

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 26 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

CONSTITUTION ASSOCIATION, INC., by  
its founders; GEORGE F.X. ROMBACH,

Plaintiffs-Appellants,

and

B. GREEN; et al.,

Plaintiffs,

v.

KAMALA D. HARRIS,

Defendant-Appellee.

No. 21-56287

D.C. No. 3:20-cv-02379-TWR-  
BLM

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Todd W. Robinson, District Judge, Presiding

Submitted January 18, 2023\*\*

Before: GRABER, PAEZ, and NGUYEN, Circuit Judges.

George F.X. Rombach and Constitution Association, Inc. appeal from the

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

district court’s judgment dismissing their action challenging Kamala Harris’s eligibility to serve as Vice President. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court’s dismissal under Federal Rule of Civil Procedure 12(h)(3) for lack of subject matter jurisdiction. *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1086 (9th Cir. 2014). We affirm.

The district court properly dismissed plaintiffs’ action because plaintiffs lacked standing. *See Drake v. Obama*, 664 F.3d 774, 782 (9th Cir. 2011) (dismissing a voter’s claim that President Obama was ineligible for the office because the plaintiff asserted nothing “more than a generalized interest of all citizens in constitutional governance” (citation and internal quotation marks omitted)); *see also Am. Diabetes Ass’n v. United States Dep’t of the Army*, 938 F.3d 1147, 1154-55 (9th Cir. 2019) (setting forth the requirements to establish organizational standing).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

**AFFIRMED.**