

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**JOSEPH MALDONADO-PASSAGE**

**Joe Exotic,**

vs.

**ROSALIND SARGENT-BURNS, IN  
HER CAPACITY AS ACTING  
PARDON ATTORNEY**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIV. NO. \_\_\_\_\_

---

**COMPLAINT**

---

1. Joe Exotic, Joseph Maldonado-Passage (commonly known as “Joe Exotic”), alleges as follows:

**Nature of the Claims**

2. This is an action in the “nature of mandamus,” under 28 U.S.C. § 1361,<sup>1</sup> to “compel an officer of the United States to perform his [or her] duty.” Specifically, Joe Exotic seeks to require the United States Office of the Pardon Attorney to comply with its ministerial duty to submit a recommendation to the President of the United States regarding Joe Exotic’s

---

<sup>1</sup> Actions of this type are sometimes styled as petitions for writ of mandamus. However, writs of mandamus were abolished by the Federal Rules and replaced by an authorization to seek similar relief by an “appropriate action or motion” under the Federal Rules. *See* Fed. R. Civ. P. 81(b). Furthermore, even though 28 U.S.C. § 1361 is phrased in terms of mandamus, its liberalizing purpose was broader, to allow district courts the authority to grant appropriate corrective orders where an official is acting contrary to law. As such, Joe Exotic has styled his pleading as a “complaint” in accordance with Joe Exotic’s understanding of Rules 2, 3, and 7. *See* Fed. R. Civ. P. 2, 3, 7(a). If the Court believes this terminology, or any other technical aspect of the pleading, is in error, Joe Exotic trusts the Court will overlook the defect in accordance with Rule 61. *See* Fed. R. Civ. P. 61 (stating that a court “must disregard all errors and defects that do not affect any party’s substantial rights”).

application for pardon, so that the President can exercise his Constitutional discretion in determining whether to grant or deny application petition.

3. Joe Exotic does not seek to influence the nature of the recommendation, but only to compel the Office of the Pardon Attorney to comply with its ministerial duties to provide notice and a recommendation to the President, and thus to allow the President to exercise his plenary power under the Constitution.

### **Parties**

4. Joe Exotic is an individual residing in Fort Worth, Texas, at Federal Medical Center Fort Worth (“FMC”), Located at 3150 Horton Rd, Fort Worth, 76119; BOP Number: 26154-017.

5. Defendant, Rosalind Sargent-Burns is the Acting Pardon Attorney and is sued in her official capacity as head of the United States Office of the Pardon Attorney Jurisdiction and Venue

6. Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1361.

7. Venue is proper under 28 U.S.C. 1391(e)(2)-(3), as the Joe Exotic resides in this district and a substantial part of the events or omissions giving rise to this action occurred in this district.

### **Factual and Legal Background**

8. The United States Constitution provides that the President has sole discretion to “grant Reprieves and Pardons for Offences against the United States.” *See* U.S. Const. Art. II, § 2.

9. The Office of the Pardon Attorney was created to assist the President in the exercise of this function. *See* 28 CFR § 1.1, *et seq.* (containing procedures for pardon review);

*see* 28 CFR § 1.9 (allowing the Attorney General to delegate his pardon duties to any officer of the department of justice).

10. In accordance with the Constitution, the Office of the Pardon Attorney does not have the authority to make the final decisions on any pardon application. Indeed, the Office of the Pardon Attorney concedes that the President alone has plenary discretion to grant or deny clemency, with or without the advice and assistance of the Pardon Attorney or other members of the Department of Justice.

11. To the contrary, the Office of the Pardon Attorney has a ministerial duty to make recommendations to the President for a final decision on all pardon applications.

(c) The [Pardon Attorney] shall review each petition and all pertinent information developed by the investigation and shall determine whether the request for clemency is of sufficient merit to warrant favorable action by the President. **The [Pardon Attorney] shall report in writing his or her recommendation to the President, stating whether in his or her judgment the President should grant or deny the petition.**

28 CFR § 1.6(c); *see* also 28 CFR § 1.9 (allowing the Attorney General to delegate his pardon duties to any officer of the department of justice).

12. In April 2019, Joe Exotic was convicted of alleged violations of 18 U.S.C. § 1958(a) and 16 U.S.C. §§ 1538, 1540, 3372-73.

13. Many people have come out and publicly expressed their disagreement with Joe Exotic's conviction and subsequent sentence. Among those, are members of the President's own family. Donald Trump Junior has been an advocate for Joe Exotic to be Pardoned. Others include, James Garretson, a government witness who testified against Joe Exotic. Post-Conviction Garretson believes the Government targeted Joe Exotic and that the sentence did not match the crime.

14. On or about September 8, 2020, Joe Exotic submitted a pardon application to the Office of the Pardon Attorney, along with a request for waiver of the time period described in 28 CFR 28 CFR § 1.2.<sup>2</sup>

15. On September 10, 2020, the Office of the Pardon Attorney notified counsel via email that they were denying the request for the waiver, and that their decision was final. Although the email conceded that the President had the ultimate authority to make a decision on the pardon, the email nevertheless implied that the Office of the Pardon Attorney was not sending a recommendation to the President and instead was usurping the role of final decision maker on the pardon.

16. On September 29, 2020 counsel for Joe Exotic reminded the Office of the Pardon Attorney of the requirements of 28 C.F.R. § 1.6(c) and requested that it forward a recommendation to the President, to allow him to decide whether to follow the recommendation or to use his plenary power to issue a pardon. In response to this reminder via email, William Taylor, with the US Pardon Attorney Office, acknowledged the President's plenary power. However, the US Pardon Attorney Office has yet to forward the Pardon with a recommendation to the President.

17. The US Pardon Attorney Office has the ability to search the status of pending applications.<sup>3</sup> A brief search on the U.S. Pardon Attorney website does not reflect that Joe Exotic ever filed a Pardon, or Commutation of Sentence. It does not appear that the application was even considered.

---

<sup>2</sup> <https://www.dropbox.com/s/p5vh1fzattpj7sp/Joe%20Exotic%20Pardon-%20Final.pdf?dl=0>

<sup>3</sup> <https://www.justice.gov/pardon/search-clemency-case-status-since-1989>

**Claim**

18. Joe Exotic incorporates and re-alleges the above allegations as if fully set forth herein.

19. Defendant had a clear, indisputable, non-discretionary obligation to provide the President of the United States with notice of Joe Exotic's petition for pardon and a recommendation thereon.

20. Joe Exotic, through counsel, requested that Defendant provide notice and a recommendation to the President. However, such request was refused, and Joe Exotic has no other adequate remedy at law.

21. Therefore, Joe Exotic is entitled to an order compelling Defendant to comply with the clear, indisputable, non-discretionary obligation to provide the President of the United States with notice of Joe Exotic's petition for pardon and a recommendation thereon.

**Prayer**

22. Pursuant to 28 U.S.C. § 1361, Joe Exotic requests that the Court issue an order compelling Defendant to promptly provide the President of the United States with notice of Joe Exotic's petition for pardon and a recommendation thereon.

23. Joe Exotic further requests that he be awarded such other and further relief, at law and in equity, both general and special, to which it may be justly entitled to receive.

Respectfully submitted,

Filed December 16, 2020

/s/ Francisco Hernandez  
Francisco Hernandez  
Texas Bar No. 09515950

800 W. Weatherford St.  
Fort Worth, TX 76102  
(P): (817)335-2331

(F): (817)882-8444

Email: [francisco@texasmexicolaw.com](mailto:francisco@texasmexicolaw.com)

**Counsel for Joe Exotic**