United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued April 20, 2026 Decided September 4, 2026

No. 25-5188

GIFFORDS,
PLAINTIFF-APPELLEE

v.

FEDERAL ELECTION COMMISSION,
APPELLEE

NATIONAL RIFLE ASSOCIATION OF AMERICA AND NATIONAL RIFLE ASSOCIATION OF AMERICA POLITICAL VICTORY FUND,
APPELLANTS

Appeal from the United States District Court
for the District of Columbia
(No. 1:19-cv-01192)

Robert Avers argued the cause for appellants. With him on the briefs were *Charles R. Spies* and *Daniel C. Ziegler*.

Brett A. Shumate, Assistant Attorney General, U.S. Department of Justice, and *Charles E. Roberts*, Counsel to the Assistant Attorney General, were on the brief for amicus curiae United States of America in support of appellant.

Daniel S. Lenz argued the cause for appellee Giffords. With him on the brief were *Kevin P. Hancock* and *Adav Noti*.

Michael D. Contino, Attorney, Federal Election Commission, argued the cause for appellee Federal Election Commission. With him on the brief was *Shaina J. Ward*, Acting Assistant Attorney General.

Stuart McPhail was on the brief for amicus curiae Citizens for Responsibility and Ethics in Washington in support of appellees.

Owen D. Yeates was on the brief for amici curiae Institute for Free Speech and Former FEC Commissioner Bradley A. Smith in support of neither party.

Before: WILKINS, RAO, and CHILDS, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* WILKINS.

WILKINS, *Circuit Judge*: In 2018, Giffords, a nonprofit organization dedicated to reducing gun violence, and the Campaign Legal Center filed four administrative complaints with the Federal Election Commission ("FEC" or "the Commission") against two entities associated with the National Rifle Association ("NRA"), alleging violations of the Federal Election Campaign Act ("FECA"). When the FEC failed to act on the complaints for eight months, Giffords filed suit in District Court against the FEC under 52 U.S.C. § 30109(a)(8)(A), seeking a court order to compel the Commission to act. Following discovery, the District Court granted summary judgment to Giffords and entered a court order directing the Commission to act within 30 days. When the Commission failed to conform with the order within the allotted time, the District Court held that the FEC still had not complied with the order, thereby permitting Giffords to file a citizen suit against the NRA under 52 U.S.C. § 30109(a)(8)(C). The next day Giffords filed suit against the NRA.

Years later, the NRA, a nonparty to the underlying action between Giffords and the FEC, filed a Rule 60(b)(4) motion seeking relief from the orders and judgment that, following the FEC's failure to comply, enabled Giffords to file the citizen suit. The District Court dismissed the NRA's Rule 60(b) motion for lack of standing. This appeal followed. The NRA now requests that this Court reverse the dismissal of its Rule 60(b) motion and remand the case for dismissal as void for lack of subject-matter jurisdiction.

The NRA did not use any applicable procedural mechanism to become a party to the underlying suit. Nor has it done enough to demonstrate why our precedents establishing that a nonparty cannot obtain relief under Rule 60(b) are not controlling. Accordingly, without reaching the merits, we dismiss this appeal as impermissible under our binding precedent.

I.

A.

The Federal Election Commission is a regulatory agency of the United States government with jurisdiction over the administration, interpretation, and civil enforcement of the Federal Election Campaign Act. *See, e.g.*, 52 U.S.C. §§ 30101–46. Congress provided for the Commission to "prepare written rules for the conduct of its activities," *id.* § 30106(e), "formulate policy" under the FECA, *see, e.g.*, *id.* § 30106(b)(1), and make rules and issue advisory opinions, *id.* §§ 30107(a)(7)–(8); *id.* § 30108; *id.* § 30111(a)(8); *see also*

Buckley v. Valeo, 424 U.S. 1, 140–41 (1976) (per curiam). The Commission is further authorized to institute investigations of possible violations of the FECA, 52 U.S.C. § 30109(a)(1)–(2), and to initiate civil enforcement actions in the United States District Courts, *id.* § 30106(b)(1); *id.* §§ 30107(a)(6), (e); *id.* § 30109(a)(6). The Commission must act within 120 days of receiving an administrative complaint regarding a FECA violation. *See id.* § 30109(a)(8)(A).

Although "an executive agency's decision not to pursue enforcement is presumptively unreviewable," *Campaign Legal Ctr. v. 45Committee, Inc.*, 118 F.4th 378, 383 (D.C. Cir. 2024) (citing *Heckler v. Chaney*, 470 U.S. 821, 831–33 (1985)), the FECA contains a provision that allows for judicial review of Commission nonenforcement decisions, *id.* Particularly relevant here, "[a]ny party aggrieved by" the Commission's "failure . . . to act on [an administrative] complaint during the 120-day period" after receiving it may sue the Commission, seeking a court "declaration" that the failure to act is "contrary to law." 52 U.S.C. § 30109(a)(8)(A), (C). If a court declares the FEC's failure to act on a complaint is contrary to law, it "may declare" as much, and subsequently "may direct the Commission to conform with [that] declaration within 30 days" of the court's order. *Id.* § 30109(a)(8)(C). If the Commission does not conform to the order, the original complainant "may bring . . . a civil action" in its own name against the subject of the complaint, "to remedy the violation" alleged "in the original complaint." *Id.* These civil actions are also referred to as citizen suits. *45Committee, Inc.*, 118 F.4th at 383.

B.

In 2018, Giffords and the Campaign Legal Center filed four complaints with the FEC against two entities associated with the NRA alleging FECA violations. On April 24, 2019, Giffords filed suit against the FEC for failing to act on the FECA complaints under 52 U.S.C. § 30109(a)(8)(A). *See* Complaint Against Federal Elections Commission, *Giffords v. FEC*, 1:19-cv-01192, Dkt. No. 1 (D.D.C. Apr. 24, 2019). Because the FECA and the Commission's regulations prohibit public disclosure of information related to open enforcement matters, the District Court conducted proceedings partly under seal. FEC's Br. 6 (citing 52 U.S.C. § 30109(a)(12); 11 C.F.R. § 111.21). Following discovery, both parties filed cross-motions for summary judgment. *Id.* (citing J.A. 053–336). For much of 2019 and 2020 (16 months altogether), the Commission lacked a quorum and therefore could not address Giffords's complaints. *Id.*; J.A. 370. During that period, the Commission updated the District Court regarding its quorum status but did not decide the merits of the complaints. FEC's Br. 6–7 (citing J.A. 337–41, 479–85); *see* J.A. 558–59. The Commission regained a quorum in December 2020 and began discussing Giffords's complaints in February 2021. J.A. 370–71. On February 23, 2021, the FEC voted on a motion to "find reason to believe that some violations of law had occurred in all four of the [complaints] at issue here." *Id.* at 340. Because motions require four affirmative votes to move forward, the motion failed by a vote of 3-2, with one recusal. *Id.*; *see also* 52 U.S.C. § 30109(a)(2). A second motion to "close the file on the matters and send letters to the respondents notifying them of the disposition of the [complaints]" also failed, by a vote of 2-3 with one recusal, leaving the matters technically "open." J.A. 341.

On September 30, 2021, the District Court granted Giffords's motion for summary judgment, declaring the FEC's failure to act within 120 days contrary to law under 52 U.S.C. § 30109(a)(8)(C) and directing the FEC "to conform to the Court's Order within 30 days . . . by making the reason-to-believe determination set forth in 52 U.S.C. § 30109(a)(2)." J.A. 372. After the thirty-day period expired, the District Court held a status conference and determined that the FEC still had not complied with the order, thereby permitting Giffords to file a citizen suit against the "administrative respondents," *i.e.*, the NRA-associated entities, under 52 U.S.C. § 30109(a)(8)(C). J.A. 387–88. The next day Giffords filed a citizen suit. *See, e.g.*, Complaint Against All Defendants, *Giffords v. NRA*, 1:21-cv-02887, Dkt. No. 1 (D.D.C. Nov. 2, 2021). The NRA moved to dismiss the citizen suit under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6), arguing principally that the District Court "lacked jurisdiction under [52 U.S.C. §] 30109(a)(8) because the FEC had *not* failed to act on Giffords's complaints." NRA's Br. 19 (citations omitted) (emphasis in original); *see also* Motion to Dismiss Plaintiff's Complaint, *Giffords v. NRA*, 1:21-cv-02887, Dkt. No. 35 (D.D.C. Jan. 28, 2022).

On November 12, 2021, the NRA moved to intervene in the original action between Giffords and the FEC under Federal Rule of Civil Procedure 24(b) for the limited purpose of unsealing the judicial record. The NRA clarified that it did not seek party status, but instead was intervening solely to gain access to materials relevant to defending the citizen suit. The District Court granted the intervention for the NRA's limited, stated purpose. Almost a year later, the FEC voted to close the Giffords file regarding the four complaints and disclosed the administrative file.

On January 26, 2024, the NRA moved in the original action for relief from the District Court's orders and judgment under Federal Rule of Civil Procedure 60(b)(4), arguing that the District Court lacked subject-matter jurisdiction when it entered its final order and judgment because the case was moot and there was insufficient adversity between Giffords and the

FEC to create a controversy. *Giffords v. FEC*, 1:19-cv-01192, Dkt. No. 90 (D.D.C. Jan. 26, 2024). The District Court denied the NRA's Rule 60(b) motion without reaching the merits, concluding that the NRA, as a nonparty, lacked standing to seek relief. *See id.* at Dkt. No. 112 (D.D.C. Apr. 22, 2025). The NRA filed a timely appeal challenging the denial of the Rule 60(b) motion.

II.

It is a "well settled" rule that "only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment." *Marino v. Ortiz*, 484 U.S. 301, 304 (1988) (per curiam); *see also* FED. R. APP. P. 3(c)(1)(A) ("The notice of appeal must . . . specify the *party* or *parties* taking the appeal.") (emphasis added); *see, e.g.*, *Ex parte Cockcroft*, 104 U.S. 578, 578–79 (1881); *Bayard v. Lombard*, 50 U.S. 530, 551 (1850); *Broidy Cap. Mgmt. LLC v. Muzin*, 61 F.4th 984, 989–90 (D.C. Cir. 2023); *United States v. Seigel*, 168 F.2d 143, 144 n.2 (D.C. Cir. 1948) (collecting cases). This rule "does not implicate the jurisdiction of the courts under Article III of the Constitution," "[n]or . . . the sorts of concerns that are ordinarily addressed as a matter of prudential standing." *Devlin v. Scardelletti*, 536 U.S. 1, 6–7 (2002). Instead, "it is a procedural requirement that appellate courts must address separately from issues of standing or jurisdiction." *Broidy*, 61 F.4th at 990 (citing *Devlin*, 536 U.S. at 7).

"Party" is a functional, context-specific label that turns on the applicability of procedural rules, rather than a fixed attribute. *See Devlin*, 536 U.S. at 10. By and large, "a party to litigation is one by or against whom a lawsuit is brought, or one who becomes a party by intervention, substitution, or third-party practice." *Smith v. Bayer Corp.*, 564 U.S. 299, 313

(2011) (citation modified); *see also United States v. LTV Corp.*, 746 F.2d 51, 53 (D.C. Cir. 1984) (per curiam).

In *Broidy Capital Management*, we extensively examined the Supreme Court's decision in *Devlin v. Scardelletti*, 536 U.S. 1 (2002), which identified the specific instances when persons "who were not named in the underlying action" were nevertheless "considered 'parties' for purposes of appeal." *Broidy*, 61 F.4th at 990 (citing *Devlin*, 536 U.S. at 7–8). We explained that the Court in *Devlin* preserved the "longstanding bright-line rule that only parties can appeal an adverse underlying order or judgment," while clarifying that party status is not limited to persons formally named in the action or joined through "intervention, substitution, or third-party practice." *Id.* at 991 (quoting *LTV Corp.*, 746 F.2d at 53) (citation modified). The term may also encompass a person who is bound by the challenged order and who participated in the District Court proceedings through "various procedural rules," the applicability of which depends on "the context of the underlying proceedings." *Id.* (quoting *Devlin*, 536 U.S. at 10) (citation modified).

In specific circumstances, we have also "allowed nonnamed parties to appeal District Court orders that adversely 'affect[] [their] interests,' including under both the collateral order doctrine and the *Perlman* doctrine." *Id.* (citing *In re Stone*, 940 F.3d 1332, 1340 (D.C. Cir. 2019)). However, the mere fact that an order adversely affects a nonparty's interests is generally insufficient by itself to warrant the designation of a litigant as a "party." Rather, in "virtually all" the cases in which we have allowed such appeals, the nonparty took steps to intervene, instituted an ancillary proceeding, or otherwise invoked an available procedural mechanism in the district court. *Id.* at 991–92 (citing *In re Stone*, 940 F.3d at 1341 (collecting cases)). There is a meaningful difference between nonparties who actively participated in the District Court through an established procedural mechanism and nonparties who appear years later seeking relief from an existing judgment. *Id.* at 993–94.

We conclude that the NRA is a nonparty, and as such lacks the procedural ability to appeal the judgments and orders of the District Court. The NRA filed a successful motion to intervene on November 12, 2021 in this action for the "limited purpose of unsealing the judicial record." J.A. 395. In its motion, the NRA explicitly stated it was "not seek[ing] intervention to litigate" issues before the District Court, but "merely [sought] to obtain access to sealed judicial records." J.A. 403. More than two years later, after no further activity in the underlying case, the NRA filed a Rule 60(b)(4) motion seeking relief from the District Court's orders and judgments, including the final judgment entered on November 18, 2021, all of which were a part of the unsealed record available to the NRA by the end of 2021. J.A. 019; *see also* J.A. 449 n.5. In the motion, the NRA acknowledged three important factors: its status as a nonparty, the decision to seek "limited intervention" for the purpose of unsealing the record, and the procedural limitations of Rule 60(b), which "authorizes a court to 'relieve a *party* or its legal representative' from a judgment." J.A. 449–50; *id.* at 475 (quoting FED R. CIV. P. 60(b)) (emphasis added). Neither here nor in the District Court has the NRA adequately explained why its decision *not* to intervene to become a party, institute ancillary proceedings related to this case, or otherwise invoke an available procedural mechanism in the District Court *prior* to filing this appeal should be excused to allow this appeal to proceed. "'Rules of procedure,' including the rule that only parties may appeal adverse judgments, 'are not mere naked technicalities' to be ignored." *Broidy*, 61 F.4th at 993 (quoting *Seigel*, 168 F.2d at 146).

The NRA has also "failed to submit a case in this Circuit 'in which a person who had taken no steps to become a party to the proceeding in the court below, was permitted to appeal.'" *Id.* at 992 (quoting *Seigel,* 168 F.2d at 145). As we have previously stated and "repeatedly held, 'a person who was not a party to the record in the District Court and who made no effort to become a party there, can[not] bring the case into this court simply by noting an appeal.'" *Id.* (quoting *Seigel*, 168 F.2d at 146). We see no reason for departing from this practice now.

The NRA points us to *Banister v. Davis*, 590 U.S. 504 (2020), where the Court reaffirmed the rule that an order denying a Rule 60(b) motion "is appealed as a separate final order," and therefore "an appeal from the denial of Rule 60(b) relief does not bring up the underlying judgment for review." *Id.* at 520 (citation modified). However, *Banister* does not change the outcome. Even if the denial of the NRA's Rule 60(b) motion is separate from the appeal of the underlying judgment, the pertinent issue remains whether the *underlying judgment that is being sought to be altered or amended* binds the appellant. That is why the Court said in *Devlin* that the "most important" consideration for concluding that those non-parties could properly appeal was the fact that the non-parties were bound by the underlying judgment, "in the sense of being bound by the settlement," not whether the non-parties were bound by the ruling that denied their objections to the settlement. *See Devlin*, 536 U.S. at 10; *see also United States v. City of Milwaukee*, 144 F.3d 524, 531 (7th Cir. 1998) ("We have recognized repeatedly that, until a movant for intervention is made a party to an action, it cannot appeal any orders entered in the case other than an order denying intervention."). Otherwise, any non-party could always manufacture appellate standing simply by filing an objection to any order, and then filing a notice of appeal to the denial of that objection, claiming that they are "bound" by the ruling on their objection.

In *Alternative Research & Development Foundation v. Veneman*, 262 F.3d 406 (D.C. Cir. 2001) (per curiam), the National Association for Biomedical Research ("NABR"), a nonparty organization, moved to intervene shortly before the parties entered into a stipulated dismissal and later filed a Rule 60(b)(4) motion to vacate the parties' stipulation. *Id.* at 407–08. The District Court denied both motions, concluding that it lacked jurisdiction to decide the motions considering the stipulated dismissal. *Id.* at 408. NABR appealed the denial of both motions. *Id.* On appeal, we first affirmed the denial of the intervention because NABR had not established it was entitled to intervene as a matter of right. *Id.* at 410–11. That conclusion resolved NABR's remaining claim because "NABR [was] not a party to the action"; it therefore "lack[ed] standing to appeal . . . the order denying its Rule 60(b) motion[.]" *Id.* at 411. We therefore dismissed the appeal due to NABR's lack of a procedural mechanism to file an appeal, rather than deciding whether the district court properly denied NABR's Rule 60(b)(4) motion. *Id.*

Agudas Chasidei Chabad of United States v. Russian Federation ("*Chabad II*"), 19 F.4th 472 (D.C. Cir. 2021), does not require a different outcome. In *Chabad II*, we affirmed the district court's denial of a Rule 60(b) motion filed by a non-party rather than dismissing the appeal as procedurally improper. *Id.* at 476–77. As we noted above, *Devlin* makes clear that the issue of whether a litigant has the procedural mechanism to appeal—whether an entity is a "party" who may appeal a ruling or order—is not jurisdictional in the Article III sense. *See* 536 U.S. at 7. Here, we have decided to follow the earlier precedent, which is *Veneman,* especially since *Chabad II* did not cite or distinguish it. *See LaShawn A. v. Barry*, 87 F.3d 1389, 1393 (D.C. Cir. 1996) (en banc) ("the *same issue* presented in a *later case* in the *same court* should lead to the *same result*" (emphasis in original)).

* * *

Since no party to the underlying matter has brought this appeal, it is not properly before us and must be dismissed.

So ordered.