UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DOUGLAS EDGARDO GOMEZ ESPINOZA,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 4:25-CV-02373
v.	§	
	§	
BRET BRADFORD, KRISTI NOEM, PAM BONDI, and WARDEN OF THE MONTGOMERY PROCESSING CENTER,	§	
	§	
Defendants.	§	

FEDERAL DEFENDANTS' MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)

Respectfully submitted,

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Pursuant to Rules 12(b)(6) of the Federal Rules of Civil Procedure, Federal Defendants Bret Bradford, Kristi Noem, and Pam Bondi hereby move to dismiss this habeas petition in its entirety. In support, Federal Defendants submits the following:

I. BACKGROUND[1]

Plaintiff Douglas Edgardo Gomez Espinoza is a 26-year-old native and citizen of El Salvadaor who has been in the United States without lawful status since 2016. ECF No. 17 at ¶¶ 12, 17. Espinoza attended various removal proceedings until July 2022, when those proceedings were terminated on account of prosecutorial discretion, i.e., enforcement priorities. *Id.* at ¶¶ 2, 18. Fast forward to April 14, 2025, when Espinoza was arrested in Galveston County for driving while intoxicated. *Id.* at ¶ 3. Espinoza was taken to Galveston County Jail, where he was identified as removable under relevant federal immigration laws. *Id.* Upon posting bond, Espinoza was released into the custody of Immigration and Customs Enforcement ("ICE"), and he was taken to the Montgomery Processing Center where he remains pending his ongoing removal proceedings. *Id.* At the Montgomery Processing Center, after a hearing, the immigration judge denied bond on grounds that Espinoza was a flight risk; Espinoza appealed this denial, and the appeal is currently pending before the Board of Immigration Appeals. *Id.* at ¶ 4.

Amidst his ongoing removal proceedings, including his appeal of the immigration court's denial of bond, Espinoza has brought this lawsuit petitioning the Court for a writ of habeas corpus. He seeks a court order issuing a writ to Defendants to release him immediately,

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[1] To the extent this Motion relies on facts as pleaded by Plaintiff, such facts should only be taken as true for purposes of this Motion.

on grounds that his detention "violates the Fourth Amendment's prohibition of unreasonable seizures" and "violates the Due Process Clause of the Fifth Amendment." *Id.* at 13–14. For both of these claims, Espinoza makes conclusory legal assertions buttressed by irrelevant facts and considerations which have no bearing on the rights that he asserts. The Court therefore must swiftly reject the writ and dismiss this case as a matter of law.

II. LEGAL STANDARD UNDER RULE 12(B)(6)

A party may move to dismiss under Federal Rule of Civil Procedure 12(b)(6) for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). Rule 12(b)(6) is read in conjunction with the pleading standard set forth in Rule 8(a), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2); *see Ashcroft v. Iqbal*, 556 U.S. 662, 677–68, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). Under this plausibility requirement, "a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). To survive a Rule 12(b)(6) motion, the complaint and any other matters properly considered "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). A claim has facial plausibility when the pleaded factual content allows the court, drawing upon its "judicial experience and common sense," to reasonably infer that the defendant is liable for the misconduct alleged. *Id.* at 679. "But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not 'show[n]'—'that the pleader is entitled to relief.'" *Id.*

(quoting Fed. R. Civ. P. 8(a)(2)). "Thus, claims may be dismissed under Rule 12(b)(6) 'on the basis of a dispositive issue of law,'" and also "if the complaint does not contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Inclusive Cmtys. Project, Inc. v. Lincoln Prop. Co.*, 920 F.3d 890, 899 (5th Cir. 2019) (quoting *Neitzke v. Williams*, 490 U.S. 319, 326, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989); *Iqbal*, 556 U.S. at 678 (quotation omitted)). In other words, "a complaint fails to state a claim upon which relief may be granted when the underlying legal claim is insufficiently supported by well-pleaded facts, or when the well-pleaded facts, even when accepted as true, do not state a legally cognizable claim." *Espinal v. City of Houston, Tex.*, No. 4:22-CV-01149, 2023 WL 424831, at *1 (S.D. Tex. Jan. 26, 2023), *aff'd sub nom. Espinal v. City of Houston*, 96 F.4th 741 (5th Cir. 2024).

III. DISCUSSION

Under federal law, a petitioner may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c). The "sole function" of habeas relief is to "grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose," which means that it "is not available to review questions unrelated to the cause of detention." *Pierre v. United States*, 525 F.2d 933, 935–36 (5th Cir. 1976). As the Fifth Circuit has recognized, courts must "take a narrow view of habeas relief in the immigration context." *Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020). This guideline is so because Congress exercises "broad power over naturalization and immigration," and thus it "regularly makes rules that would be unacceptable if applied to citizens." *Demore v. Kim*, Demore v. Kim, 538 U.S. 510, 511, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003).

In turning to this habeas petition, it is important to first make sense of it. Espinoza has brought this writ seeking release from what he purports to be an unlawful detention, but his complaint is (deliberately?) vague as to the basis behind his constitutional allegations. He asserts that his detention violates (1) the Fourth Amendment right to be secure against unreasonable seizures, and (2) the Fifth and Fourteenth Amendments' right to due process. But he makes these assertions conclusorily, and one would be hard-pressed to readily discern a coherent theory as to how those rights have been violated—i.e., how "the cause of detention" runs afoul of his constitutional rights. *Pierre*, 525 F.2d at 935. Indeed, in light of this vagueness and imprecision, undersigned counsel for the Federal Defendants reached out to counsel for Espinoza. Based on that conversation, the Federal Defendants' understanding of Espinoza's argument is this: that his current federal detention is unlawful because it is based on an underlying state law arrest for driving while intoxicated, despite that he has not yet been charged or convicted with such an offense and is presumed innocent until proven guilty. If this indeed is his argument, Espinoza is presenting an argument so erroneous that it borders on frivolity.

IV. ANALYSIS

A. FOURTH AMENDMENT

Espinoza's first claim is that his federal detention violates his Fourth Amendment right to be secure against unreasonable seizures. ECF No. 17 at ¶¶ 25–30. His argument appears to be that his federal detention has been and continues to be an unreasonable seizure because he has yet to be charged or convicted of DWI in state court. *See id.* This argument is perplexing, to say the least.

As Espinoza surely does not dispute, he is not currently being held in ICE custody on account of his arrest for driving while intoxicated; he is being held in custody on account that, as he admits, he is a citizen and native of El Salvador who is present in the United States as an illegal alien with no lawful status. ECF No. 17 at ¶ 12; *see* 8 U.S.C. § 1182(a)(6)(A)(i) ("An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible."); 8 U.S.C. § 1227(a)(1)(A) ("Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens inadmissible by the law existing at such time is deportable."); 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States."). As stated earlier, upon his arrest for DWI, the system showed his unlawful status, and from there ICE was notified and took him into custody, placing him in the Montgomery Processing Center where he remains pending his ongoing removal proceedings.

Espinoza seems to be advancing a Hail Mary that the Court could somehow make the mistake of conflating the basis for his state court arrest with the basis for his federal detention. It is of course true that had Espinoza never been pulled over for the DWI, he may well have avoided setting in motion the chain of events which culminated in his federal detention. But that does not, in any meaningful way, equate to him being in federal detention for violating state traffic laws. The only relevant consideration is that ICE was notified that Espinoza was unlawfully present in the United States—a fact that Espinoza admits in his pleadings—and took him into its custody *on that basis*. Any merits or de-merits and proprieties or improprieties

behind his state arrest, and any subsequent state law charges or convictions, have absolutely zero bearing on his federal detention, which as can be seen from Espinoza's attached exhibit, is based on his unlawful status.[2] *See, e.g.*, ECF No. 6 at 1 (charging him under the Immigration and Naturalization Act). This claim, then, borders on frivolity, as surely Espinoza knows that violation of state traffic laws is not the Government's basis for holding Espinoza in federal detention.

B. FIFTH AND FOURTEENTH AMENDMENTS

Plaintiff's other argument for why he should be released is that his detention violates his right to due process under the Fifth and Fourteenth Amendments. While a tall order, Espinoza's due process claim somehow manages to rival his Fourth Amendment claim in (in)coherence and (de)merit.

As an initial matter, the Fourteenth Amendment applies to actions taken by states, not the federal government. *See San Francisco Arts & Athletics, Inc. v. U.S. Olympic Comm.*, 483 U.S. 522, 543 n.21, 107 S.Ct. 2971, 97 L.Ed.2d 427 (1987). Conversely, the Fifth Amendment applies where, like here, the federal government is involved. *E.g.*, *Arnold v. Williams*, 979 F.3d 262, 270 (5th Cir. 2020). The Court therefore must construe Espinoza's due process claim as brought only under the Fifth Amendment or dismiss it to the extent it is brought under the Fourteenth Amendment.

In this case, Espinoza states that his detention violates his due process rights but does not provide any colorable theory as to how that might be. In relevant part, his complaint does

[2] Not that it would matter for this analysis, but Espinoza has not pled any facts which suggest that he was unreasonably seized when he was taken into custody, i.e., that the seizure lacked probable cause. *Michigan v. Summers*, 452 U.S. 692, 700, 101 S.Ct. 2587, 69 L.Ed.2d 340 (1981).

not even indicate whether the due process right he accuses the Government of violating is procedural or substantive, much less identify the specific right in question. *See* ECF No. 17 at ¶¶ 31–38. While far be it for the Government to spell out for Espinoza arguments that he may not even be making, to the extent that Espinoza is arguing that the Government is violating due process by detaining him during his removal proceedings, such an argument is contrary to the INA and has been resoundingly rejected by the Supreme Court. *See* 8 U.S.C. § 1226(a) (stating that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States."); *see also Demore v. Kim*, 538 U.S. 510, 123 S.Ct. 1708, 155 L.Ed. d 724 (2003) (holding that "detention during [deportation] proceedings is a constitutionally valid aspect of the process"); *Wong Wing v. United States*, 163 U.S. 228, 16 S.Ct. 977, 41 L.Ed. 140 (1896) (explaining that "[p]roceedings to exclude or expel would be vain if those accused could not be held in custody . . . while arrangements were being made for their deportation.").

It is unclear, however, whether Espinoza is even making that argument, since he seems to be asserting general grievances that do not discernibly implicate due process at all. Specifically, the bulk of Espinoza's "due process" claim seems to be arguing that it is unfair for him to have to try to convince the immigration court (in his forthcoming removal proceeding) that he is a person of good moral character when he has a state court DWI charge pending against him. *See id.* It is baffling how this set of circumstances somehow constitutes a violation of his due process rights, much less indicates that habeas would be the proper vehicle for relief even if there were a violation, or that the proper remedy would be to release him from custody altogether. Indeed, as already stated, habeas relief "is not available to review

questions unrelated to the cause of detention." *Pierre*, 525 F.2d at 935–36; *see Preiser v. Rodriguez*, 411 U.S. 475, 484, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973) (explaining that "the essence of habeas corpus is an attack by a person in custody upon the legality of that custody"). Here, nothing in his grievances about the potential effects of Espinoza's pending state DWI charges on his federal removal proceedings indicates that there is anything unlawful going on at all, much less concerning the cause or legality of his custody (which of course are based on his unlawful status), and he does not even attempt to plead otherwise.

This lawsuit can be summed up as Espinoza focusing on irrelevant facts and offering amorphous notions of unfairness under the guise of a colorable habeas action. Accordingly, dismissal is the only proper fate of this petition.

V. CONCLUSION

For the forgoing reasons, the Federal Defendants respectfully request that the Court grant their motion and dismiss Plaintiff's petition in its entirety, with prejudice, for failure to state a claim.

Dated: July 16, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 16, 2025, the foregoing was filed and served on counsel for Plaintiff via the Court's CM/ECF service.

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