on state supreme court precedent as authoritative when state law supplies the governing rule, and they sometimes use state high-court decisions as persuasive authority for interpretive principles.

81. **a. Ninth Circuit: Hawai‘i Supreme Court precedent is “clear and controlling.”**

“In re Kekauoha-Alisa” expressly states “Hawaii precedent is clear and controlling,” then relies on Hawai‘i Supreme Court decisions (including *Silva* and *Lee*) to define the governing foreclosure remedy and reject a federal tribunal’s attempt to soften strict compliance. *Kekauoha-Alisa v. Ameritrust Mortg. Co. (In re Kekauoha-Alisa)*, 674 F.3d 1083, 1088–92 (9th Cir. 2012).

82. **b. Ninth Circuit: Hawai‘i Supreme Court standards govern state-law preemption and county power.**

In *Syngenta Seeds*, the Ninth Circuit applies Hawai‘i Supreme Court

preemption doctrine and quotes the Hawai‘i Supreme Court’s presumption regarding county police power delegation. *Syngenta Seeds, Inc. v. Cnty. of Kauai*, 842 F.3d 669, 679–81 (9th Cir. 2016) (quoting *Haw. Gov’t Emps.’ Ass’n v. Cnty. of Maui*, 59 Haw. 65, 77, 576 P.2d 1029, 1038 (1978)).

**83. c. Ninth Circuit: Hawai‘i Supreme Court definitions supply operative state consumer-protection standards.**

The Ninth Circuit in *Yokoyama* relies on Hawai‘i Supreme Court formulations defining deception under HRS § 480-2. *Yokoyama v. Midland Nat’l Life Ins. Co.*, 594 F.3d 1087, 1092–93 (9th Cir. 2010) (drawing on Hawai‘i Supreme Court UDAP doctrine, including *Courbat*).

**84. d. Ninth Circuit: *Kapiolani* itself is cited by a federal appellate court as persuasive authority for a general interpretive principle.**

The Ninth Circuit cites *Kapiolani* for the proposition that Hawai‘i courts (like federal courts) construe statutes to avoid constitutional infirmity where possible. *A-1 A-Lectrician, Inc. v. Snipes*, 803 F.3d 999, 1011 n.3 (9th Cir. 2015) (citing *Kapiolani*, 751 P.2d at 1028).

**85. Bottom line:** federal courts do not treat Hawai‘i Supreme Court authority as categorically irrelevant “state law” that “does not affect” federal analysis; they treat it as binding when Hawai‘i law governs and as persuasive where it articulates general legal principles.

**The proper Article III framing: *Kapiolani* is not offered to “override Article III,” but to identify a legally protected interest (beneficiary status) that can supply injury-in-fact.**

86. Article III standing is federal and immutable; however, “injury in fact” requires invasion of a “legally protected interest.” Whether a person is a **beneficiary** of a charitable trust, and whether beneficiaries may seek equitable protection of the trust res when the ordinary guardians fail, are questions rooted in trust doctrine.
87. *Kapiolani* speaks directly to that threshold: it recognizes that **members of the public who use the trust res**, like American’s travelling to Washington D.C. and participating in, learning from and enjoying the Smithsonian, are “beneficiaries of the trust,” and it explains why denying them access to court when trustee and AG align would leave the beneficiaries without “protection, or a remedy.” 69 Haw. at 572, 751 P.2d at 1025.
88. Therefore, *Kapiolani*’s relevance is not that Hawai‘i can change Article III; it is that *Kapiolani* supplies a **recognized doctrinal mechanism** for identifying beneficiary status and explaining why equity permits beneficiary enforcement in the trustee-government/AG-alignment scenario. That is precisely the kind of doctrine federal courts routinely consult when determining whether a Appellant has a legally cognizable stake.

**Why the district court’s “Hawaii law” dismissal is analytically incomplete even if *Kapiolani* is non-binding.**

89. Even if *Kapiolani* is not controlling law in the District of Columbia, a court still must do one of two things:
90. **Distinguish it on the merits** (e.g., explain why the Smithsonian context lacks the trustee-government/AG-alignment dynamics or why “use” of the Smithsonian does not plausibly identify a beneficiary class), or
91. **Identify the governing charitable-trust framework** (federal common law, D.C. trust law, or otherwise) and explain why that governing law rejects beneficiary standing in comparable circumstances.
92. A blanket statement that “Hawaii state law ... does not affect this case” does neither. It bypasses the logically prior inquiry: whether the pleaded relationship to the trust corpus can constitute a legally protected beneficiary interest that makes the alleged breach judicially cognizable.

**APPELLANT DOES NOT RELY ON KAPIOLANI ALONE FOR  
STANDING, HE HAS ARTICLE III STANDING BECAUSE HE IS A  
MEMBER OF A STATUTORILY IDENTIFIED BENEFICIARY CLASS  
AND SUFFERED A CONCRETE DENIAL OF IMPARTIAL TRUST  
ADMINISTRATION**

93. The district court dismissed for lack of standing, concluding that Appellant alleged only “abstract” and “generally available grievance[s] about government” rather than a concrete, particularized injury. That framing overlooks the statutory structure of the Smithsonian National Portrait Gallery, longstanding charitable trust beneficiary doctrine, and the specific, individualized nature of Appellant’s injury.

**Congress Identified “Artists Who Created [the Portraits]” as a Defined Participant Class in the Gallery’s Mission**

94. The National Portrait Gallery “shall function as a free public museum for the exhibition and study of portraiture and statuary depicting” significant Americans “*and of the artists* who created such portraiture and statuary.” 20 U.S.C. § 75b(b). (Bold and italics added)
95. Congress did not describe a museum serving only passive visitors. It expressly recognized a defined class: the *artists who created the works*. That statutory language identifies artists as more than members of the undifferentiated public. They are participants in the institutional mission itself. Appellant is an artist who submitted portraiture to the Gallery under

its published criteria. He is therefore within a congressionally identified class tied directly to the trust's function.

96. This is not a generalized grievance about governance. It is a dispute arising from Appellant's participation in a statutory mission that expressly contemplates artists.

**Charitable Trust Law Recognizes Standing for Beneficiaries With Special Interest in Trust Administration**

97. The District of Columbia recognizes that public charitable trusts are ordinarily enforced by the Attorney General (D.C. Attorney General Brian Schwalb was invited to participate in this case but declined to intervene), but courts also recognize standing for beneficiaries with a "special interest distinct from that of the public at large." *Edes Home v. Hooker*, 204 F.2d 555 (D.C. Cir. 1953).
98. Modern D.C. cases summarize that doctrine as permitting beneficiary standing where:
99. The Appellant belongs to a sharply defined beneficiary class, and
100. The challenged action is extraordinary and threatens proper administration of the trust. See *Hooker v. Edes Home*, 579 A.2d 608 (D.C. 1990).
101. *Appellant satisfies both prongs.*

102. First, “artists who created such portraiture” are expressly identified in the governing statute. Appellant is not merely a museum visitor; he is a member of a statutorily recognized participant class.
103. Second, the controversy here was not an ordinary exercise of curatorial discretion. Appellant's rejections became one of the publicly enumerated reasons cited by the President of the United States in attempting to remove the Director of the National Portrait Gallery. That executive action triggered a governance conflict between the Executive Branch and the Smithsonian Board of Regents, including public statements regarding partisan administration. This is not routine discretionary decision-making; it reflects alleged structural dysfunction in trust administration.
104. Under D.C. special-interest doctrine, that is sufficient to permit beneficiary standing.
105. The district court’s reliance on *Navajo Nation* is misplaced. Those cases concern claims for money damages against the United States and require a specific, rights-creating source of law sufficient to overcome sovereign immunity. Plaintiff seeks no monetary relief. He seeks declaratory and prospective fiduciary compliance—namely, impartial reconsideration consistent with governing standards. Moreover, this case does not rest on a “general trust relationship.” The Smithsonian’s enabling statutes, including

the National Portrait Gallery's mandate, 20 U.S.C. § 75b(b), together with the Institution's accepted trust structure and mission obligations, constitute specific legal sources defining duties of administration. This is therefore not abstract trust rhetoric, but a claim grounded in identifiable statutory and fiduciary obligations capable of prospective enforcement.

### **The District Court's Failure to Engage Special-Interest Doctrine**

#### **Warrants Reversal**

106. The district court did not analyze whether artists constitute a sharply defined beneficiary class under 20 U.S.C. § 75b(b). It did not engage the *Edes Home* special-interest framework. It did not evaluate whether executive-level controversy and public identification of Appellant's case transformed the dispute from ordinary curatorial discretion into extraordinary fiduciary governance dysfunction.
107. Instead, it dismissed the case as presenting only generalized grievances. Because Appellant alleged individualized injury as a statutorily identified beneficiary subjected to allegedly partisan administration of a charitable trust, dismissal for lack of standing was error.

### **APPELLANT'S INJURY IS CONCRETE AND PARTICULARIZED**

108. The district court characterized Appellant's injury as abstract and generalized. That characterization fails to account for the individualized nature of the injury. A fiduciary violation may affect the integrity of the trust as a whole while simultaneously inflicting a distinct and personal injury upon a beneficiary who is directly subjected to the challenged conduct. The Memorandum Opinion conflates breadth of institutional consequence with absence of individual harm. That is doctrinally incorrect. The pleaded injury is not abstract institutional decline; it is the concrete denial of impartial trust administration following repeated submissions, appeals, and formal notice to supervisory trustees. The fact that other beneficiaries may also suffer from the same breach or related and consequential breaches or executive overreaches does not convert an individualized fiduciary injury into a generalized grievance.
109. Appellant's portrait submissions and rejections were explicitly identified as number four on the list of seventeen reasons cited in the President's attempted removal of the "highly partisan" Director. Appellant's dispute was not incidental; it was publicly invoked as evidence of alleged partisan administration. That individualized identification distinguishes Appellant from "the public at large." It confirms that his submission was entangled in a

contested administrative regime. Appellant's injury is not "institutional decline." It is:

110. 1. Denial of impartial consideration twice under the governing standards of the Gallery;
111. 2. Administration of trust duties under alleged partisan influence;
112. 3. Exclusion from fair participation in a process to which his statutory class is central.
113. 4. Denial of impartial administration is a concrete injury in charitable trust law. Trustees owe a duty of impartiality and fidelity to donor intent. If that duty is breached in the consideration of Appellant's submission, the injury is personal and real.

**The Court Erred In Concluding Appellant Failed To Allege A Concrete, Particularized Injury**

114. The memorandum opinion dismisses this action on the ground that Appellant "never alleges a concrete harm, particular to himself." That conclusion rests on an impermissibly narrow characterization of the injury and an improper elevation of form over substance. Appellant did not allege a mere "professional insult," nor a generalized grievance about governance.

He alleged a continuing breach of fiduciary duty within a charitable trust in which he is a named and statutorily contemplated beneficiary class member (artist), whose individual participation was repeatedly obstructed by partisan fiduciaries knowingly retained and protected by superior trustees.

115. That is not abstract. That is not generalized. That is personal, traceable, and redressable.
116. The district court's reliance on *FDA v. Alliance for Hippocratic Medicine* is likewise misplaced. That case involved plaintiffs who were not themselves the objects of the challenged government action but instead asserted indirect institutional or third-party injuries. Plaintiff here was the direct recipient of the challenged decision: he submitted formal applications, received rejections, pursued reconsideration, and was denied further review. He is not attempting to litigate generalized policy disagreements or the rights of others. He challenges a decision specifically applied to him. That direct interaction satisfies the "personal stake" requirement articulated in *Hippocratic Medicine*.

**The Amended Complaint Defines A Personal, Continuing Fiduciary Injury**

117. The Amended Complaint expressly alleges that:

118. 1. Appellant is a “lawful trust beneficiary” bringing suit to vindicate fiduciary obligations.
119. 2. Trustees retained and shielded Director Sajat after judicial findings describing her conduct as “odious and partisan” and “highly partisan,” by the President.
120. 3. Appellant’s appeals were deflected, not adjudicated, and institutional review standards were replaced with partisan animus.
121. 4. The December 2024 resubmission (See Exhibits) was arbitrarily denied again, this time with Secretary Bunch and other officials directly copied and aware.
122. The December 10, 2024 submission was addressed not only to Director Sajat but also to Secretary Bunch, Dr. Richard Kurin, the Board of Regents through the Regents’ Chief of Staff Porter Wilkinson, and the Smithsonian’s Public Affairs Office.
123. The written application (see Exhibits) expressly tied the portraits to the Smithsonian’s foundational mission to “increase and diffuse knowledge” and to the National Portrait Gallery’s mandate to preserve and exhibit portraits of persons who have shaped the Nation’s history and culture.
124. The response to that submission was a brief, conclusory denial stating that “plans are already in place” and nothing more.

125. It did not articulate applicable mission criteria, describe any principled standards, reference historical practice, or explain why Plaintiff’s submission was inadequate. Plaintiff’s conciliatory follow-up—seeking dialogue and institutional reconciliation—went unanswered.
126. This procedural vacuum is stark when compared to the Smithsonian’s own treatment of a practically identical subject matter in 2013 (See Exhibits). In connection with the presidential inauguration of President Barack Obama, the Institution welcomed beneficiary participation by prominently accepting and displaying **two** oversized Chuck Close portraits of President Obama, on **loan** from billionaire collectors, **solely for the inaugural celebration** along with the gallery’s own Obama ‘Hope’ poster. The Smithsonian’s press release noted that the Gallery “celebrates the 2013 Presidential Inauguration with exhibits and programs” including those portraits, recognizing their cultural and historical significance in a manner indistinguishable in purpose from Plaintiff’s submission. See Smithsonian Newsdesk, *Smithsonian Celebrates 2013 Presidential Inauguration Exhibits and Programs*, June 8, 2013 (noting exhibit of two Chuck Close Obama portraits, and one Shepard Fairey portrait at the National Portrait Gallery for the inauguration).
127. The comparison is dispositive on the fiduciary duty of neutrality. When an institution has a consistent history of accepting and exhibiting similar

material for the same occasion, it creates an expectation that submissions will be assessed according to principled standards, not summary dismissals without explanation. A fiduciary must *adequately disclose, carefully apply scrutable criteria*, and *document its reasoning* before rejecting such a submission—especially where prior litigation has already raised concerns about impartiality. Here, the rejection contained none of those elements and the institutional leadership provided no supervisory review or explanation.

128. The Regents and senior officials thus had actual notice—not merely constructive knowledge—of the potential for perceived partisanship and the need for a careful, documented, impartial review. The Smithsonian’s Independent Review Committee and related governance instruments consistently emphasize that senior leadership must exercise oversight to protect institutional integrity and public trust when controversies implicating neutrality arise.
129. Once on notice, fiduciaries cannot simply allow a denial to stand without articulated rationale, especially in a politically sensitive context to an artist with gallery participatory rights; doing so constitutes institutional ratification by inaction.
130. Article III traceability is satisfied because the continued injury—the refusal to provide impartial and procedurally faithful consideration—is fairly

attributable to those supervisory defendants who had authority to cure it.

After being placed on notice through multiple channels, and in light of relevant historical practice, no supervisory official took action to ensure neutral administration. Plaintiff's requested relief seeks prospective assurance of impartiality consistent with the Smithsonian's binding mission and fiduciary obligations—not judicial substitution of aesthetic judgment.

131. These allegations do not describe abstract dissatisfaction. They describe:

132. 1. A trustee's partisan exclusion of a beneficiary.

133. 2. Knowledge of that exclusion by superior fiduciaries.

134. 3. Affirmative retention of the partisan actor.

135. 4. A second rejection after years of notice.

136. 5. Continued silence even after presidential acknowledgment of the partisanship.

137. The injury is not reputational displeasure. It is exclusion from trust participation by fiduciaries who were on notice of ongoing disqualifying bias and refused to cure it.

### **Standing And Fiduciary Breach: The Injury Is Structural And Personal**

138. Article III standing requires:

139. 1. Injury in fact (concrete and particularized),
140. 2. Causation,
141. 3. Redressability.
142. Each element is satisfied.

**Injury in Fact: Breach of Fiduciary Duty Is a Recognized Concrete Harm**

143. In trust law, **breach of fiduciary duty is itself a concrete injury**. Equity does not require economic loss to recognize harm. The violation of duties of loyalty, impartiality, and good-faith administration constitutes actionable injury.
144. Appellant alleges that:
  145. 1. Trustees knowingly retained a partisan director after judicial condemnation.
  146. 2. Trustees ignored formal appeals.
  147. 3. Trustees failed to compel impartial reconsideration.
  148. 4. Trustees allowed repeated exclusion of a beneficiary.
  149. 5. Those are classic fiduciary injuries. Courts have long held that beneficiaries suffer injury when trustees administer a trust with bias or

disloyalty, even absent monetary damages. The memorandum opinion collapses this fiduciary harm into a vague grievance about “institutional integrity.” That reframing strips the claim of its trust-law core and transforms a fiduciary breach into a political complaint. That was error.

150. The injury alleged is not “diminished integrity.” It is denial of beneficiary participation through *partisan* administration of a charitable trust.

151. *That is concrete!*

**Particularization: This Harm Is Not Shared by the Public at Large**

152. The opinion asserts the alleged harm affects “the public at large.” That misstates the complaint.

153. *The public at large did not:*

154. 1. Submit a presidential portrait.

155. 2. Receive an 11-minute hostile rejection from the Director in 2016 and an arbitrary rejection in 2024.

156. 3. File formal fiduciary appeals to the Board of Regents.

157. 4. Resubmit in December 2024 with the Secretary directly on notice.

158. 5. Experience repeated exclusion by the same partisan actor retained by trustees without curatorial consideration under standards of portraiture acceptance.

159. Appellant's injury is individualized because:
160. 1. He is a member of a statutorily recognized beneficiary class (artists under the National Portrait Gallery mandate).
161. 2. His submissions were personally denied.
162. 3. His appeals were personally ignored.
163. 4. He was personally blocked from institutional communication channels.
164. 5. His work was rejected twice by a fiduciary later publicly identified as partisan.
165. This is not a generalized grievance about governance. It is repeated, targeted exclusion from trust participation.

**Causation: The Nexus Between Sajet, Bunch, and Roberts**

166. The memorandum opinion attempts to isolate the 2024 rejection as Sajet's "independent action." That characterization ignores the pleaded nexus.
167. The Amended Complaint alleges:
168. 1. Judicial notice in 2018 labeling Sajet's conduct "odious and partisan."
169. 2. Appeals sent directly to Chancellor Roberts and the Regents.
170. 3. Deflection rather than adjudication.
171. 4. Retention of Sajet for eight years after notice.

172. 5. Secretary Bunch copied and aware during the December 2024 submission/rejection.
173. 6. Public admission by Bunch of partisan permeation.
174. 7. Presidential identification of Appellant's case as a reason for removal.
175. Trust law is clear: when superior fiduciaries know of a breach and fail to intervene, *they participate in the breach!*
176. *The injury is therefore traceable not merely to Sajat's rejection, but to:*
177. 1. The Regents' refusal to remove her.
178. 2. The Secretary's failure to compel impartial reconsideration.
179. 3. The Chancellor's continued inaction after notice.
180. 4. The breach transferred upward. Fiduciary silence is actionable nonfeasance.

### **Redressability**

181. The requested relief—declaratory clarification of trust status, fiduciary enforcement, removal of unfit trustees, and injunction against partisan administration—would directly redress the injury by:
182. 1. Requiring impartial review.
183. 2. Clarifying fiduciary standards.

184. 3. Preventing recurrence thus protecting the beneficiary public at large, especially other artists.
185. That satisfies Article III.

**The Memorandum Opinion Improperly Diminishes A Fiduciary Breach To A Marketplace “Professional Insult”**

186. The recurring analytical flaw across the district court’s rulings is evasive reductionism, contrasting Justice Benjamin Cardozo’s standard definition of the conduct of fiduciaries; “Many forms of conduct permissible in a workaday world for those acting at arm's length, are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the *morals of the marketplace*. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the “*disintegrating erosion*” of particular exceptions. Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd. It will not consciously

be lowered by any judgment of this court.” [*Meinhard v. Salmon*, 249 N.Y. 458, 464 (N.Y. 1928) (Cardozo, J.)](Italics and bold added.)

187. In 2018, the court acknowledged odious and partisan conduct but dismissed the claim as a mere professional insult. In the present opinion, the court again minimizes the harm as abstract dissatisfaction. By recasting fiduciary breach as reputational or political grievance, the court:

188. 1. Avoids confronting the trust structure.

189. 2. Avoids applying fiduciary standards.

190. 3. Avoids determining whether the Smithsonian is a private trust or a federal instrumentality.

191. The unresolved entity question is central. If the Smithsonian is “government through and through,” then constitutional constraints apply. If it is a private charitable trust, then fiduciary duties govern and beneficiaries may enforce them. The refusal to definitively resolve this status enables courts to oscillate between doctrines, minimizing responsibility under both. This ambiguity permits fiduciaries to dilute their obligations and courts to dilute the injury.

### **The Severity Of The Breach**

192. This is not about curatorial taste. It is about:

193. 1. Loyalty.
194. 2. Impartiality.
195. 3. Good-faith administration.
196. 4. Protection of beneficiaries.
197. 5. Enforcement of donor intent.
198. *Trustees who knowingly retain a biased administrator after judicial warning violate:*
199. 1. Duty of loyalty.
200. 2. Duty of impartiality.
201. 3. Duty to protect the trust.
202. 4. Duty to remedy co-trustee breach.
203. The breach deepened in December 2024 when Secretary Bunch was directly involved and no corrective action occurred.
204. The injury intensified when the President publicly identified the partisan problem and the institution remained silent, tacitly defending Sajet until her resignation, and then commended her service. Silence after notice is not neutrality. It is acquiescence.

**Appellant Has Alleged A Concrete, Particularized Fiduciary Injury**

205. The complaint does not allege:

206. 1. A generalized political grievance.
207. 2. An abstract concern about institutional integrity.
208. 3. A mere “professional insult.”
209. It alleges:
  210. 1. Repeated trust beneficiary exclusion by a partisan fiduciary.
  211. 2. Knowledge of that partisanship by superior trustees.
  212. 3. Deliberate retention and protection of the partisan actor.
  213. 4. Continued obstruction of beneficiary participation.
  214. 5. Failure to cure breach after eight years of notice.
215. Under settled trust principles, *that is injury*.
216. Under Article III, *that is particularized*.
217. Under equity, *that is actionable*.
218. The district court’s dismissal rests on a mischaracterization of the pleaded harm and an improper dilution of fiduciary standards. The judgment should be reversed and the case remanded for adjudication on the merits.

**SAJET’S RESIGNATION DOES NOT MOOT APPELLANT’S**

**CLAIMS**

219. Any suggestion that Director Sajat’s resignation moots this case fails under both trust law and Article III mootness doctrine.

**A Trustee’s Resignation Does Not Extinguish Liability Or Cure A Breach**

220. As a matter of black-letter trust law, resignation does not erase fiduciary wrongdoing. The District of Columbia Uniform Trust Code provides unequivocally: “A trustee who resigns or is removed remains liable for acts or omissions occurring before the resignation or removal.”  
D.C. Code § 19-1307.05(c).
221. The Restatement (Third) of Trusts confirms the same principle: a trustee’s resignation “does not discharge the trustee from liability for prior breaches of trust,” and equitable remedies remain available until the breach is remedied. Restatement (Third) of Trusts § 96 cmt. B. Courts routinely impose surcharge and equitable remedies against fiduciaries even after removal or departure. See *In re Estate of Rothko*, 43 N.Y.2d 305, 318–21 (1977) (affirming removal and surcharge for breach of loyalty despite termination of fiduciary tenure).

222. The legal principle is straightforward:

**resignation ends office, not accountability.**

223. Accordingly, Sajat's departure cannot moot claims based on breaches committed during her tenure, nor can it eliminate the obligation of current trustees to remedy those breaches.

### **The Breach Is Institutional And Remains Unresolved**

224. The pleaded injury is not confined to Sajat's individual conduct. It includes:

225. 1. The Regents' knowing retention of a partisan fiduciary after judicial notice.

226. 2. The Secretary's failure to compel impartial reconsideration.

227. 3. The Chancellor's inaction despite formal appeals.

228. 4. Institutional ratification of partisan administration.

229. A charitable trust remains in breach until the breach is adjudicated and remedied. Successor or remaining trustees inherit the duty to cure. See Restatement (Third) of Trusts §§ 94, 96. Where co-trustees are aware of a breach and fail to act, they themselves commit breach. The duty to compel redress is ongoing. Thus, even if Sajat were no longer present, the Regents and Secretary remain responsible for:

230. 1. Investigating the prior breach.

- 231. 2. Ordering impartial reconsideration.
- 232. 3. Restoring faithful administration.
- 233. 4. Accounting for past violations.
- 234. Because none of that has occurred, the controversy remains live.

**Voluntary Cessation Does Not Moot A Case**

235. Federal mootness doctrine independently forecloses any “resignation equals mootness” theory. The Supreme Court has repeatedly held:

236. “Voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case.”

*Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs.*, 528 U.S. 167, 189 (2000).

237. A defendant must show it is “absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.” *Id.*

238. Likewise:

239. A defendant’s abandonment of challenged conduct does not moot a case where it is free to resume that conduct at any time.

*City of Mesquite v. Aladdin’s Castle, Inc.*, 455 U.S. 283, 289 (1982).

240. Here:

241. 1. There has been no admission of breach.

- 242. 2. No corrective policy has been implemented.
- 243. 3. No impartial review has been ordered.
- 244. 4. No fiduciary standards have been clarified.
- 245. 5. No declaratory relief has been entered.
- 246. Nothing prevents recurrence under a successor official. Nothing demonstrates institutional reform. Voluntary resignation, especially under political pressure, is not the same as judicially supervised remediation.
- 247. Under *Laidlaw*, the burden rests on the party asserting mootness. That burden cannot be met here.

### **Effective Relief Remains Available**

- 248. A case is moot only if the court can no longer grant effective relief.
- 249. Here, the Court can still:
  - 250. 1. Declare the fiduciary duties owed.
  - 251. 2. Order impartial reconsideration.
  - 252. 3. Compel corrective governance procedures.
  - 253. 4. Require accounting or surcharge if appropriate.
  - 254. 5. Clarify the entity status governing fiduciary standards.
- 255. Because meaningful relief remains available against current trustees, the controversy remains justiciable.

**Mootness Cannot Be Used To Avoid Adjudication Of Completed Breaches**

256. If resignation alone mooted fiduciary claims, any trustee could avoid judicial review by stepping down once sued. That is not the law. Trust law rejects that maneuver. Article III rejects that maneuver. Equity rejects that maneuver. The breach occurred. The institutional ratification occurred. The injury remains uncured.
257. *Resignation does not extinguish liability.*
- It does not cure breach.*
- It does not moot the case.*

**THE DISTRICT COURT SHOULD NOT HAVE AVOIDED THE ENTITY-STATUS QUESTION WHERE APPELLANT SOUGHT LIMITED INJUNCTIVE RELIEF PENDING RESOLUTION OF THE SMITHSONIAN'S LEGAL CHARACTER**

**The Requested Injunctive Relief Was Narrow and Designed to Preserve Institutional Integrity Pending Clarification of Federal Law**

258. Appellant’s motion for injunctive relief did not seek judicial takeover of curatorial discretion. It sought temporary suspension of the ongoing executive–trustee conflict surrounding the administration of the Smithsonian and adjudication on Appellant’s personal injury while the courts resolved a threshold federal question:

**What is the Smithsonian Institution’s legal status, and what fiduciary and constitutional duties govern its administration?**

259. That question remains unsettled in federal jurisprudence.

260. The Smithsonian is:

261. 1. Founded upon a private testamentary bequest (the Smithson trust),

262. 2. Created and structured by Act of Congress,

263. 3. Governed by a Board of Regents that includes federal officials,

264. 4. Funded in part by federal appropriations although not intended within the original will of Smithson, since appropriations convert the gift into a tax payer funded liability.

265. And yet repeatedly described as sui generis.

266. The injunctive relief sought was preservative:

267. 1. Maintain the status quo.

268. 2. Prevent further politicized incursions.

269. 3. Ensure impartial administration pending clarification of governing law.
270. Such relief is squarely within traditional equitable authority where institutional governance is under dispute.

**Courts Have Historically Resolved Entity Status Before Reaching Merits — Because Duties Flow From Status**

271. In both *Lebron v. National Railroad Passenger Corp.*, 513 U.S. 374 (1995), and *Pennsylvania v. Board of Directors of City Trusts*, 353 U.S. 230 (1957), the Supreme Court recognized that before determining whether rights were violated, the Court had to determine what the entity was.
272. In *Lebron*, the Court first answered whether Amtrak was a governmental actor for constitutional purposes. Only after resolving that structural question could it address First Amendment implications.
273. In *Pennsylvania v. Board of Directors of City Trusts*, the Court first determined whether the Board operating Girard College was a state actor subject to the Fourteenth Amendment before adjudicating racial exclusion claims.
274. The sequence was clear:
275. 1. Identify the entity.
276. 2. Determine governing duties.

277. 3. Then evaluate alleged breaches.
278. Here, no federal court has definitively resolved:
279. 1. Whether the Smithsonian is a federal agency,
280. 2. A private charitable trust instrumentality,
281. 3. A hybrid public corporation,
282. 4. Or a unique constitutional entity.
283. Without answering that question, it is impossible to determine:
284. 1. Whether the Executive Branch has removal and content revision authority,
285. 2. Whether fiduciary trust principles govern internally,
286. 3. Whether constitutional limitations attach,
287. 4. What rights beneficiaries possess.

### **The Unresolved Status Question Is Central, Not Peripheral**

288. The governance conflict described in the record—where the President publicly declared the Director “highly partisan,” attempted removal, and the Board of Regents rebuffed executive authority—demonstrates that even the political branches disagree about the Smithsonian’s status and lines of authority.
289. This dispute is not abstract. It directly affects:

290. 1. Who may administer the trust,
291. 2. Whether administration must remain insulated from executive influence,
292. 3. And whether beneficiaries may seek equitable protection.
293. Appellant's request was not for premature merits adjudication. It was for the Court to:
294. 1. Preserve institutional neutrality,
295. 2. And clarify the entity's legal character before further disruption occurs.
296. 3. Equity traditionally acts to prevent irreparable harm pending resolution of controlling legal questions.

**Avoiding the Entity Question Leaves Fiduciary Duties Undefined and Potentially Unenforceable**

297. The district court dismissed at the standing stage without addressing the underlying entity-status question. But the standing analysis itself depends on whether Appellant has a legally protected interest. That determination cannot be divorced from:
298. 1. The Smithsonian's legal classification,
299. 2. The source of its governing duties,

300. 3. And the nature of its fiduciary obligations.
301. 4. If the Smithsonian is a federal instrumentality, constitutional constraints apply.
5. If it is a charitable trust, fiduciary duties of loyalty and impartiality govern.
6. If it is a hybrid, both bodies of law operate.
302. Until that structural question is resolved, both beneficiaries and trustees operate in uncertainty.

**Equity Does Not Shrink From Structural Clarification Where Necessary to Prevent Ongoing Institutional Conflict**

303. The Supreme Court in *Lebron* did not decline review because entity classification was complex. It resolved the classification question precisely because constitutional accountability required clarity. Similarly, in *Pennsylvania v. Board of Directors of City Trusts*, the Court did not treat the trust's public-private hybrid nature as a reason to avoid adjudication. It clarified the entity's status in order to determine governing obligations. This Court likewise possesses authority to clarify the Smithsonian's status for

purposes of federal law. The Circuit Court may undertake that analysis where necessary to resolve standing and define governing duties.

### **Clarification Would Promote Stability, Not Disruption**

304. Appellant’s position is not adversarial to institutional continuity. It is the opposite. Once the Smithsonian’s status is definitively clarified:
305. 1. The boundaries between executive authority and trustee authority will be clear.
306. 2. Fiduciary duties will be concretely defined.
307. 3. Beneficiary rights will be known.
308. 4. Political incursions will be limited by legal structure.
309. 5. The trust will function as designed—under clearly articulated rules.
310. Uncertainty breeds conflict. Clarification restores order.

### **The Circuit Court Has Authority to Resolve the Question Presented**

311. The entity-status question is one of federal law. It implicates:
312. 1. Congressional intent,
313. 2. Separation of powers,
314. 3. Federal trust principles.

315. The Circuit Court need not await further litigation. Where structural uncertainty underlies standing and merits alike, appellate courts may clarify governing law.
316. Resolution of that question would:
317. 1. Determine whether Appellant possesses a legally protected beneficiary interest.
318. 2. Define the applicable duties of impartial administration.
319. 3. Provide uniform guidance for future governance disputes.

**RELIEF SOUGHT ON APPEAL:**

**A CLEAR AND LIMITED ROADMAP**

320. This appeal does not ask this Court to curate artwork, supervise museum programming, remove trustees, or adjudicate the ultimate merits of fiduciary breach. It asks this Court to correct a jurisdictional error and to restore the ordinary judicial process.

The district court dismissed this action solely on Article III standing grounds without reaching the merits of Appellant’s fiduciary, structural, and entity-status claims.

321. The relief sought here is therefore procedural, structural, and limited.

### **I. Reversal of the Standing Dismissal**

322. First, Appellant respectfully requests reversal of the dismissal for lack of standing.

As demonstrated throughout this brief, Appellant alleged:

- Membership in a statutorily identified participant class (artists under 20 U.S.C. § 75b(b));
- Concrete denial of impartial trust administration;
- Repeated exclusion from participation under allegedly partisan fiduciary conduct;
- Traceability to named trustees with notice; and
- Redressability through declaratory and equitable relief.

323. Where a Appellant plausibly alleges invasion of a legally protected interest, dismissal at the jurisdictional stage is improper. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). Courts routinely reverse standing

dismissals where fiduciary or structural interests were prematurely characterized as generalized grievances. See *Massachusetts v. EPA*, 549 U.S. 497, 516–26 (2007).

Reversal is therefore the threshold and necessary remedy.

## **II. Recognition That Appellant Has Alleged a Legally Protected Beneficiary Interest**

324. Second, Appellant requests that this Court clarify that beneficiaries of an active public charitable trust instrumentality may possess a legally protected interest sufficient to satisfy Article III when alleging breach of duties of loyalty and impartial administration.
325. The Smithsonian’s own governance record confirms trustee status and fiduciary obligations.
326. Trust law recognizes breach of fiduciary duty as a concrete injury. Restatement (Third) of Trusts §§ 76, 78, 79. District of Columbia precedent recognizes beneficiary standing where a defined class and extraordinary circumstances are present. *Edes Home v. Hooker*, 204 F.2d 555 (D.C. Cir. 1953).

327. This Court need not adjudicate breach. It need only recognize that the pleaded interest is legally cognizable.
328. Such clarification would resolve the jurisdictional defect identified by the district court and provide necessary guidance for future cases involving congressionally structured trust instrumentalities.

### **III. Remand for Merits Adjudication in the Ordinary Course**

329. Third, Appellant requests remand to the district court for adjudication on the merits.
330. If this Court concludes that standing was improperly denied, the proper remedy is restoration of the case to the posture it would have occupied absent that legal error. See *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021) (redressability satisfied where judicial declaration and further proceedings remain available).
331. On remand, the district court may:
- Address the Smithsonian’s legal status as necessary to define governing duties;
  - Determine the source and scope of fiduciary obligations;
  - Evaluate whether breach occurred;
  - Assess appropriate equitable remedies if warranted.

This Court need not—and should not—resolve those issues in the first instance.

#### **IV. Clarification of Entity Status if Necessary to Resolve Standing**

332. If this Court determines that standing cannot be resolved without addressing the Smithsonian’s legal classification, Appellant respectfully requests that the Court clarify that question as a matter of federal law.
333. The Supreme Court has recognized that entity status precedes and determines governing duties. *Lebron v. Nat’l R.R. Passenger Corp.*, 513 U.S. 374 (1995); *Pennsylvania v. Board of Directors of City Trusts*, 353 U.S. 230 (1957).

Clarification would:

- Define whether fiduciary law, constitutional constraints, or both apply;
- Determine whether beneficiaries possess enforceable interests;
- Provide uniform guidance for future governance disputes.

Such clarification promotes institutional stability rather than disruption.

#### **V. Confirmation That Resignation Does Not Moot the Controversy**

334. To the extent mootness is raised, Appellant respectfully requests confirmation that resignation of a fiduciary does not extinguish liability or eliminate jurisdiction over completed breaches.
335. Trust law is explicit: resignation does not discharge liability for prior breach. D.C. Code § 19-1307.05(c); Restatement (Third) of Trusts § 96. Article III likewise rejects voluntary cessation as a basis for mootness. *Friends of the Earth, Inc. v. Laidlaw*, 528 U.S. 167, 189 (2000).

Effective relief remains available.

## **VI. The Limited Nature of the Relief Requested**

336. To be clear:

Appellant does not ask this Court to order exhibition of any artwork.

Appellant does not ask this Court to remove trustees.

Appellant does not ask this Court to manage curatorial discretion.

337. Appellant asks only that:

1. The standing dismissal be reversed;
2. His legally protected beneficiary interest be recognized as sufficient for Article III purposes; and
3. The case be remanded for merits adjudication.

326. That is the entire roadmap.

327. If trustees of a congressionally structured public trust owe enforceable fiduciary duties, then courts must be available to determine whether those duties have been breached. If they do not, then the trust architecture acknowledged in the record becomes unenforceable by design.

328. This appeal presents that structural question.

329. For the foregoing reasons, Appellant respectfully requests reversal and remand for proceedings consistent with this Court's opinion.

## **CONCLUSION**

330. This appeal presents a question far larger than a single portrait, a single rejection, or a single resignation. It presents a structural question of federal law: whether a congressionally chartered institution that holds property in trust for "the increase and diffusion of knowledge" may acknowledge fiduciary obligations to the American people while simultaneously insulating those obligations from judicial review.

331. The record—both statutory and institutional—admits of no ambiguity as to structure. The Smithsonian is a trust instrumentality. Its Regents are trustees. They owe “the highest possible fiduciary duty” to the American people.

332. Those duties include loyalty, impartiality, and faithful administration in accordance with donor intent. Restatement (Third) of Trusts §§ 76, 78, 79. They include the obligation to remedy breach once known. *Id.* §§ 94, 96. And under District of Columbia law, resignation does not extinguish liability for prior breach. D.C. Code § 19-1307.05(c).

333. The district court acknowledged trustee status but declined to examine its legal consequences. That omission is dispositive. If trustees owe enforceable duties to defined beneficiaries, allegations of breach cannot be dismissed as generalized grievance without first confronting the trust framework itself. Article III requires invasion of a legally protected interest. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Trust law defines such interests. Where breach of fiduciary duty is alleged, injury is concrete even absent monetary loss. Equity has never required beneficiaries to demonstrate marketplace harm to vindicate duties of loyalty. As Justice Cardozo wrote:

“A trustee is held to something stricter than the morals of the marketplace... Not honesty alone, but the punctilio of an honor, the

most sensitive, is then the standard of behavior.”

*Meinhard v. Salmon*, 249 N.Y. 458, 464 (1928).

334. The district court’s reduction of fiduciary breach to abstract dissatisfaction conflicts with long-settled principles that trust beneficiaries may invoke equitable protection where trustees depart from governing duties. See *Edes Home v. Hooker*, 204 F.2d 555 (D.C. Cir. 1953); *Hooker v. Edes Home*, 579 A.2d 608 (D.C. 1990); Restatement (Third) of Trusts § 94.

335. Nor can this case be mooted by resignation. Voluntary cessation does not extinguish jurisdiction unless it is “absolutely clear” the wrongful conduct cannot recur. *Friends of the Earth, Inc. v. Laidlaw*, 528 U.S. 167, 189 (2000); *City of Mesquite v. Aladdin’s Castle*, 455 U.S. 283, 289 (1982). Trust law is even clearer: resignation ends office, not accountability. Restatement (Third) of Trusts § 96 cmt. b; D.C. Code § 19-1307.05(c). The alleged breach remains uncured. Institutional duties persist.

336. This case also cannot be resolved without addressing the Smithsonian’s legal character. The Supreme Court has repeatedly recognized that entity status determines governing duties. *Lebron v. Nat’l R.R. Passenger Corp.*, 513 U.S. 374 (1995); *Pennsylvania v. Board of Directors of City Trusts*, 353 U.S. 230 (1957). If the Smithsonian is governmental, constitutional constraints apply. If it is a

charitable trust instrumentality, fiduciary duties govern. If it is hybrid, both frameworks operate. Standing analysis cannot precede classification where classification defines the source of legally protected interests.

337. Appellant does not seek judicial supervision of curatorial taste. He seeks recognition that beneficiaries of an active public charitable trust may invoke federal jurisdiction when alleging breach of duties of loyalty and impartial administration. The relief requested on appeal is narrow and procedural:

1. Reversal of the dismissal for lack of standing;
2. Recognition that Appellant has plausibly alleged invasion of a legally protected beneficiary interest; and
3. Remand for adjudication of the merits in the ordinary course.

338. Courts routinely reverse jurisdictional dismissals where standing has been improperly denied. *Massachusetts v. EPA*, 549 U.S. 497, 516–26 (2007). Where declaratory or injunctive relief can redress alleged unlawful procedures, Article III is satisfied. *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021).

339. If fiduciary language in the Smithsonian’s own governance record has no enforceable meaning, then the trust structure Congress accepted becomes symbolic rather than legal. Equity does not permit trustees to invoke the language of trust while avoiding the discipline of trust law.

340. The American people were named beneficiaries. Trustees were named fiduciaries. Duties were articulated in the language of the common law. Those duties are not ornamental.

The dismissal should be reversed.

341. This Court should restore jurisdiction, clarify the governing legal framework, and remand for adjudication on the merits so that the fiduciary architecture acknowledged in the record is given its proper legal effect.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized with large, sweeping loops and a long horizontal stroke at the bottom.

Julian Raven  
714 Baldwin St.  
Elmira, NY, 14901  
March 2, 2026

Appellant requests reversal and remand.

**UNITED STATES COURT OF APPEALS**

**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**Julian Marcus Raven,**

Appellant,

v.

**Trump, Roberts, Bunch, Smithsonian Institution, et al.,**

Appellees.

No. \_\_\_\_\_

**PROPOSED ORDER**

Upon consideration of the record on appeal, the briefs of the parties, and the arguments presented, it is hereby:

ORDERED and ADJUDGED that the judgment of the United States District Court for the District of Columbia dismissing this action for lack of Article III standing is REVERSED; and it is further

ORDERED that the Court concludes Appellant has plausibly alleged the invasion of a legally protected interest sufficient to satisfy Article III's requirements of injury in fact, traceability, and redressability, including allegations that:

1. The Smithsonian Institution operates as a congressionally structured trust instrumentality administering property for defined public purposes;
2. The Board of Regents functions in a fiduciary capacity under established trust principles;
3. Appellant is a member of a statutorily identified participant class under 20 U.S.C. § 75b(b);
4. Appellant alleged denial of impartial administration within that statutory and fiduciary framework;

and it is further

ORDERED that the case is REMANDED to the district court for further proceedings consistent with this Court's opinion, including but not limited to:

1. Determination, as necessary, of the Smithsonian Institution's legal status for purposes of defining governing duties;
2. Consideration of the scope and enforceability of any fiduciary obligations arising under federal statute, federal common law, District of Columbia trust law, or other applicable authority;

3. Adjudication of the merits of Appellant’s claims in the ordinary course;

and it is further

ORDERED that any contention that Appellant’s claims are moot by reason of resignation or removal of any individual fiduciary is rejected to the extent the record reflects allegations of completed breaches of fiduciary duty and ongoing institutional obligations. See D.C. Code § 19-1307.05(c); Restatement (Third) of Trusts § 96; Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs., 528 U.S. 167 (2000);

and it is further

ORDERED that this Court expresses no view on the ultimate merits of Appellant’s fiduciary breach allegations, and remands solely for adjudication under the proper jurisdictional framework.

SO ORDERED.

Entered this \_\_\_\_ day of \_\_\_\_\_, 2026.

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Clerk of the Court

## PROPOSED OPINION

Before the Court is an appeal from the dismissal of Appellant’s complaint for lack of Article III standing. Because the District Court declined to determine the legal status of the Smithsonian Institution before adjudicating standing, we vacate and remand.

This case requires resolution of a foundational question long left unresolved: **What is the constitutional and fiduciary character of the Smithsonian Institution?**

Standing cannot be determined in abstraction from that inquiry.

### **I. Background**

The Smithsonian Institution was created by Congress in 1846 pursuant to the bequest of James Smithson “for the increase and diffusion of knowledge among men.” Smithsonian Act of Aug. 10, 1846, ch. 178, 9 Stat. 102 (codified at 20 U.S.C. §§ 41–67).

Congress established a **Board of Regents** to govern the Institution. The Board includes:

- The Chief Justice of the United States,

- The Vice President,
- Members of Congress,
- Presidential appointees.

The Institution receives the majority of its funding through federal appropriations. Most of its employees are treated as federal employees. Yet the Smithsonian has historically asserted that it is not a federal agency in certain contexts.

The District Court dismissed Appellant's complaint for lack of standing without resolving the Institution's legal character.

That was error.

## **II. The Threshold Issue: Legal Status**

Article III standing depends upon the nature of the defendant entity. A Appellant's ability to invoke constitutional protections or trust-based rights turns on whether the entity is:

1. A federal governmental actor,
2. A private charitable trust,
3. Or a hybrid federal instrumentality.

The District Court declined to make that determination. We hold that such avoidance is incompatible with proper Article III analysis.

### **III. The Smithsonian as a Congressionally Created Trust**

The Smithsonian was created by statute to administer a charitable bequest. The statutory framework expressly establishes trusteeship.

The Institution’s own governance materials recognize fiduciary duties grounded in trust law. See IRC Report, *Standards for Review – Governance and Applicable Fiduciary Duties*

irc\_report

.

Under settled trust law:

- Trustees owe duties of loyalty and prudence.
- Trustees must administer trust property solely for beneficiaries.
- Courts retain inherent equitable jurisdiction over charitable trusts.

See Restatement (Second) of Trusts § 2; Bogert, *Law of Trusts and Trustees*.

If the Smithsonian operates as a charitable trust, then beneficiaries possess enforceable equitable interests sufficient to invoke judicial review of alleged fiduciary breaches.

#### **IV. Federal Instrumentality Analysis**

We next consider whether the Smithsonian constitutes a governmental actor for constitutional purposes.

In **Lebron v. National Railroad Passenger Corp.**, 513 U.S. 374 (1995), the Supreme Court held that an entity created by Congress and controlled by federal appointees is part of the Government for constitutional purposes, even if Congress labels it “private.”

Similarly, in **Pennsylvania v. Board of Directors of City Trusts**, 353 U.S. 230 (1957), the Court held that a formally private trust administered by public officials was subject to constitutional constraints.

The Smithsonian exhibits the structural characteristics identified in those precedents:

- Congressional creation,

- Federal statutory governance,
- Governing board composed of high-ranking federal officials,
- Majority federal funding,
- Federal employment status for most personnel.

Such attributes cannot be ignored in constitutional analysis.

Congress may not evade constitutional accountability through statutory disclaimers. *Lebron*, 513 U.S. at 392.

## **V. Hybrid Status and Constitutional Implications**

The Smithsonian is unique. It combines:

- Trust-law structure,
- Public funding,
- Federal governance,
- National public mission.

This hybrid nature does not eliminate judicial review. It heightens the need for clarity.

If the Smithsonian functions as a governmental actor in its governance and public operations, constitutional protections attach. If it functions as a trustee administering a charitable trust, fiduciary standards govern.

Either framework implicates enforceable duties.

Ambiguity cannot be used as a shield against judicial accountability.

## **VI. Standing Reconsidered**

Standing analysis depends upon entity status.

If the Smithsonian is a governmental actor, constitutional injury suffices.

If it is a charitable trust, beneficiaries may seek equitable enforcement of fiduciary duties.

If it is hybrid, courts must harmonize constitutional and trust principles.

The District Court prematurely dismissed the action without conducting this necessary analysis.

## **VII. The Necessity of Declaratory Clarification**

The unresolved status of the Smithsonian has produced recurring litigation confusion. The Institution has, at times, asserted federal status to invoke immunity and, at other times, denied federal status to avoid statutory constraints.

Such dual positioning undermines judicial coherence.

We therefore hold that the District Court must:

1. Determine whether the Smithsonian is:
  - A federal agency,
  - A private charitable trust,
  - Or a hybrid federal trust instrumentality;
2. Define the constitutional and fiduciary obligations that flow from that classification;
3. Reassess standing consistent with that determination.

## **VIII. Judicial Responsibility**

The Smithsonian was created by Congress. It is governed by federal officials. It administers public trust assets for the benefit of the American people.

Where Congress creates an entity and vests it with public trust authority, courts have the responsibility to define its legal character.

Standing doctrine cannot substitute for entity classification.

## **IX. Disposition**

For the foregoing reasons:

- The judgment of dismissal is **VACATED**.
- The case is **REMANDED** for proceedings consistent with this opinion.

On remand, the District Court shall:

1. Conduct a full examination of the Smithsonian's legal status;
2. Issue findings of fact and conclusions of law on that question;
3. Reevaluate standing in light of that determination;
4. Proceed to the merits if jurisdiction is established.

## **Conclusion**

The Smithsonian occupies a constitutionally significant position: a congressionally created trust instrumentality governed in substantial part by officers of the United States.

Its legal character must be defined before judicial access may be denied.

Vacated and Remanded.

## CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), I hereby certify that:

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B).
2. The brief contains **11,669 words**, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), including the cover page, corporate disclosure statement, table of contents, table of authorities, certificate of compliance, certificate of service, and any addendum or appendix.
3. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using 14-point Times New Roman.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 3.2.2026

Respectfully submitted,



Julian Marcus Raven  
Appellant, Pro Se

## Affidavit of Service

I, Julian Marcus Raven, do hereby swear that a copy of this complete amended complaint was served on Defendants through counsel.

The U. S. Attorney  
Attorney Jeanine Pirro  
Assistant Attorney Thomas Duffey  
601 D St NW,  
Washington,  
DC 20004

Sworn this day, March 2, 2026



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December 9, 2024

To: Kim Sajet, Director, Smithsonian National Portrait Gallery

CC: Lonnie Bunch, Smithsonian Secretary, members of the Board of Regents: Smithsonian Chancellor John G. Roberts, Vice president Kamala D. Harris, Senator John Boozman, Senator Catherine Cortez Masto, Senator Gary Peters, Congressman Garret Graves, Congresswoman Doris Matsui, Congressman Adrian Smith, Barbara M. Barrett, Toni Bush, John Fahey, Roger W. Ferguson, Jr., Michael Govan, Risa J. Lavizzo-Mourey, M.D., Michael M. Lynton, Denise M. O'Leary, Franklin D. Raines, Elon Musk, and Dr. Richard Kurin, other Smithsonian officials, various congressmen and senators, incoming Trump government officials, members of the media and of the concerned public.

**Submission of the Historic Portrait *Unafraid and Unashamed***

**by Artist Julian Raven**

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Dear Director Sajet,

As the creator of the historic Presidential portrait 'Unafraid and Unashamed', I am writing to you to formally resubmit this groundbreaking work, for inclusion in the Smithsonian National Portrait Gallery during the upcoming historic inauguration of President Elect Trump. This monumental 7x15-foot portrait, created in 2015, captures a pivotal moment in American history, chronicling the rise of Donald J. Trump to the presidency and symbolizing the transformative political and cultural forces of our time and the historic events that have transpired since.

Through its artistic, historical, and cultural significance, this portrait deserves a rightful place in the National Portrait Gallery in the form of a temporal tribute and to become part of the permanent Smithsonian archive and eventually collection by acquisition,

whose mission is to document the individuals and moments that shape the United States of America's history.

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 Artnet News < > ⋮ ✕





Pro-Trump Artist Julian Raven Is Waging Legal War Against the Smithsonian for Rejecting His Magnum... [Visit >](#)

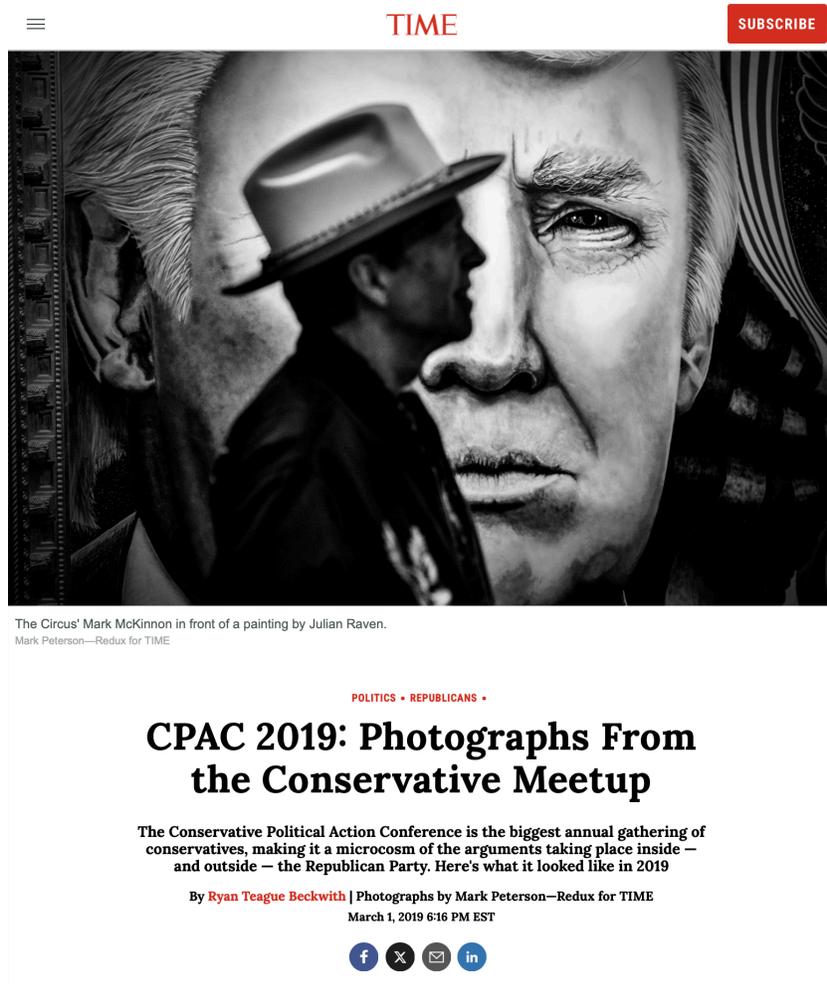
### The Portrait: A Historic and Cultural Artifact

*Unafraid and Unashamed* emerged in the summer of 2015, predating Donald Trump's political dominance. It visually encapsulates the meteoric rise of a political outsider, depicting Trump as a symbol of resilience and defiance. Inspired by a series of events—including Trump's symbolic interaction with a bald eagle in a 2015 photo shoot—Raven spent over 600 hours crafting the painting. The work incorporates the bald eagle as a patriotic emblem and imagery highlighting themes of national identity and strength.

This artwork became a cultural touchstone during Trump’s campaign and presidency, widely recognized as a pro-Trump icon, featured from Trump Tower in New York to the 2016 Republican National Convention in Cleveland, Ohio. Raven debuted the painting in Elmira, New York, in 2015, where it drew immediate public attention and media coverage. It later headlined the *Art of Politics* exhibition, curated by Yosi Sergant, known for inspiring Shepard Fairey’s iconic *Hope* poster for Barack Obama, which was displayed for the 2009 and 2013 presidential inaugurations at the Smithsonian National Portrait Gallery.

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## Historical Media Coverage



☰ TIME SUBSCRIBE

The Circus' Mark McKinnon in front of a painting by Julian Raven.  
Mark Peterson—Redux for TIME

POLITICS • REPUBLICANS •

### CPAC 2019: Photographs From the Conservative Meetup

The Conservative Political Action Conference is the biggest annual gathering of conservatives, making it a microcosm of the arguments taking place inside — and outside — the Republican Party. Here's what it looked like in 2019

By **Ryan Teague Beckwith** | Photographs by Mark Peterson—Redux for TIME  
March 1, 2019 6:16 PM EST

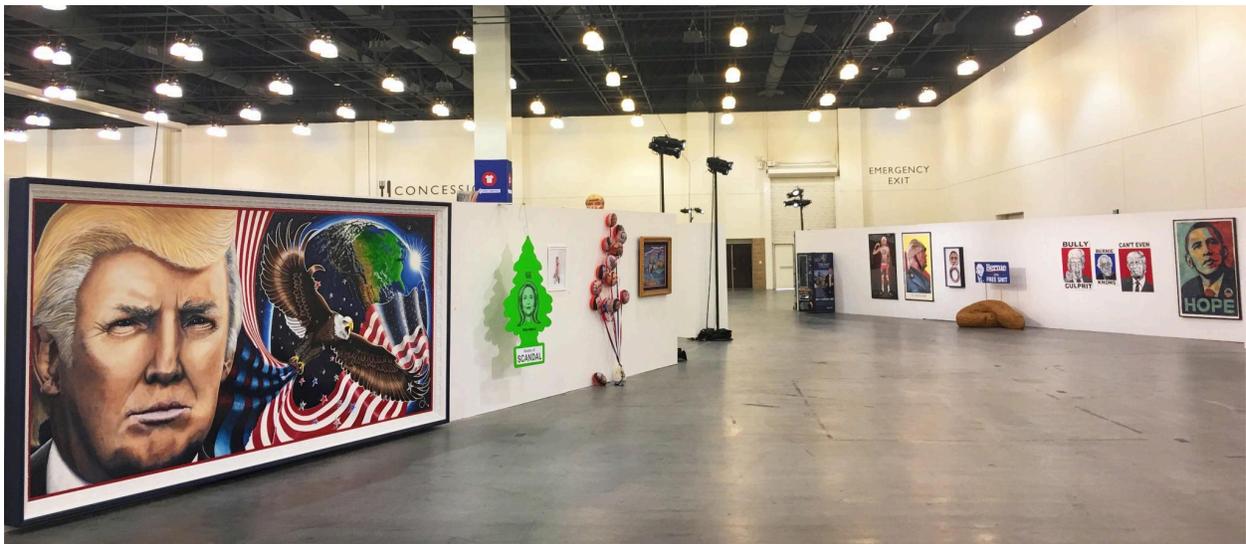
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The portrait’s journey is richly documented:

- Time Magazine and The Washingtonian: Media outlets noted the painting's role as a visual symbol during Trump's campaign. The Washingtonian highlighted Raven's broader fight to have the painting recognized as part of Trump's historic ascent
- ArtNet News: The painting received significant attention when it featured prominently at CPAC 2019 and at politically charged exhibitions juxtaposing pro and anti-Trump art
- New York Times :  
<https://www.nytimes.com/2016/07/20/us/politics/california-staff-workers-illness-republican-convention.html>
- Washingtonian magazine feature story August 2019  
<https://www.washingtonian.com/2019/08/04/julian-raven-trump-artist-national-portrait-gallery-smithsonian/>
- Washington Times  
<https://www.washingtontimes.com/news/2019/nov/28/julian-raven-trump-inspired-artist-fights-national/>
- Washington Times  
<https://www.washingtontimes.com/news/2021/jan/13/pro-trump-artist-flips-president-turns-portrait-up/>

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## Raven's Conciliatory Efforts Through Art



Politicon, Pasadena California 2016

Julian Raven's *Unafraid and Unashamed* transcends partisan divides, not merely as a pro-Trump political statement but as an invitation to engage in meaningful dialogue and debate. Raven has consistently sought to use his work as a catalyst for constructive conversation, fostering understanding even among those who fundamentally disagree with his perspective. This approach was exemplified by his participation in Charles Krause's *The Good, The Bad, and The Ugly* exhibition at the Center for Contemporary Political Art in 2019 in Washington, D.C. This anti-Trump art show juxtaposed Raven's portrait with artworks critical of Trump, creating a platform for open discourse across the political spectrum.

Raven's efforts have earned the respect of even those who disagree with his political stance. In a Washington Post article, Yosi Sergant, the curator behind the iconic Obama *Hope* poster, remarked: "*While I don't personally agree with the subject matter nor necessarily the aesthetic of Julian's work, I have nothing but respect for him using the tools of creativity to challenge us to consider his perspective. I stood in front of his painting for quite some time at that show, and it did just that. I, for one, believe we could use even more artistry in our discourse to challenge us to engage in a deeper and more creative conversation than politics often affords us.*" Raven's ability to inspire reflection and engagement, even among ideological opponents, underscores the broader cultural value of *Unafraid and Unashamed*. It is not merely a political artifact but a vehicle for bridging divides and enriching public discourse.

[https://www.washingtonpost.com/lifestyle/magazine/these-conservative-artists-are-navigating-a-largely-liberal-field/2020/10/30/c22bd32c-eee6-11ea-ab4e-581edb849379\\_story.html](https://www.washingtonpost.com/lifestyle/magazine/these-conservative-artists-are-navigating-a-largely-liberal-field/2020/10/30/c22bd32c-eee6-11ea-ab4e-581edb849379_story.html)

### **The National Portrait Gallery's Mission and *Unafraid and Unashamed***

The National Portrait Gallery exists as an archive of American history, celebrating individuals and events that define the nation's character. Donald Trump's presidency undeniably constitutes a historic era, marked by profound domestic and international impacts. By documenting Trump's political journey and its cultural resonance, *Unafraid and Unashamed* fulfills the will of James Smithson and the Smithsonian Institution's charter to "Increase and defuse knowledge among men" and the specific National Portrait Gallery's mission.

The Smithsonian's acceptance criteria emphasize historical significance and social impact, both of which this portrait embodies. From its grassroots origins to its prominence in national political discourse, Raven's work captures the dynamics of a transformative period in American politics.

## **Legal and Institutional Context**

The legal challenges surrounding *Unafraid and Unashamed* underscore its cultural and constitutional importance. Raven's lawsuits against the Smithsonian have raised critical questions about free speech, governance, and the Institution's accountability to the public:

1. 2017-CV-01240 TNM: Raven's initial lawsuit against the Smithsonian raised vital constitutional questions about free speech and the Institution's status as either a private trust or a federal agency. This case reached the U.S. Supreme Court, marking the first such litigation involving the Smithsonian.
2. 22-CV-2809 CRC: In his ongoing litigation, Raven challenges the Smithsonian's National Portrait Gallery director Kim Sajet restriction of his speech, particularly his exclusion from the director's once official social media platform on X formerly called twitter. These cases underscore unresolved constitutional issues about the Smithsonian's governance and accountability.

Raven's journey is detailed in his book, *Odious and Cerberus: An American Immigrant's Odyssey and His Free Speech Legal War Against Smithsonian Corruption*. The book documents how institutional opacity and judicial inaction have perpetuated constitutional ambiguities.

## **The Impact of Legal Advocacy: Inspiring Legislative Reform**

Julian Raven's relentless legal battles against the Smithsonian Institution have reverberated beyond the courtroom, inspiring tangible legislative efforts to address the governance and accountability of this national institution. Congressman Joe Sempolinski introduced the Smithsonian Reform Act (H.R. 9363) in the 117th Congress as a direct response to the issues highlighted in Raven's lawsuits. This proposed legislation seeks to clarify the Smithsonian's legal status, enhance transparency, and ensure that the Institution operates with greater accountability to the public and the Constitution. By addressing the ambiguities in governance and oversight that Raven's case has brought to light, the Smithsonian Reform Act underscores the broader significance of his advocacy. Raven's efforts have thus not only elevated important constitutional questions but also catalyzed a legislative movement to ensure the Smithsonian fulfills its mission to serve the American public responsibly and equitably.

## An Artist's Support and Subsequent Call for Resignation

# Pro-Trump artist flips on president, turns portrait upside down

'Mr. President, you have sinned against God!'



# RESIGN!

Depicted is a Donald Trump portrait painted by artist Julian Raven that has inverted with a message calling for the president's resignation. Mr. Raven, an artist who once strongly supported President Trump, says the 45th President of the United States ... [more](#)

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Julian Raven's painting *Unafraid and Unshamed* was conceived in 2015 as a tribute to the boldness and resilience Donald Trump embodied as a political outsider. Raven became a visible supporter of Trump, promoting the portrait at political events, including CPAC, and engaging with grassroots movements that celebrated Trump's presidency.

However, the events of January 6th, 2021, marked a turning point. After a violent mob stormed the U.S. Capitol, incited by then-President Trump's false claims of election fraud, Raven publicly called on Trump to resign. This shift reflected a profound disillusionment with Trump's leadership in the aftermath of the attempted thwarting of the peaceful transfer of power. In media interviews, Raven described his belief that Trump had betrayed the principles of democracy and the values that initially inspired his portrait.

Raven's condemnation was significant, coming from an artist who had devoted years to promoting a work that symbolized Trump's rise. It added a layer of complexity to the portrait's historical and cultural narrative, positioning *Unafraid and Unashamed* not just as a celebration of political success but also as a cautionary artifact of unchecked political fervor and its consequences.

This evolution in Raven's perspective aligns with the broader attempted national reckoning over January 6th. By calling for Trump's resignation, Raven joined a chorus of voices—including former administration officials—demanding accountability for the events that challenged the foundations of American democracy.

### **Why *Unafraid and Unashamed* Meets the Smithsonian's Standards**

"...a free and public museum for the exhibition and study of portraiture and statuary depicting men and women who have made significant contributions to the history, development, and culture of the people of the United States, and of the artists who created such portraiture and statuary... the commission established guidelines for accepting portraits: that works must be the best likeness possible; original portraits from life, if possible; and that all exhibitions of permanent collection portraits should be of Presidents and First Ladies, and subjects who have been dead for at least ten years. Thus, the standards for accepting portraits varied considerably from other galleries. Even today, in every instance, the historical significance of the subject is judged before the artistic merit of the portrait, or the prominence of the artist."

<https://siarchives.si.edu/history/national-portrait-gallery#:~:text=The%20US%20Congress%20officially%20established,development%2C%20and%20culture%20of%20the>

By these established guidelines, *Unafraid and Unashamed*, Julian Raven's portrait of Donald J. Trump, absolutely qualifies for inclusion in the Smithsonian National Portrait Gallery. Here's why:

1. **Historical Significance of the Subject:** Donald Trump, as the 45th President of the United States, unquestionably qualifies as a figure of significant historical importance. His presidency, marked by deep political divisions, major domestic and international policy shifts, and his role in shaping modern American political discourse, defines an era in U.S. history. His election to the presidency was a landmark event that altered the course of American politics, making him a key historical figure whose likeness deserves to be preserved. The National Portrait Gallery's focus on *subjects who have made significant contributions to the history, development, and culture of the people of the United States* aligns perfectly with Trump's place in American history. His election,

presidency, and the political movement he represented have had a profound impact on the direction of the country, making this portrait not only relevant but necessary for inclusion.

2. **The Best Likeness Possible:** Raven's *Unafraid and Unashamed* captures an evocative, bold likeness of Donald Trump, both in terms of his physical appearance and his larger-than-life persona. The portrait, which stands as a monumental 7x15 feet in size, portrays Trump in a dynamic and symbolic light—further reflecting the spirit of his political rise. The painting is the product of over 600 hours of meticulous work by Raven, ensuring that it meets the Smithsonian's standard of the best possible likeness of the subject.
3. **Original Portrait from Life, If Possible:** While *Unafraid and Unashamed* was not painted from life in the traditional sense, it was created during a time when Trump was a living and active presidential candidate—well before his electoral victory and inauguration. In many ways, it reflects the "prescience" of the artist, who captured the essence of a political figure on the rise. The significance of the work, then, is heightened not just by the likeness but by its historical foresight, created in real-time during the lead-up to one of the most consequential elections in modern U.S. history. The presence of the political Obama Hope poster in the Smithsonian archives, which was also not created from life, qualifies 'Unafraid and Unashamed.'
4. **Symbol of Historical Impact:** The Smithsonian's primary focus when considering portraits for its permanent collection is historical significance. *Unafraid and Unashamed* is not merely a work of political art; it is an emblem of a cultural moment that shaped the political trajectory of the United States. The portrait symbolized not just Trump's victory but the deeply polarized political climate of the time. Through this lens, it becomes a historical document, encapsulating the essence of a divided nation and the figurehead who represented both its hopes and its divisions.

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## A Temporary Tribute and Permanent Historical Archive

In addition to meeting these standards for portraiture, *Unafraid and Unashamed* holds a unique place in American political art. It was displayed at the Art of Politics exhibition, curated by Yosi Sergant—who was also the driving force behind Shepard Fairey's *Hope* poster for President Obama. This shows that the portrait has already been recognized in key political art exhibitions, and its social impact and historical value continue to be discussed and documented across major media outlets.

The portrait was initially submitted for inclusion in the Smithsonian National Portrait Gallery following Trump's inauguration in 2017, but its exclusion raises important questions about the criteria for acceptance. As the Smithsonian's collection continues to be defined by the historical impact of the subjects rather than merely their political affiliation or artistic merit, *Unafraid and Unashamed* stands as an irreplaceable representation of one of the most significant presidencies in American history.

As such, it should be considered not only for temporary tribute but for permanent inclusion in the Smithsonian's collection, honoring both the historical importance of the subject—Donald Trump—and the pivotal political moment captured by Julian Raven.

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*Unafraid and Unashamed* meets and exceeds the Smithsonian National Portrait Gallery's standards for portraiture acceptance. Its depiction of Donald Trump, painted at the height of his campaign and shortly before his election, captures the essence of one of the most transformative figures in modern American history. The painting not only reflects the subject's historical significance but also stands as a testament to the powerful cultural and political moment that Trump's rise represented.

By acquiring *Unafraid and Unashamed* for its pictorial archive and for temporary displays, the Smithsonian National Portrait Gallery would fulfill its mission to document the people, ideas, and moments that have indelibly shaped American history. It would also acknowledge the role that visual art plays in narrating political history, particularly during a time when art and politics are intertwined in unprecedented ways.

### **Summary and Conclusion: The Historical Significance of *Unafraid and Unashamed***

*Unafraid and Unashamed* transcends its origins as a political portrait to embody a multifaceted historical narrative of one of the most turbulent periods in modern American history. Created during the summer of 2015, the painting captured the spirit of Donald Trump's meteoric rise, resonating with millions as a symbol of bold defiance and nationalistic ideals. Its prominence in political art exhibitions, widespread media coverage, and its association with Trump's ascendance to the presidency affirm its place in the visual and cultural landscape of the era.

However, the painting's imagery and significance deepened with the tumultuous events of January 6th, 2021, and Raven's subsequent public disavowal of Trump's leadership. With Donald Trump poised to re-enter the presidency, this portrait's inclusion becomes even more critical in documenting an era that continues to shape American discourse. This pivotal moment reflects the evolving interpretation of historical artifacts, where the initial celebration of triumph transforms into a critique of its consequences. By calling for Trump's resignation after the Capitol insurrection, Raven aligned his narrative with the broader national reckoning, demonstrating the critical interplay between art, history, and accountability.'

The Smithsonian National Portrait Gallery's mission to document American history through portraiture requires an acknowledgment of works that capture both the achievements and complexities of historical figures and their times. *Unafraid and Unashamed* not only meets but exceeds this standard by serving as a cultural artifact that encapsulates a critical juncture in American democracy. It offers future generations an opportunity to reflect on the duality of leadership—its capacity to inspire and its potential to divide—and challenges viewers to engage with the multifaceted nature of historical events.

By including *Unafraid and Unashamed* in its collection, the Smithsonian National Portrait Gallery would fulfill its role as a custodian of the American historical narrative, ensuring that the portrait and its story remain accessible for public education, critical inquiry, and reflection on the dynamics of leadership and democracy.

Including *Unafraid and Unashamed* in the Smithsonian National Portrait Gallery's collection would ensure that this pivotal moment in American history is preserved for future generations. The painting stands not only as a testament to the complexities of leadership but also as a symbol of the power of art to inspire dialogue and understanding in a divided nation."

Thank you for your consideration.

Sincerely,  
Julian Raven

A handwritten signature in black ink, appearing to read "Julian Raven". The signature is stylized and cursive, with a large, sweeping flourish at the end.

info@julianraven.com



Julian Raven &lt;julianmarcusraven@gmail.com&gt;

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## Portrait Submission

3 messages

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**Julian Raven** <julianmarcusraven@gmail.com>

Tue, Dec 10, 2024 at 5:00 AM

To: sajetk@si.edu

Cc: SmithsonianSecretary@si.edu, wilkinsonp@si.edu, kurin@si.edu, stthomasl@si.edu

Bcc: kimsajet@icloud.com

Dear Director Kim Sajet, Secretary Bunch, and members of the Smithsonian Board of Regents:

Smithsonian Chancellor John G. Roberts, Vice president Kamala D. Harris, Senator John Boozman, Senator Catherine Cortez Masto, Senator Gary Peters, Congressman Garret Graves, Congresswoman Doris Matsui, Congressman Adrian Smith, Barbara M. Barrett, Toni Bush, John Fahey, Roger W. Ferguson, Jr., Michael Govan, Risa J. Lavizzo-Mourey, M.D., Michael M. Lynton, Denise M. O'Leary, Franklin D. Raines.

Please find attached my submission for my presidential portrait 'Unafraid and Unashamed' to be considered for participation in the historic inauguration of president-elect Donald Trump and to become part of the archive of American portraits at the Smithsonian National Portrait Gallery.

Sincerely,

Julian Raven

P.s. Hard copies are on their way to you.

**Unafraid and Unashamed Submission-2.pdf**

6393K

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**Sajet, Kim** <SajetK@si.edu>

Fri, Dec 13, 2024 at 3:20 PM

To: Julian Raven &lt;julianmarcusraven@gmail.com&gt;

Cc: "Wilkinson, Porter N." &lt;WilkinsonP@si.edu&gt;, Smithsonian Secretary &lt;SmithsonianSecretary@si.edu&gt;

Dear Mr. Raven,

Thank you for your email from December 10, 2025, offering your artwork of President-elect Donald J. Trump to be on view during the Inauguration weekend. We have already made plans to install a portrait from our collection of Mr. Trump from Jan. 13 through Feb. 9, 2025, to mark the occasion.

In addition, another portrait of President Trump remains on view in the "America's Presidents" gallery as part of a full chronology of those who have held the nation's highest office. As is tradition, the museum's official, commissioned portrait of President Trump will go on view following his final term.

Sincerely,  
Kim Sajet

**Dr. Kim Sajet**

**Director, National Portrait Gallery**

Smithsonian Institution

Office: 202 633 8274

Cell: 202 304 9515

**Ana-María Rocha-Goldberg**

**Executive Assistant**

Office: 202 633 8298

**Mailing Address**

Suite 410, 750 9<sup>th</sup> St., NW

Washington DC 22201

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Smithsonian

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**From:** Julian Raven <[julianmarcusraven@gmail.com](mailto:julianmarcusraven@gmail.com)>

**Sent:** Tuesday, December 10, 2024 5:00 AM

**To:** Sajet, Kim <[sajetk@si.edu](mailto:sajetk@si.edu)>

**Cc:** Smithsonian Secretary <[SmithsonianSecretary@si.edu](mailto:SmithsonianSecretary@si.edu)>; Wilkinson, Porter N. <[wilkinsonp@si.edu](mailto:wilkinsonp@si.edu)>; Kurin, Richard <[kurin@si.edu](mailto:kurin@si.edu)>; St Thomas, Linda <[stthomasl@si.edu](mailto:stthomasl@si.edu)>

**Subject:** Portrait Submission

**External Email - Exercise Caution**

[Quoted text hidden]

**Julian Raven** <julianmarcusraven@gmail.com>

Sun, Dec 15, 2024 at 6:00 PM

To: "Sajet, Kim" &lt;SajetK@si.edu&gt;

Cc: "Wilkinson, Porter N." &lt;WilkinsonP@si.edu&gt;, Smithsonian Secretary &lt;SmithsonianSecretary@si.edu&gt;

Dear Director Sajet,

Thank you for your thoughtful and prompt response to my December 10, 2025, email regarding the display of *Unafraid and Unashamed* during the upcoming inauguration weekend. I appreciate the planning that has gone into highlighting President Trump's legacy through portraits in the "America's Presidents" gallery and the temporary display you've planned. It is heartening to see art continue to play its essential role in documenting the history and progress of our democracy.

As I reflect on our shared journey over the past eight years—one marked by conflict and mutual persistence—I see an opportunity for us to move beyond the adversarial and toward something greater. The timing of President Trump's reelection, while polarizing to many Americans, offers a rare and fleeting moment for the Smithsonian National Portrait Gallery to serve as a bridge between political divides. Art has long had the power to initiate dialogues that words alone cannot facilitate, and together, we can model reconciliation through the lens of creativity, inclusion, and history.

**Art as a Catalyst for Dialogue**

The portrait I created, *Unafraid and Unashamed*, was born out of a deeply personal response to America's evolving political landscape. It has become a symbol not only of President Trump's rise but also of the cultural divides that have shaped this nation in recent years. While its reception has been polarizing, the portrait is a testament to how art captures moments of division and channels them into opportunities for dialogue and reflection.

As we prepare for the historic occasion of President Trump's second inauguration, there is no better time to embrace the potential of art to foster understanding and reconciliation. By reconsidering the inclusion of my portrait during this pivotal moment, we could provide a platform to acknowledge the deep divides in our country while offering a path toward civility and mutual respect. This is not simply about displaying one more image of President Trump—it is about presenting a work that, by its very history, challenges participants to engage with perspectives beyond their own.

**A Model for Civility and Reconciliation**

Our shared conflict over the years could become the foundation for a broader narrative of reconciliation. By coming together to present this portrait in the gallery, we could create a powerful symbol for Americans of all political stripes. For those reeling from President Trump's reelection, this gesture could serve as an invitation to come to terms with the results and rededicate themselves to the democratic process—playing fair, working harder, and using their freedoms to shape the nation's future.

For supporters of President Trump, the inclusion of my painting would validate the triumphs of the democratic process while reinforcing the importance of engaging respectfully with those who disagree. As Americans, we all share a duty to uphold the pillars of our democracy—civil discourse, mutual respect, and the belief that each voice matters.

**Seizing a Rare Opportunity**

The opportunity before us will not last long. Either we allow the moment to pass by, following the status quo, or we seize it and leverage it for the greater good. If we collaborate to present *Unafraid and Unashamed* alongside other portraits of President Trump, we send a message far greater than partisanship. We demonstrate that even in times of conflict, there is room for dialogue, compromise, and progress.

The Smithsonian Institution is uniquely positioned to lead this charge. It has always been a steward of American history, reflecting the country's complexities while seeking higher truths. This initiative would reinforce that legacy, showing that art does not simply record history—it can also shape it.

**The Power of Change**

This moment offers the potential to shift the narrative, both for the gallery and for our own personal story of conflict. Together, we could create a case study for how institutions and individuals can move beyond disagreement to achieve shared goals. The power of art to challenge, inspire, and transform is immense, and if we embrace it, I am confident this endeavor will reflect positively on all involved, including the National Portrait Gallery, its leadership, and the broader American public.

Thank you again for considering this opportunity. I welcome the chance to discuss this further and to work collaboratively toward an outcome that celebrates both our shared humanity and the democratic ideals that make this nation extraordinary.

Sincerely,  
Julian Raven

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# Smithsonian Celebrates the 2013 Presidential Inauguration with Exhibits and Programs

News Release • January 18, 2013



## Media Contact

In celebration of the 2013 Presidential Inauguration, the Smithsonian will feature exhibitions and public programs related to the presidency from Friday, Jan. 18, through Monday, Jan. 21.

The Smithsonian has participated in inaugurations since the 1800s—President Abraham Lincoln held his second inaugural ball in what is now the Smithsonian American Art Museum and National Portrait Gallery in March 1865, and President James Garfield’s ball was held in 1881 in the U.S. National Museum (now the Arts and Industries Building, which is closed for renovations). In recent times, the Smithsonian has produced cultural programs and concerts for the Carter, Reagan and Clinton inaugurations.

**Linda St. Thomas**  
stthomasl@si.edu  
202-841-2517

This year, the Presidential Inauguration Committee 2013 has contributed funds to support the Smithsonian’s free exhibitions, programs and additional security for the expected crowds.

Additional information can be found at [www.smithsonian.com/inauguration](http://www.smithsonian.com/inauguration). The

Smithsonian Tours mobile app for iPhone and Android will feature a special Inauguration edition free of charge.

#### Fast Facts

#### Museum Hours on Inauguration Day, Jan. 21

Standard museum hours: 10 a.m. to 5:30 p.m.

Opening early: Smithsonian Castle at 7:30 a.m., Freer Gallery of Art, Sackler Gallery of Art, National Museum of African Art and the Hirshhorn Museum at 8 a.m.

The National Museum of the American Indian and the Renwick Gallery will be closed Jan. 21

The Smithsonian American Art Museum and the National Portrait Gallery will be open from 11:30 a.m. to 7 p.m.

The National Zoo's buildings will be open from 10 a.m. to 4:30 p.m. (grounds are open 6 a.m. to 6 p.m.)

The Anacostia Community Museum will be open from 10 a.m. to 5 p.m.

#### Visiting the Museums

Admission to all Smithsonian museums is free.

The Jefferson Drive (Mall) entrances to the Freer Gallery of Art, the Castle and the National Air and Space Museum will be closed. Visitors must use the Independence Avenue doors to enter and exit.

There is no parking available at any Smithsonian museum.

All visitors' services—including restaurants, shops and IMAX theaters—will be open.

#### Live Broadcasts of the Swearing-In Ceremony

Monday, Jan. 21, 11:30 a.m.

National Museum of American History, Flag Hall

National Museum of African Art, Pavilion and Lecture Hall

#### Featured Exhibitions

##### National Museum of American History

“The American Presidency: A Glorious Burden” explores the personal, public, ceremonial and executive actions of the presidents and their impact on history. The exhibition features more than 400 objects and a number of videos and interactive displays, including the portable desk on which Thomas Jefferson wrote the Declaration of Independence and the microphone Franklin Roosevelt used to deliver his “fireside chat” radio broadcasts.

“The First Ladies” explores the unofficial but important position of first lady and the ways that different women have shaped the role to make their own contributions to the presidential administrations and the nation. The exhibition features more than two dozen

gowns from the Smithsonian's 100-year-old First Ladies Collection, including those worn by Frances Cleveland, Lou Hoover, Jacqueline Kennedy, Laura Bush and Michelle Obama. A section titled "Changing Times, Changing First Ladies" highlights the roles played by Dolley Madison, Mary Lincoln, Edith Roosevelt and Lady Bird Johnson and their contributions to their husband's administrations. "The First Ladies" encourages visitors to consider the changing role played by the first lady and American women over the past 200 years.

"Changing America: The Emancipation Proclamation, 1863 and The March on Washington, 1963" highlights two events that changed the course of the nation—the 1863 Emancipation Proclamation and the 1963 March on Washington. Standing as milestone moments in the grand sweep of American history, these achievements were the culmination of decades of struggles by individuals—both famous and unknown—who believed in the American promise that this nation was dedicated to the proposition that "all men are created equal." This exhibit was organized by the National Museum of African American History and Culture.

### **National Portrait Gallery**

"America's Presidents" exhibits multiple images of 43 presidents, including Gilbert Stuart's famous "Lansdowne" portrait of George Washington, a painting of Lincoln by Alexander Healy and likenesses of all modern Presidents.

"Portrait of President Barack Obama" features the original artwork for Obama's "Hope" poster designed by Shepard Fairey on view Jan. 19-22. This portrait became famous during the President's 2008 campaign.

"Diptych of President Barack Obama by Chuck Close" The renowned artist Chuck Close created two photographs of Barack Obama and transferred them onto two large-scale (93-by-75-inch) jacquard tapestries. In conjunction with the Inauguration, this diptych has been loaned to the Smithsonian's National Portrait Gallery by Ian and Annette Cumming.

### **National Museum of the American Indian**

"A Century Ago... They Came as Sovereign Leaders" focuses on President Theodore Roosevelt's 1905 inaugural parade and the six great chiefs who participated in the parade.

### **Smithsonian American Art Museum**

"The Civil War and American Art" examines how America's artists represented the impact of the Civil War and its aftermath. Winslow Homer, Eastman Johnson, Frederic Church and Sanford Gifford—four of America's finest artists of the era—anchor the exhibition.

### **National Postal Museum**

"Honoring Lincoln" displays 11 certified plate proofs for postage stamps that were issued from 1959 to 1994 to honor the 16th president Abraham Lincoln. Certified plate proofs are the last printed proof of the plate before the stamps are printed, and these plates include the approval signatures and date.

### Highlighted Public Programs

#### National Museum of American History

##### **Backstory with the American History Guys—Live Taping—Saturday, Jan. 19**

American historians Ed Ayers, Peter Onuf and Brian Balogh are joined by curator Harry Rubenstein for a live taping of this radio show exploring the history of inaugurations.

*Flag Hall; 11 a.m.*

##### **Behind the Dream: The Making of a Speech that Transformed a Nation—Saturday, Jan. 19**

Washington Post staff writer and author Wil Haygood and Stanford University's Martin Luther King Jr. Institute visiting professor Clarence B. Jones, speechwriter and counsel to Martin Luther King Jr., discuss Jones' latest book, *Behind the Dream*. Book signing follows. This public program is organized by the National Museum of African American History and Culture. [Tickets are free but required.](#)

*Warner Bros. Theater; 2 p.m.*

##### **Civil War Music with President Lincoln's Own Band—Saturday, Jan. 19, and Sunday, Jan. 20**

"President Lincoln's Own Band," which re-creates the sound and appearance of the U.S. Marine Band during the Civil War, and performed in Steven Spielberg's film *Lincoln*, presents music from the 1860s.

*Flag Hall; 10 a.m., 1 p.m. and 4 p.m.*

##### **Smithsonian Jazz Masterworks Orchestra Ensemble—Saturday, Jan. 19, and Sunday, Jan. 20**

Performances and stories drawn from Duke Ellington's 1969 White House All-Star Tribute.

*Second floor, West Stage; 1:45 p.m. and 4:30 p.m.*

##### **Meet the Presidents—The Mount Rushmore Four—Saturday, Jan. 19, and Sunday, Jan. 20**

Enjoy a "conversation" with Washington, Jefferson, Lincoln and Theodore Roosevelt as interpretive actors portray each and discuss their experiences as second-term presidents.

*Flag Hall; 12:30 p.m., 2:15 p.m. and 3:30 p.m.*

#### National Museum of the American Indian

##### **Out of Many: A Multicultural Festival of Music, Dance and Story—Friday, Jan. 18–Sunday, Jan. 20**

A festival featuring music, dancing and storytelling from a variety of cultural traditions, including Alaska Native, Native Hawaiian, Bolivian, Guatemalan Maya, Armenian, Peruvian and West African.

*10:30 a.m.–5 p.m.*

#### National Portrait Gallery

**Meet the Presidents and First Ladies—Saturday, Jan. 19–Monday, Jan. 21**

Enactors in the roles of George and Martha Washington and Abraham and Mary Lincoln will engage museum visitors in short conversations and vignettes.

*First floor; 1–6 p.m.*

**Smithsonian American Art Museum****Presidential Scavenger Hunt—Jan. 19 and Jan. 21****Inaugural Theme Walk-In Tours—Monday, Jan. 21**

*12:30 p.m. and 2 p.m.*

**Self-Guided Audio Tour**

An audio tour about the museum's historic building and events that took place there during the Civil War, including President Abraham Lincoln's 1865 inaugural ball, is available online at [americanart.si.edu/multimedia/tours/civilwar/](http://americanart.si.edu/multimedia/tours/civilwar/) or by calling (202) 595-1852.

**Anacostia Community Museum****Video Screening of *The Obama Effect*—Sunday, Jan. 20**

Director and actor Charles Dutton will attend the screening of this 2013 feature film about a man whose life is changed by the first Obama presidential campaign (85 minutes).

*5:30 p.m.–9 p.m.*

**National Museum of African Art****Leadership Arts of Africa Treasure Hunt—Friday, Jan. 18–Monday, Jan. 21**

The museum will provide a two-sided color card to allow visitors to participate in a self-guided treasure hunt.

**National Postal Museum**

Collect the Presidents!—Saturday, Jan. 19, and Sunday, Jan. 20 Visitors can make and take their very own stamp collection featuring famous American presidents, as well as design their own presidential stamp.

*Noon–3 p.m.*

For further information about the 2013 Inauguration, go to the Presidential Inauguration Committee's website at [www.2013pic.org](http://www.2013pic.org).

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