

## Sec. 2—Judicial Power and Jurisdiction

## Cl. 1—Cases and Controversies

didate's record during a political campaign. A candidate for Congress had filed an administrative complaint under the law against one of the plaintiffs; a panel of the elections commission made an adverse finding; but the complaint was subsequently withdrawn. Meanwhile, the plaintiffs had filed suit in federal court, and they sought to maintain the suit even after the complaint was withdrawn, citing the prospect of enforcement in other elections. A unanimous Court found that the plaintiffs faced a sufficiently imminent threat of injury to proceed. Drawing on a footnote in *Clapper*, Justice Thomas wrote that an allegation of future injury may suffice if the injury is “‘certainly impending’ or there is a ‘substantial risk’ that the harm may occur.”<sup>426</sup>

Of increasing importance are causation and redressability, the second and third elements of standing, recently developed and held to be of constitutional requisite. Under the former, there must be a causal connection between the injury and the conduct complained of; that is, the Court insists that the plaintiff show that “but for” the action, she would not have been injured. Under the latter, the Court has insisted that there must be a “substantial likelihood” that the relief sought from the court if granted would remedy the harm.<sup>427</sup> These two requirements are often inter-related. Thus, low-income persons seeking the invalidation of a town's restrictive zoning ordinance were held to lack standing, because they had failed to allege with sufficient particularity that the complained-of injury—inability to obtain adequate housing within their means—was fairly attributable to the ordinance instead of to other factors, so that voiding of the ordinance might not have any effect upon their ability to find affordable housing.<sup>428</sup>

Other examples of these two elements include a holding that poor people who had been denied service at certain hospitals lacked

<sup>426</sup> Slip op. at 8 (internal quotation mark omitted).

<sup>427</sup> *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 595 (1992); *Allen v. Wright*, 468 U.S. 737, 751 (1984). See also *ASARCO Inc. v. Kadish*, 490 U.S. 605, 612–617 (1989) (plurality opinion). Although the two tests were initially articulated as two facets of a single requirement, the Court now insists they are separate inquiries. *Id.* at 753 n.19. To the extent there is a difference, it is that the former examines a causal connection between the assertedly unlawful conduct and the alleged injury, whereas the latter examines the causal connection between the alleged injury and the judicial relief requested. *Id.* In *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998), the Court denied standing because of the absence of redressability. An environmental group sued the company for failing to file timely reports required by statute; by the time the complaint was filed, the company was in full compliance. Acknowledging that the entity had suffered injury in fact, the Court found that no judicial action would afford it a remedy.

<sup>428</sup> *Warth v. Seldin*, 422 U.S. 490 (1975). In *Village of Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 264 (1974), however, a person who alleged he was seeking housing in the community and that he would qualify if the