

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

AMJAD MASAD,

Plaintiff,

Case No.: 6:26-cv-442-ACC-RMN

v.

RANDALL FINE,

Defendant.

ORDER

This cause comes before the Court on Defendant Randall Fine’s (“Defendant”) Motion to Dismiss Amended Complaint. (Doc. 60). Plaintiff Amjad Masad (“Plaintiff”) has responded in opposition. (Doc. 63). Defendant’s Motion is ripe for review. For the reasons set forth below, Defendant’s Motion will be granted.

I. BACKGROUND

This dispute arises from Defendant, a Member of the United States House of Representatives representing Florida’s Sixth Congressional District, allegedly blocking Plaintiff from his X (formerly known as “Twitter”) account¹ because “Plaintiff replied to and criticized [Defendant’s] post comparing Muslims to dogs.” (Doc. 56 ¶¶ 1–2, 11, 16). The name of Defendant’s X Account is “Congressman Randy Fine” and the account description is “Husband and father proudly serving

¹ Defendant operates at least two X accounts: @repfine and @voterandyfine. (Doc. 56 ¶ 12). Only the @repfine account (the “X Account”) is relevant to this action.

Florida’s 6th Congressional District. Pronouns: Hebrew/Hammer.” (*Id.* ¶¶ 12, 16). Plaintiff alleges that Defendant uses his account “to communicate legislative activity, governmental services, constituent issues, and official events, by announcing positions and actions and engaging the public on governmental affairs.” (*Id.* ¶ 13). Plaintiff also alleges that he is a “Muslim immigrant from Jordan[.]” (*Id.* ¶ 10). According to Plaintiff, Defendant harbors “hostility” and “animus” toward Muslims, Arabs, and Palestinians, which Plaintiff alleges is evident in Defendant’s prior posts on X. (*Id.* ¶ 22).

On February 15, 2026, in response to another X user’s post, Defendant allegedly posted: “If they force us to choose the choice between dogs and Muslims is not a difficult one.” (*Id.* ¶ 19–21). In response to Defendant’s post, Plaintiff commented: “Are you talking about what’s for lunch?” (*Id.* ¶ 23). According to Plaintiff, his reply “constituted constitutionally protected expression criticizing Defendant’s statements as a public official.” (*Id.* ¶ 24). Plaintiff alleges that “[s]hortly thereafter, Defendant blocked Plaintiff from accessing the account by using X’s ‘block feature,’ which prevents those affected individuals from further interacting with the account in question.” (*Id.* ¶ 25).

Plaintiff alleges that Defendant “has engaged in a broader pattern of blocking critics from his Official X Accounts based on their political viewpoints, while continuing to permit favorable commentary.” (*Id.* ¶ 31). Plaintiff specifically alleges that “Defendant similarly blocked Aaron Baker [“Baker”], a Republican

congressional candidate, after Baker criticized Defendant’s official positions.” (*Id.*). Plaintiff further alleges that after Plaintiff filed this case and sought preliminary injunctive relief, “Defendant unblocked Plaintiff’s account, but did not alert Plaintiff to that for a week, until the day preceding the hearing on Plaintiff’s preliminary injunction motion in this case.” (*Id.* ¶ 32).

Defendant “announced or adopted a revised policy regarding moderation of his Official X Accounts on May 11, 2026” whereby “he would no longer block people . . . for criticism[.]” (*Id.* ¶¶ 33–34). Defendant also allegedly “unblocked all users he had previously blocked, in accordance with his new policy.” (*Id.* ¶ 34). Plaintiff alleges that Defendant’s policy “provides for no external enforcement mechanism[.]” (*Id.* ¶ 35). Plaintiff also alleges that “Defendant continues to maintain that his prior blocking of Plaintiff was lawful and has not disavowed the conduct challenged in this action.” (*Id.* ¶ 36).

Plaintiff filed suit on February 25, 2026. (Doc. 1). On March 3, 2026, Plaintiff moved for a preliminary injunction “enjoin[ing] Defendant from continuing to block Plaintiff” from his X Account, which the Court denied without prejudice on June 22, 2026. (Doc. 10; Doc. 54). On May 15, 2026, Defendant filed a Motion to Dismiss Plaintiff’s Complaint, which the Court granted for failure to state a claim on June 22, 2026. (Doc. 42; Doc. 53). On June 24, 2026, Plaintiff filed an Amended Complaint asserting a viewpoint discrimination claim under the First Amendment against Defendant. (Doc. 56). Plaintiff seeks declaratory and injunctive relief. (*Id.* at

11). Defendant now moves to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1). (Doc. 60).

II. LEGAL STANDARD

Article III of the Constitution limits the jurisdiction of federal courts to cases and controversies. U.S. CONST. art. III, § 2. At the heart of the constitutional requirement for a live case or controversy are three justiciability doctrines—standing, ripeness, and mootness. *Christian Coal. of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011). Each of these doctrines may be invoked as an attack on the Court's subject matter jurisdiction pursuant to Rule 12(b)(1). *Bd. of Cnty. Comm'rs*, No. 8:03-cv-904-T-23TBM, 2007 WL 2669210, at *6 (M.D. Fla. Sept. 6, 2007); *Doe v. Pryor*, 344 F.3d 1282, 1284 (11th Cir. 2003).

Attacks on subject matter jurisdiction under Rule 12(b)(1) come in two forms: facial attacks and factual attacks. *Lawrence v. Dunbar*, 919 F.2d 1525, 1528–29 (11th Cir. 1990). For facial attacks, the Court accepts the complaint's allegations as true. *Stalley ex rel. U.S. v. Orlando Reg'l Healthcare Sys. Inc.*, 524 F.3d 1229, 1232 (11th Cir. 2008). Factual attacks, in contrast, allow a court to “consider extrinsic evidence such as deposition testimony and affidavits.” *Carmichael v. Kellogg, Brown & Root Servs., Inc.*, 572 F.3d 1271, 1279 (11th Cir. 2009). When a factual attack is made, “[n]o presumptive truthfulness attaches to plaintiff's allegations, and the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims.” *Lawrence*, 919 F.2d at

1528–29. That said, “it is extremely difficult to dismiss a claim for lack of subject matter jurisdiction.” *Simanonok v. Simanonok*, 787 F.2d 1517, 1519 (11th Cir. 1986).

III. ANALYSIS

Defendant argues that the Amended Complaint must be dismissed as moot because “[t]he circumstances of this case have fundamentally changed, since both the filing of Plaintiff’s initial complaint and this Court’s June 22 Order[.]” (Doc. 60 at 6). The Court agrees.²

“If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.” *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001) (citing *Hall v. Beals*, 396 U.S. 45, 48 (1969) (per curiam)). “[D]ismissal is required because mootness is jurisdictional.” *Id.* (citations omitted). However, “[n]one of this implies that a defendant may ‘automatically moot a case’ by the simple expedient of suspending [his] challenged conduct after [he] is sued.” *Fed. Bureau of Investigation v. Fikre*, 601 U.S. 234, 241 (2024) (citation omitted). “[A] federal court’s constitutional authority cannot be so readily manipulated.” *Id.*

² The Court declines to address Defendant’s prudential mootness and standing arguments. See *Acheson Hotels, LLC v. Laufer*, 601 U.S. 1, 4–5 (2023) (“[W]e can address jurisdictional issues in any order we choose.”) (citing *Sinochem Int’l Co. v. Malaysia Int’l Shipping Corp.*, 549 U.S. 422, 431 (2007)).

Under the voluntary cessation doctrine, a defendant who claims his voluntary cessation of his challenged conduct moots a case must “show that the practice cannot ‘reasonably be expected to recur.’” *Id.* (citations omitted). The typical concern is that “a defendant might willingly change [his] behavior in the hope of avoiding a lawsuit but then, having done so, ‘return to [his] old ways.’” *Keohane v. Fla. Dept. of Corrections Secretary*, 952 F.3d 1257, 1267 (11th Cir. 2020) (citation omitted). Thus, the Supreme Court describes the defendant’s burden to prove that there is no reasonable expectation that he will return to his old ways as a “formidable burden.” *Fikre*, 601 U.S. at 241 (citing *Friends of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000)). This applies “for governmental defendants no less than for private ones.” *Id.*; *see also Doe v. Wooten*, 747 F.3d 1317, 1322 (11th Cir. 2014) (“In keeping with these Supreme Court decisions, this Court also employs this standard, even for government actors.”) (citation omitted).

In the Eleventh Circuit, courts give government actors “more leeway than private parties in the presumption that they are unlikely to resume illegal activities” because of the “unique characteristics of public defendants[.]” *Wooten*, 747 F.3d at 1322 (citations omitted). The reasoning behind this “leeway” or “rebuttable presumption” is that “government actors are more likely than private defendants ‘to honor a professed commitment to changed ways.’” *Keohane*, 952 F.3d at 1268 (citations omitted). “[O]nce a government actor establishes unambiguous termination of the challenged conduct, the controversy ‘will be moot in the absence

of some reasonable basis to believe that the policy will be reinstated if the suit is terminated.’” *Wooten*, 747 F.3d at 1322.

As the Court explained in its prior Order, Defendant is a government official who has unambiguously terminated his challenged conduct by unblocking Plaintiff, representing to the Court that he is committed to “enforcing a posted social media policy for [his X Account] in a viewpoint neutral manner for the remainder of [his] time in Congress[,]” and unblocking every account that was previously blocked on his X Account. (Doc. 53 at 6–7; Doc. 60-1 ¶ 12). Thus, the presumption applies, and the Court must determine whether Plaintiff has met his burden of establishing a reasonable basis to believe that Defendant will reverse course after the lawsuit is terminated, considering three non-exclusive factors:

- (1) “whether the change in conduct resulted from substantial deliberation or is merely an attempt to manipulate our jurisdiction”; (2) whether the decision to end the challenged conduct was “unambiguous” and can be “fairly viewed as being ‘permanent and complete’”; and (3) “whether the government has consistently maintained its commitment to the new policy.”

Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n, Inc., 115 F.4th 1266, 1284–85 (11th Cir. 2024), *cert. denied*, 146 S. Ct. 607, 223 L. Ed. 2d 225 (2025) (citing *Keohane*, 952 F.3d at 1268). Courts are “more likely to find a reasonable expectation of recurrence when the challenged behavior constituted a ‘continuing practice’ or was otherwise deliberate.” *Atheists of Fla., Inc. v. City of Lakeland*, 713 F.3d 577, 594 (11th Cir. 2013) (citations omitted).

First, as the Court explained in its prior order, “[t]he timing of Defendant unblocking Plaintiff and creating his social media policy is a clear indication that Defendant was trying to rid himself of this litigation.” (Doc. 53 at 8). However, the Eleventh Circuit has made it clear that courts should not “overemphasize[]” the timing of a government defendant’s change in conduct. *Keohane*, 952 F.3d at 1269. Additionally, Defendant now clarifies in his declaration that he created his social policy “[b]ecause issues related to the administration of [his] social media accounts were occupying too much of [his] and [his] staff’s time.” (Doc. 60-1 ¶ 9). Defendant added that he “believe[s] this policy will allow [him and his] office to spend less time and attention on issues related to the administration of [his] official social media accounts and more time on other important matters impacting [his] constituents.” (*Id.*).

Second, although Defendant’s unambiguous termination is not necessarily as formal and binding on Defendant as a change in law or regulation, Defendant has provided additional information since the Court’s prior Order showing that his unambiguous termination can be fairly viewed as permanent and complete. Plaintiff points out that “Defendant retains exclusive authority to block users from the @repfine account, and his moderation policy is not a House rule, congressional regulation, consent decree, or other externally binding governmental enactment.” (Doc. 63 at 9–10). As the Court emphasized in its prior Order, Defendant may change course “*with the click of a button.*” (Doc. 53 at 9). While this remains a

relevant consideration, the Court notes that Plaintiff is not challenging a “House rule, congressional regulation, consent decree, or other externally binding governmental enactment[,]” Plaintiff is challenging how Defendant conducts himself on his X Account, which necessarily involves a less formal or binding version of “termination” than other more formal government actions. Moreover, the relevant inquiry here is whether there is a reasonable basis to believe that Defendant *will* re-block Plaintiff based on viewpoint after this lawsuit is terminated, not simply whether Defendant *can* do so. *See Wooten*, 747 F.3d at 1323 (citing *Troiano v. Supervisor of Elections in Palm Beach Cnty., Fla.*, 382 F.3d 1276, 1285 (11th Cir. 2004)). Thus, this fact alone is not dispositive.

Furthermore, Defendant’s declaration clarifies that Defendant himself blocked Plaintiff from Defendant’s X Account and that Defendant instructed his staff members that Defendant is “the only one with authority to block Plaintiff’s account or any account from the @repfine account.” (Doc. 60-1 ¶¶ 5, 10). Defendant’s clarification shows that his commitment to not re-block Plaintiff based on viewpoint in the future and follow his publicly shared viewpoint-neutral social policy is permanent and complete and distinguishes this case from *Pinkhasov v. Vernikov*, No. 1:23-CV-3460, 2024 WL 2188356 (E.D.N.Y. May 15, 2024).

Plaintiff argues that *Walker v. City of Calhoun* is instructive, but *Walker* is distinguishable. (Doc. 63 at 10). In *Walker*, the Eleventh Circuit emphasized the fact that “[t]he process for adopting the Standing Bail Order is unknown because the City

has refused to explain that process.” *Walker v. City of Calhoun*, 901 F.3d 1245, 1271 (11th Cir. 2018). Because of this “lack of transparency surrounding the issuance of the Standing Bail Order[,]” the Eleventh Circuit could not find that the judge “might not revert to the original [challenged] policy[.]” *Id.* In contrast, Defendant explains that a member of his staff posted his social media policy on his official Congressional website at his direction, attaches the posted policy to his declaration, and further explains that the policy “was the product of substantial deliberation with both [his] staff and the Office of General Counsel of the U.S. House of Representatives to develop a workable and First Amendment-compliant policy.” (Doc. 60-1 at 2–3, 6).

It remains true that Defendant’s viewpoint-based blocking of Plaintiff was not unintentional, or an “isolated incident” based on a related case filed in this district where Defendant is accused of blocking Aaron Baker from Defendant’s X Account in February 2026 for criticizing Defendant’s “continuous refusal to support ‘The Epstein Files Transparency Act[.]’” (Doc. 20 at 1); Complaint at ¶ 22, *Baker v. Fine*, Case No. 5:26-cv-00135-JSM-PRL (M.D. Fla., Feb. 20, 2026), Doc. 1; *see Cash Inn of Dade, Inc. v. Metro. Dade Cnty.*, 938 F.2d 1239, 1243 (11th Cir. 1991) (“A district court may take judicial notice of public records within its files relating to the particular case before it or other related cases.”). However, as the Court noted in its prior Order, Defendant’s one past instance of viewpoint-based blocking does not amount to a “continuing practice.” (Doc. 53 at 12). Plaintiff rehashes in his

Response, and the Court has not forgotten, “[t]he circumstances surrounding Defendant’s cessation[.]” (Doc. 63 at 11). To summarize, when Defendant unblocked Plaintiff on April 13, 2026, he did not inform Plaintiff nor the Court of this fact until seven days later, the day before the injunction hearing was held in this case on April 21, 2026. (Doc. 36; Doc. 39 at 5–6). When the Court questioned why Defendant left Plaintiff in the dark as to this key fact, Defendant’s counsel responded, “[w]e didn’t have an obligation to tell the plaintiff.” (Doc. 39 at 6). The Court noted in its prior Order that “[t]he credibility of Defendant’s commitment to not block Plaintiff based on viewpoint again is undercut by this behavior.” (Doc. 53 at 10). While the Court still finds Defendant’s past behavior unacceptable; as explained, since the Court’s prior Order, Defendant has provided additional information strengthening the credibility of his commitment to not re-block Plaintiff based on viewpoint.

Third, in the Court’s prior Order it explained that “Plaintiff does not allege or otherwise show that Defendant has failed to consistently maintain his commitment to his new social media policy as to Plaintiff or anyone else” and that “this factor weighs in Defendant’s favor.” (Doc. 53 at 11). That remains true today, even after the Court gave Plaintiff leave to amend, which Plaintiff could have used as an opportunity to allege additional examples of Defendant blocking other individuals based on viewpoint. (*Id.* at 15). The Court gave Plaintiff twenty-one days to amend, and Plaintiff filed the Amended Complaint two days later without alleging any new

facts demonstrating that Defendant has failed to follow his social media policy or blocked anyone else based on viewpoint. (*Id.*; Doc. 56). The inescapable conclusion is that Plaintiff did not do so because Defendant has not been accused of blocking anyone based on viewpoint other than Plaintiff and Aaron Baker. As Defendant points out, these two past indiscretions occurred *before* Defendant posted his viewpoint-neutral social media policy to his official Congressional website on May 11, 2026, and do not speak to Defendant's "commitment to viewpoint-neutral enforcement of the policy moving forward." (Doc. 60 at 15; Doc. 60-1 ¶ 9). The Court previously found the significance of this factor limited by the recency of Defendant's social media policy, but it has now been over three months since Defendant posted his policy, and there is nothing to suggest that Defendant has blocked Plaintiff or anyone else based on viewpoint during this time. (Doc. 53 at 11).

The Court emphasizes that because Defendant is a government official who has unambiguously terminated his challenged conduct, there is a presumption in Defendant's favor that the Court must apply because "government actors are more likely than private defendants 'to honor a professed commitment to changed ways.'" *Keohane*, 952 F.3d at 1268 (citations omitted). While the passage of time and Defendant's additional clarifications bolster Defendant's commitment to not re-block Plaintiff based on viewpoint, Plaintiff provides the Court with no new facts or arguments demonstrating a reasonable basis to believe that Defendant will reverse

course after this action is terminated. Plaintiff has simply not “shouldered [his] burden[.]” *Id.* Given the changed circumstances and presumption in Defendant’s favor, the following three facts Plaintiff primarily relies on are insufficient to form a reasonable basis to believe that Defendant will re-block Plaintiff based on viewpoint if this suit is terminated: (1) Defendant has the ability to re-block Plaintiff based on viewpoint with the click of a button in violation of his publicly shared social media policy, (2) Defendant has been accused of viewpoint-based blocking one other time before he posted his social media policy, and (3) Defendant inappropriately neglected to inform Plaintiff that he unblocked his account until the day before the preliminary injunction hearing in this case.

Additionally, as Defendant points out, should Defendant reverse course, “the courthouse door is open to [Plaintiff] to reinstate [his] lawsuit.” (Doc. 60 at 19) (citing *Jews for Jesus, Inc. v. Hillsborough Cnty. Aviation Auth.*, 162 F.3d 627, 630 (11th Cir. 1998)). Despite pointing this out, Defendant moves to dismiss with prejudice, which is inappropriate under these circumstances. (Doc. 60 at 25); *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985) (explaining that the district court should have dismissed appellant’s moot suit for injunction without prejudice). Therefore, the Court will dismiss Plaintiff’s Amended Complaint without prejudice for lack of subject matter jurisdiction.

Based on the foregoing, it is ordered as follows:

1. Defendant Randall Fine's Motion to Dismiss Amended Complaint (Doc. 60) is **GRANTED**.

2. Plaintiff Amjad Masad's Amended Complaint (Doc. 56) is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

3. The Clerk is **DIRECTED** to close the file.

DONE and **ORDERED** in Chambers, in Orlando, Florida on August 18, 2026.

/s/ Anne C. Conway
Anne C. Conway
United States District Judge

Copies furnished to:

Counsel of Record