

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 19 2010

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

MAXIMUS T. ENGLERIUS,
also known as,
The American Tradition Party,

Plaintiff - Appellant,

v.

UNITED STATES GOVERNMENT,

Defendant - Appellee.

No. 09-35658

D.C. No. 2:09-cv-00172-RSM

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Maximus T. Englerius appeals pro se from the district court's judgment

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

dismissing his action alleging that the Federal Election Commission (“FEC”) permitted the major political parties to manipulate the presidential debates to exclude third-party candidates. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the district court’s order dismissing for lack of subject matter jurisdiction. *Amerco v. NLRB*, 458 F.3d 883, 886 (9th Cir. 2006). We affirm.

The district court properly determined that it lacked subject matter jurisdiction to consider Englerius’s action because he did not file his complaint in the proper forum or within 60 days of the FEC’s dismissal of his administrative complaint. *See* 2 U.S.C. § 437g(a)(8) (explaining the exhaustion procedure before a private party can bring a federal action to enforce the Federal Election Campaign Act).

Englerius’s remaining contentions are unpersuasive.

AFFIRMED.