UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 26-CV-21064-MOORE

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIPPE BIEN-AIME,
a/k/a JEAN PHILIPPE JANVIER,

Defendant.
_____________________________________/

DEFENDANT PHILIPPE BIEN-AIME'S MOTION TO DISMISS COUNTS II, III, AND V OF THE COMPLAINT, TO DISMISS OR NARROW COUNT VI IN PART, AND INCORPORATED MEMORANDUM OF LAW

The Defendant Philippe Bien-Aime, pursuant to Federal Rule of Civil Procedure 12(b)(6), moves to dismiss Counts II, III, and V of the United States' Complaint to Revoke Naturalization. Defendant also moves to dismiss, or in the alternative, narrow, the portion of Count VI that is predicated on the allegation that he affirmatively represented on his Form N-400 that he had never used another name.

Through this action, the Government seeks the extraordinary remedy of revoking Defendant's United States citizenship, which he has held since 2006. Several of the challenged counts, however, are not supported by well-pleaded factual allegations. Instead, they rely on legal conclusions, unsupported inferential leaps, or allegations that are contradicted by the Complaint's own incorporated factual assertions and attached exhibits.

Count II fails because the Government does not plausibly allege that the former Immigration and Naturalization Service ("INS") lacked jurisdiction over Defendant's adjustment application merely because a prior removal order had allegedly become final. The Complaint asserts that Defendant's removal order became final before he filed his adjustment application and then concludes that the Miami Immigration Court therefore had exclusive jurisdiction over that later application. But the Complaint does not adequately explain why a final removal order, standing alone, necessarily divested INS of jurisdiction over the adjustment application. The Complaint also cites an incorrect regulation as the purported basis for this theory. At a minimum, the Government was required to plead a legally coherent basis for the alleged jurisdictional divestiture, rather than merely reciting that INS lacked authority to act.

Count III fails because the Complaint's factual allegations and attached verification report support, at most, the allegation that the specific Haitian divorce extract submitted to immigration authorities was deemed fraudulent. The Government then makes a materially different and unsupported leap by alleging that Defendant and Beatrice Gelin were never legally divorced at all. That conclusion is indispensable to Count III's theory that Defendant's later marriage to Marie Rose Chauvet was void and that no immigrant visa was immediately available to him. Yet the Complaint pleads no nonconclusory facts establishing that no valid divorce existed under Haitian law or otherwise. The allegation that a particular divorce extract was fraudulent does not, without more, plausibly establish that no divorce ever occurred.

Count V fails because it depends entirely on alleged oral testimony supposedly given during immigration interviews in 2002 and 2006. The Supreme Court has held that "false testimony" under 8 U.S.C. § 1101(f)(6) is limited to oral statements made under oath for the subjective purpose of obtaining immigration or naturalization benefits. *Kungys v. United States*, 485 U.S. 759, 780–81 (1988). Although the Complaint attaches transcript excerpts from a different proceeding—a 1998 removal hearing—it does not attach any transcript, recording, sworn officer memorandum, or other interview record memorializing the specific oral questions and answers allegedly given during the 2002 adjustment interview or the 2006 naturalization interview on which Count V rests. Instead, Count V recites highly specific oral questions and answers without identifying the factual source for those alleged exchanges. In addition, one of Count V's central allegations is facially defective. The Complaint asserts that Defendant falsely denied lying "to gain entry or admission into the United States" because he allegedly lied during a later adjustment-of-status interview. An adjustment-of-status interview, however, is not an effort to gain entry or admission into the United States.

Finally, Count VI should be dismissed or narrowed to the extent it alleges that Defendant affirmatively "indicated" on his naturalization application that he had never used another name. The Complaint's own factual allegations state instead that Defendant "provided no response" to that question. A blank response is not the affirmative representation pleaded in Count VI. Where a complaint's own incorporated allegations contradict its characterization of the alleged misrepresentation, the more specific factual allegation governs.

For these reasons, Counts II, III, and V should be dismissed, and Count VI should be dismissed or narrowed as set forth below.

I. RELEVANT ALLEGATIONS

The Complaint invokes 8 U.S.C. § 1451(a) and seeks revocation of Defendant's naturalization on theories of illegal procurement and procurement by concealment of material facts or willful misrepresentation. Compl. ¶¶ 1, 137–140.

The Government alleges that Defendant previously appeared in immigration proceedings under the name Jean Philippe Janvier, that an immigration judge ordered him removed on July 31, 2000, and that the Board of Immigration Appeals later determined that his appeal had been withdrawn and that the removal order was final. *Id.* ¶¶ 9–34. The Complaint further alleges that Defendant later filed an application for adjustment of status under the name Philippe Bien-Aime, based on his marriage to United States citizen Marie Rose Chauvet, and that INS approved the application on August 14, 2002. *Id.* ¶¶ 36–65.

The Complaint asserts six counts. This Motion challenges Counts II, III, and V, and the discrete portion of Count VI that alleges Defendant affirmatively represented on the N-400 that he had never used another name.

A. Count II: Alleged Lack of INS Jurisdiction Over the Adjustment Application

Count II alleges that Defendant was not lawfully admitted for permanent residence because INS allegedly lacked jurisdiction to adjudicate his adjustment application. *Id.* ¶¶ 148–156. Count II rests on the following theory:

1. Defendant was allegedly subject to a final removal order as of July 6, 2001;

2. because of that final order, the Miami Immigration Court allegedly had exclusive jurisdiction over Defendant's subsequent adjustment application;

3. because the immigration court allegedly had exclusive jurisdiction, INS lacked authority to adjudicate and approve the application; and

4. because INS allegedly lacked authority to grant adjustment, Defendant was not lawfully admitted for permanent residence.

Id. ¶¶ 151–154.

In support of that theory, the Complaint cites "8 C.F.R. §§ 245(a)(1), 1245(a)(1)." *Id.* ¶ 150. Elsewhere, the Complaint cites "8 C.F.R. § 1245(a)(1)." *Id.* ¶ 132. Neither citation identifies the regulation governing immigration-judge jurisdiction over adjustment applications, 8 C.F.R. § 1245.2(a)(1).

B. Count III: Alleged Invalidity of Defendant's Marriage to Chauvet

Count III alleges that Defendant was not eligible to receive an immigrant visa because his marriage to Chauvet was not legally valid. *Id.* ¶¶ 157–170. The theory depends on the proposition that Defendant remained legally married to Beatrice Gelin when he married Chauvet.

The Complaint alleges that Defendant submitted a Haitian divorce extract relating to the dissolution of his marriage to Gelin. *Id.* ¶¶ 50–52. It further alleges that a 2019 Report of Overseas Verification concluded that the submitted divorce extract was fraudulent. *Id.* ¶ 117. Count III then asserts that Defendant "was not legally divorced from Gelin," that his marriage to Chauvet was therefore invalid, and that he consequently lacked a qualifying family relationship to support adjustment of status. *Id.* ¶¶ 164–168.

C. Count V: Alleged False Oral Testimony During Immigration Interviews

Count V alleges that Defendant lacked the good moral character required for naturalization because he purportedly gave false testimony under 8 U.S.C. § 1101(f)(6). *Id.* ¶¶ 185–197. The Count depends on alleged oral testimony during two interviews:

- an August 14, 2002, adjustment interview before Officer Wanda Gail Lowry; and
- a February 23, 2006, naturalization interview before Officer Francisco Villalba.

Id. ¶¶ 59–63, 95–101, 189–195.

The Complaint attributes to those interviews detailed oral questions and answers. *Id.* ¶¶ 61–63, 97–101. Yet the Complaint does not identify the factual source of those alleged oral exchanges. The only transcript attached to the Complaint is Exhibit E, which the Complaint describes as transcript excerpts from an April 10, 1998, removal hearing. *Id.* ¶ 15 & Ex. E. Although the Complaint attaches Defendant's Form N-400 and alleges that he signed it at the conclusion of the naturalization interview after eight corrections were made, it does not attach any transcript, recording, sworn officer memorandum, or other interview record memorializing the specific oral questions and answers alleged in Count V. Compl. ¶¶ 97–102. Count V also contains a series of internal cross-reference errors. Paragraph

192 cites Paragraph 97 while describing the allegation set forth in Paragraph 98; Paragraph 193 cites Paragraph 98 while describing the allegation set forth in Paragraph 99; Paragraph 194 cites Paragraph 99 while describing the allegation set forth in Paragraph 100; and Paragraph 195 cites Paragraph 100 while describing the allegation set forth in Paragraph 101. *Id.* ¶¶ 97–101, 192–195.

D. Count VI: Alleged Misrepresentation Regarding "Other Names"

Count VI alleges, among other things, that Defendant "indicated on his naturalization application that he had never used any name other than Philippe Bien-Aime." *Id.* ¶ 201. But the Complaint's factual allegations state something materially different: that Part 1, Question C of the naturalization application asked Defendant to provide any other names he had "ever used," and that "Defendant provided no response" to that question. *Id.* ¶¶ 74–75. Count VI thus converts an alleged blank response into an affirmative denial.

II. LEGAL STANDARD

A complaint must contain "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotation marks omitted); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility" only when the pleaded facts permit the Court "to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678. Although the Court must accept well-pleaded factual allegations as true, it need not accept legal conclusions couched as factual allegations, "[t]hreadbare recitals of the elements of a cause of action," or "mere conclusory statements." *Id.*; see also *Speaker v. U.S. Dep't of Health & Hum. Servs. Ctrs. for Disease Control & Prevention*, 623 F.3d 1371, 1380 (11th Cir. 2010).

A complaint also must plead facts sufficient to raise the right to relief above the speculative level. *Twombly*, 550 U.S. at 555. The plausibility standard requires enough factual content to nudge the claim "across the line from conceivable to plausible." *Id.* at 570. The Eleventh Circuit applies this same standard and requires factual allegations that render the asserted claim plausible, not merely possible. *Speaker*, 623 F.3d at 1380.

When a complaint incorporates or attaches documents, those materials become part of the pleading and may be considered in evaluating a motion to dismiss. Fed. R. Civ. P. 10(c); *Crenshaw v. Lister*, 556 F.3d 1283, 1291–92 (11th Cir. 2009). Where those documents contradict the complaint's general or conclusory allegations, the exhibits control. *Id.* at 1292; *Griffin Indus., Inc. v. Irvin*, 496 F.3d 1189, 1206 (11th Cir. 2007).

Civil denaturalization seeks an extraordinary remedy. The Supreme Court has repeatedly recognized that denaturalization proceedings are grave matters and that, once citizenship has been conferred, it should not be taken away without the clearest sort of justification and proof. *Schneiderman v. United States*, 320 U.S. 118, 122–25 (1943); *Fedorenko v. United States*, 449 U.S. 490, 505–06 (1981). Although this Motion concerns pleading sufficiency rather than proof at trial, the severity of the relief requested underscores the need for legally coherent and factually plausible claims.

III. ARGUMENT

A. Count II Should Be Dismissed Because the Complaint Does Not Plausibly Allege That INS Lacked Jurisdiction Over Defendant's Adjustment Application.

Count II should be dismissed because it rests on an unsupported legal conclusion: that the alleged existence of a final removal order automatically deprived INS of jurisdiction to adjudicate Defendant's later adjustment application.

The Complaint alleges that Defendant's removal order became final before he filed the adjustment application at issue. Compl. ¶¶ 30, 43, 151. It then asserts, without meaningful legal explanation, that "[b]ecause Defendant was subject to a final removal order, the Miami Immigration Court had exclusive jurisdiction over Defendant's adjustment application." *Id.* ¶ 152. From there, the Complaint concludes that INS lacked authority to adjudicate the application and that Defendant therefore was not lawfully admitted for permanent residence. *Id.* ¶¶ 153–154.

That chain of reasoning is not adequately pleaded. The Complaint does not allege that Defendant's removal proceedings remained pending before an immigration judge when the adjustment application was filed. Nor does it allege facts demonstrating why an administratively final removal order, standing alone, necessarily vested exclusive adjustment jurisdiction in the immigration court and divested INS of adjudicatory authority.

The regulation relevant to this issue is 8 C.F.R. § 1245.2(a)(1), which addresses the immigration judge's jurisdiction over adjustment applications in the removal context. Yet the Complaint cites "8 C.F.R. §§ 245(a)(1), 1245(a)(1)," Compl. ¶ 150, and "8 C.F.R. § 1245(a)(1)," *id.* ¶ 132, neither of which accurately identifies the governing jurisdictional regulation. Count II thus rests on a legal conclusion supported by an incorrect regulatory citation and an unexplained assertion that the finality of the prior removal order alone deprived INS of jurisdiction.

At the pleading stage, the Government may not simply announce the jurisdictional result it needs and treat that result as a well-pleaded fact. *Iqbal*, 556 U.S. at 678. If the Government contends that an administratively final removal order automatically divested INS of jurisdiction over Defendant's adjustment application under the applicable regulatory framework, it was required to plead a coherent legal basis for that theory. It did not.

Count II, therefore, fails to state a plausible claim for illegal procurement of naturalization based on the alleged absence of lawful permanent resident status, and it should be dismissed.

B. Count III Should Be Dismissed Because the Complaint Does Not Plausibly Allege That Defendant Was Never Legally Divorced from Gelin.

Count III should be dismissed because it depends on a critical factual conclusion that the Complaint does not plausibly plead: that Defendant remained legally married to Gelin when he married Chauvet.

The Government's Count III theory proceeds as follows. First, it alleges that Defendant submitted a Haitian divorce extract relating to the dissolution of his marriage to Gelin. Compl. ¶¶ 51–52. Second, it alleges that a later Report of Overseas Verification concluded that the divorce extract was fraudulent. *Id.* ¶ 117. Third, it concludes that Defendant "was not legally divorced from Gelin," that his later marriage to Chauvet was invalid, and that he therefore lacked a qualifying spousal relationship necessary for adjustment of status. *Id.* ¶¶ 164–168.

The problem is that the third step does not plausibly follow from the first two. An allegation that a particular divorce extract was fraudulent does not, without more, establish that no valid divorce ever occurred. The Complaint does not allege that Haitian authorities determined that no divorce judgment existed. It does not allege that no valid decree was ever entered. It does not allege that no alternate official record of dissolution existed. It does not allege facts regarding Haitian divorce procedures that would make the alleged fraudulence of one extract dispositive of whether the underlying divorce occurred. Yet Count III depends entirely on that dispositive conclusion.

The allegations concerning the Report of Overseas Verification are narrower than the conclusion Count III draws from them. The Complaint alleges that the report determined the specific divorce extract described in Paragraph 51 was fraudulent. *Id.* ¶ 117. Count III then treats that allegation as though it established that Defendant and Gelin were never legally divorced. *Id.* ¶ 165. That is an unsupported inferential leap, not a well-pleaded factual allegation.

Under *Twombly* and *Iqbal*, the Court need not accept conclusory allegations that skip over the facts necessary to make a claim plausible. *Twombly*, 550 U.S. at 555; *Iqbal*, 556 U.S. at 678. And under *Crenshaw* and *Griffin Industries*, the Government cannot transform a limited factual allegation concerning a particular document into a broader conclusion that the underlying divorce never occurred. *Crenshaw*, 556 F.3d at 1292; *Griffin Indus.*, 496 F.3d at 1206.

Because Count III does not plausibly allege the indispensable predicate that Defendant remained legally married to Gelin when he married Chauvet, Count III should be dismissed.

C. Count V Should Be Dismissed Because It Does Not Plausibly Plead False "Testimony" Under 8 U.S.C. § 1101(f)(6), and Because One of Its Alleged False-Testimony Theories Is Defective on Its Face.

Count V alleges that Defendant lacked good moral character because he purportedly gave false testimony during immigration interviews. Compl. ¶¶ 185–197. But the Supreme Court has narrowly construed "false testimony" under 8 U.S.C. § 1101(f)(6). In *Kungys v. United States*, the Court held that "testimony" refers only to oral statements made under oath and that the statutory bar applies only where the speaker gives false oral testimony with the subjective intent to obtain immigration or naturalization benefits. 485 U.S. 759, 780–81 (1988).

Count V, therefore, depends on the existence and content of actual oral testimony. The Complaint alleges that Defendant made specific oral statements during a 2002 adjustment interview and a 2006 naturalization interview. Compl. ¶¶ 61–63, 97–101, 189–195. It attributes specific questions to the officers and specific oral answers to Defendant. *Id.* Yet the Complaint does not attach any transcript, recording, sworn officer memorandum, or other interview record memorializing the specific oral questions and answers alleged in Count V. The only transcript attached to the Complaint is Exhibit E, which concerns a different proceeding: an April 10, 1998, removal hearing. *Id.* ¶ 15 & Ex. E.

The omission matters because Count V does not rest merely on written application responses. Written inaccuracies, even if otherwise material, do not themselves constitute "false testimony" under § 1101(f)(6). *Kungys*, 485 U.S. at 780. Count V rises or falls on alleged oral testimony. Yet the Complaint offers only highly specific recitations of purported questions and answers without identifying the source of those alleged oral exchanges or pleading factual matter showing how the Government knows those exact statements were made. The pleading's repeated cross-reference errors further underscore that Count V has not been pleaded with the clarity warranted for a claim that seeks revocation of citizenship. Compl. ¶¶ 97–101, 192–195.

That is insufficient. A complaint may plead facts upon information and belief in appropriate circumstances, but it must still allege enough factual matter to render the claim plausible. Here, the Government asks the Court to accept, as the basis for a denaturalization count, detailed allegations of oral testimony while providing no pleaded source for those purported statements, despite attaching numerous other immigration records to the Complaint. Count V, therefore, rests on unsupported factual assertions concerning the essential element that distinguishes § 1101(f)(6) "false testimony" from mere written inaccuracy.

A similar concern arose in *United States v. Sokolov*, 814 F.2d 864 (2d Cir. 1987), where the Government sought to establish alleged misrepresentations during an immigration interview without evidence of what was actually said. The Government argued that immigration officials would have asked certain follow-up questions and that the applicant must have answered them falsely. The Second Circuit rejected that theory, explaining that there was "no evidence" of the actual interview and that the inference urged by the Government was "little short of mere conjecture." *Id.* at 871–

72. Although *Sokolov* was decided after trial under the Government's heightened evidentiary burden, its reasoning is instructive here. Count V similarly depends on the precise content of alleged oral exchanges during immigration interviews. Yet, the Complaint identifies no transcript, interview record, or other pleaded factual source for the specific questions and answers on which the claim rests.

Count V also includes a separate facial defect. Paragraph 194 alleges that Defendant falsely denied ever lying to a United States government official "to gain admission into the United States," and that the answer was false because he allegedly lied during the 2002 adjustment-of-status interview. Compl. ¶ 194. That allegation does not state a plausible false-testimony theory. An adjustment-of-status interview occurs after a person is already physically present in the United States and concerns the adjustment of legal status, not "entry or admission into the United States." The Complaint, therefore, fails to plead facts showing that the alleged answer identified in Paragraph 194 was false for the reason asserted.

Because Count V depends on unsupported allegations of oral testimony and includes at least one false-testimony theory that is defective on its face, Count V should be dismissed.

D. Count VI Should Be Dismissed or Narrowed to the Extent It Alleges an Affirmative "Other Names" Misrepresentation Contradicted by the Complaint's Own Factual Allegations.

Count VI alleges that Defendant "indicated on his naturalization application that he had never used any name other than Philippe Bien-Aime." Compl. ¶ 201. But the Complaint's own factual allegations say otherwise. Paragraphs 74 and 75 allege that Part 1, Question C of the naturalization application asked Defendant to provide any other names he had "ever used," and that "Defendant provided no response" to that question. *Id.* ¶¶ 74–75.

Those allegations are materially different. A blank response may support one theory, but it is not the affirmative representation alleged in Count VI. The Government cannot recast "no response" as an affirmative statement that Defendant had never used another name. Where, as here, a complaint's specific factual allegations contradict a broader characterization of the alleged misrepresentation, the more specific allegations control. *Crenshaw*, 556 F.3d at 1292; *Griffin Indus.*, 496 F.3d at 1206.

Accordingly, Count VI should be dismissed or narrowed to the extent it rests on the allegation that Defendant affirmatively denied on the N-400 that he had ever used another name.

IV. CONCLUSION

For the reasons set forth above, the challenged counts should not proceed as pleaded. In an action seeking the extraordinary remedy of revoking citizenship granted nearly two decades ago, the Government must allege legally coherent claims supported by plausible factual allegations—not conclusory jurisdictional assertions, unsupported inferential leaps, undocumented allegations of oral testimony, or characterizations contradicted by the Complaint's own factual allegations.

Accordingly, Defendant respectfully requests that the Court:

1. dismiss Count II for failure to state a claim;
2. dismiss Count III for failure to state a claim;
3. dismiss Count V for failure to state a claim;

4. dismiss, or in the alternative narrow, Count VI to the extent it alleges that Defendant affirmatively represented on his Form N-400 that he had never used another name; and

5. grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 18, 2026, a true and correct copy of the foregoing was furnished by CM/ECF to all counsel of record.

By: /s/ Paul D. Petruzzi
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