

1 presented to a grand jury pursuant to 18 U.S.C. § 3332(a);
2 and asserts related claims under 18 U.S.C. § 1964 and 42
3 U.S.C. § 1985(2). **AFFIRMED.**

4 Alan Zaleski, pro se, New
5 Britain, CT, Appellant.

6
7 Michael J. Byars, Assistant
8 United States Attorney, for
9 Preet Bharara, United States
10 Attorney for the Southern
11 District of New York, New York,
12 NY, for Appellees.

13
14 PER CURIAM:

15 Alan Zaleski, pro se, appeals from an April 27, 2009
16 order of the United States District Court for the Southern
17 District of New York (Sand, J.), dismissing his complaint
18 pursuant to 28 U.S.C. § 1915(e)(2)(B). Zaleski, a felon
19 convicted in Connecticut federal district court, requests
20 that his allegations--that there is a conspiracy to deny
21 criminal defendants their constitutional rights--be
22 presented to a grand jury pursuant to 18 U.S.C. § 3332(a);
23 and asserts related claims under 18 U.S.C. § 1964 and 42
24 U.S.C. § 1985(2). We review the district court's order de
25 novo. See, e.g., Giano v. Goord, 250 F.3d 146, 149-50 (2d
26 Cir. 2001).

27 Zaleski alleges the existence of a vast, ramified

1 conspiracy to deny criminal defendants their constitutional
2 rights. Members of this conspiracy include the employees of
3 the United States Department of Justice, the judges of the
4 federal judiciary, the last four Presidents of the United
5 States, and Edgar Bronfman, Sr. To protect the "United
6 States alcohol industry" from the competitive threat of
7 illegal narcotics, these conspirators have concertedly
8 denied criminal defendants (including Zaleski) their
9 constitutional rights pursuant to a secret directive issued
10 in 1989 by President George H.W. Bush, friend of "alcohol
11 industry" magnate Edgar Bronfman, Sr.

12 Zaleski primarily seeks through this lawsuit to present
13 these allegations to a grand jury pursuant to 18 U.S.C.
14 § 3332(a), which provides, in relevant part:

15 [A]lleged offenses may be brought to the attention of
16 the grand jury by . . . any attorney appearing on
17 behalf of the United States for the presentation of
18 evidence. Any such attorney receiving information
19 concerning such an alleged offense from any other
20 person shall, if requested by such other person, inform
21 the grand jury of such alleged offense, the identity of
22 such other person, and such attorney's action or
23 recommendation.

24 18 U.S.C. § 3332(a). Zaleski "seeks access to the federal
25 grand jury in Manhattan pursuant to [1]8 U.S.C. § 3332(a) in
26 order to be able to present his evidence." It is not

1 entirely clear from his complaint what form of judicial
2 remedy he means to request. But whatever it may be, he must
3 first demonstrate standing to invoke the power of the
4 federal courts. See, e.g., Warth v. Seldin, 422 U.S. 490,
5 498 (1975) (standing is a federal jurisdictional question
6 "determining the power of the court to entertain the suit").

7 This he has not done. Zaleski does not allege that he
8 ever requested that the Southern District U.S. Attorney's
9 Office present his information to a grand jury; failure to
10 make such a request would be fatal to his claim of standing.
11 But even had he done so, it is not clear based on the facts
12 available to us that he would have standing. Without more,
13 the denial of his § 3332(a) right is insufficient. See
14 Lujan v. Defenders of Wildlife, 504 U.S. 555, 578 (1992)
15 (though "the injury required by Art. III may exist solely by
16 virtue of statutes creating legal rights, the invasion of
17 which creates standing," the cases applying that principle
18 have "involved Congress' elevating to the status of legally
19 cognizable injuries concrete, de facto injuries that were
20 previously inadequate in law" (ellipsis and internal
21 quotation marks omitted)); Sargeant v. Dixon, 130 F.3d 1067,
22 1070 (D.C. Cir. 1997) ("The receipt of information is a

1 tangible benefit the denial of which constitutes an injury,
2 whereas the giving of information is at most of indirect
3 benefit to the giver."). And though Zaleski alleges that he
4 is himself a victim of the alleged conspiracy--two motions
5 he filed were denied by the United States District Court for
6 the District of Connecticut--an indictment of the alleged
7 conspirators will not likely redress his asserted injury.
8 See Sargeant, 130 F.3d at 1069 ("Insofar as [the criminal
9 defendant] has a legally cognizable interest in collaterally
10 attacking his conviction by convincing a grand jury to
11 indict the federal officers who, he alleges, wrongfully
12 prosecuted him," it is "too speculative" that the interest
13 will be "vindicat[ed]" by a favorable decision.)).

14 Nor does Zaleski have standing to assert his
15 declaratory and equitable claims under 18 U.S.C. § 1964 and
16 42 U.S.C. § 1985(2). Each claim suffers from one or another
17 (or both) of two defects: His very general allegations fail
18 to allege any particularized injury that is "fairly
19 traceable" to conduct by any of the named defendants,¹ Allen

¹ Although Zaleski sued every judge then of this Court, each of whom would ordinarily be disqualified from hearing this appeal, the "rule of necessity" applies. See Tapia-Ortiz v. Winter, 185 F.3d 8, 10 (2d Cir. 1999) (holding that a panel of three judges, all of whom were

1 v. Wright, 468 U.S. 737, 751 (1984); and he fails to request
2 any relief likely to redress the injury asserted--he seeks
3 only declarations and that this suit be allowed to proceed
4 (a sort of invalid bid for anticipatory in banc mandamus
5 unknown to our rules), see id.

6 We have considered all of Zaleski's remaining
7 arguments, and find them to be without merit. For the
8 foregoing reasons, the district court's judgment is hereby

9 **AFFIRMED.**

named in the suit at issue, could hear and resolve the
appeal because it was "impossible . . . to convene a
three-member panel consisting of circuit judges that are not
a party to this suit").