APPENDIX

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APPENDIX A

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

ABIY YIFRU,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2023-1697

Appeal from the United States Court of Federal Claims in No. 1:22-cv-00567-MBH, Senior Judge Marian Blank Horn.

Decided: January 11, 2024

ABIY YIFRU, New York, NY, pro se.

ERIC JOHN SINGLEY, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for defendant-appellee. Also represented by BRIAN M. BOYNTON, ELIZABETH MARIE HOSFORD, PATRICIA M. MCCARTHY.

Before LOURIE, PROST, and REYNA, *Circuit Judges*.

PER CURIAM.

Abiy Yifru appeals pro se a decision of the United States Court of Federal Claims that dismissed his complaint for failure to state a claim and for lack of jurisdiction. We affirm.

BACKGROUND

Mr. Yifru emigrated from Ethiopia to the United States in 2003 after he was selected through a visa lottery program to receive a U.S. visa.[1] *See, e.g.*, Appx33–34, Appx41.[2] According to Mr. Yifru, upon winning the visa lottery, he was "compelled" to complete the visa paperwork by family members and friends of a "so-called [American] sponsor." Appx34. He ultimately submitted the visa paperwork, attended a visa interview with a U.S. consular officer, paid a visa fee, and received his U.S. visa. Appx35–38. Mr. Yifru asserts in this appeal that after obtaining his U.S. visa, the "Ethiopian immigration authority" informed Mr. Yifru that he additionally needed a clearance letter from his employer in Ethiopia to obtain his exit visa. Appellant Br. 8. Mr. Yifru states that "he submitted a resignation letter, []his employer cleared him, and he obtained the exit visa." *Id.*; *see also* Appx41.

Mr. Yifru alleges that since moving to the United States, he has endured homelessness and other hardships. *See* Appellant Br. 8. During this time, Mr. Yifru has sought

[1] This case was dismissed on the pleadings and no factual challenges have been raised, so the allegations in the complaint "set[] forth the uncontested factual backdrop for this appeal." *Fid. & Guar. Ins. Underwriters, Inc. v. United States*, 805 F.3d 1082, 1084 (Fed. Cir. 2015). Here, we provide a summary of the complaint's allegations relevant to this appeal.

[2] "Appx" refers to the appendix submitted with Mr. Yifru's brief.

various types of benefits from the U.S. government, including unemployment compensation and rental subsidy vouchers. *Id.*; *see also* Appx66–72.

In May 2022, Mr. Yifru filed a complaint against the U.S. government in the Court of Federal Claims ("CFC"). *See* Appx28. His complaint alleged conduct spanning the past twenty years but included just one cause of action under the Fifth Amendment's Takings Clause. *See, e.g.*, Appx30–31, 73; *see generally* Appx39–72. Mr. Yifru alleged that he had a protected property interest in his employment contract with his employer in Ethiopia. Appx73. He alleged that the government interfered with that employment contract by "compell[ing]" him to complete the visa paperwork and immigrate to the United States, resulting in a taking of his employment contract. *See, e.g.*, Appx73.

The government moved to dismiss Mr. Yifru's complaint for failure to state a claim and for lack of jurisdiction. After full briefing, the CFC issued an order granting the motion. *See* Appx2. The CFC found that Mr. Yifru's complaint failed to allege sufficient facts to support a claim under the Takings Clause of the Fifth Amendment. Appx20. The CFC also considered the complaint's other extensive allegations and apparent requests for relief. Appx20–27. It found that they either failed to state a claim or did not fall within the CFC's jurisdiction. *Id.* The CFC accordingly dismissed Mr. Yifru's complaint. Appx1, Appx27. This appeal followed.

STANDARD OF REVIEW

We review de novo the CFC's grant of a motion to dismiss for failure to state a claim. *Inter-Tribal Council of Arizona, Inc. v. United States*, 956 F.3d 1328, 1338 (Fed. Cir. 2020). We also conduct de novo review of grants of motions to dismiss for lack of jurisdiction. *Id.* In either of these types of pleading-stage disputes, we accept all factual allegations in the complaint as true and construe them in the light most favorable to the non-moving party. *Id.*

DISCUSSION

The Takings Clause of the Fifth Amendment of the United States Constitution provides that "private property [shall not] be taken for public use, without just compensation." U.S. Const. Amend. V. Government action is a threshold requirement of a takings claim. *See Huntleigh USA Corp. v. United States*, 525 F.3d 1370, 1377 (Fed. Cir. 2008). Moreover, government action must result in a compensable taking of a property interest for public use. *Id.* If no property is taken—for example, if the government does not actually assume a party's contracts for public use and instead simply "frustrat[es]" a party's business expectations—there is no taking. *See, e.g., id.* at 1379–82.

Here, Mr. Yifru asserts that the U.S. consular officer "orchestrated" the acts of private parties to coerce him to complete the U.S. visa paperwork, and otherwise "compelled" him to resign from his job in Ethiopia. On these bases, Mr. Yifru claims a Fifth Amendment taking of his employment contract in Ethiopia. But Mr. Yifru alleges no *facts* to support that the conduct of a U.S. government official led the United States to assume his employment contract for public purposes. We thus agree with the CFC that Mr. Yifru fails to state a claim on which relief can be granted.

Mr. Yifru's complaint also asks the CFC to instruct other government agencies to provide Mr. Yifru with government benefits. But the CFC lacks such jurisdiction, as it "has no general power to provide equitable relief against the Government or its officers," including as to Mr. Yifru's claims in this case. *United States v. Tohono O'Odham Nation*, 563 U.S. 307, 313 (2011). We agree with the CFC that these shortcomings with the relief sought further support dismissal of Mr. Yifru's complaint.

CONCLUSION

We have considered Mr. Yifru's remaining arguments and find them unpersuasive. For the reasons stated, the Court of Federal Claims order dismissing Mr. Yifru's complaint for failure to state a claim and lack of jurisdiction is affirmed.

AFFIRMED

COSTS

No costs.

APPENDIX B

In the United States Court of Federal Claims

No. 22-567L

Filed: January 13, 2023

* *

ABIY YIFRU,

Plaintiff,

v.

UNITED STATES,

Defendant.

* *

Abiy Yifru, pro se, New York, NY.

Eric J. Singley, Trial Attorney, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, D.C., for defendant. With him were **Elizabeth M. Hosford**, Assistant Director, **Patricia M. McCarthy**, Director, Commercial Litigation Branch, and **Brian M. Boynton**, Principal Deputy Assistant Attorney General, United States Department of Justice, Washington, D.C.

OPINION

HORN, J.

Pro se plaintiff Abiy Yifru filed a complaint in the United States Court of Federal Claims, explaining "[t]his is a claim to recover just compensation for an unconstitutional taking in unconstitutional-condition of Plaintiff's private property by Defendant, US. Plaintiff's valid permanent employment contract was unlawfully taken. This claim arises under the Fifth Amendment to the US Constitution." (alteration added). In response to plaintiff's complaint, defendant moved to dismiss plaintiff's complaint pursuant to Rule 12(b)(1) (2021) and Rule 12(b)(6) of the Rules of the United States Court of Federal Claims (RCFC) for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

FINDINGS OF FACT

Plaintiff states that he is a "civil servant and chemical engineer" from Ethiopia and that he graduated from the Addis Ababa University in Ethiopia on February 20, 2001. Within two years of graduation, plaintiff states that he secured two "permanent employment contract[s]," in Ethiopia, first with the "Hormat Engineering Factory," and later with "the Intellectual Property Office of the Ethiopian Science and Technology

Commission."[1] (alteration added). Plaintiff states that these employment contracts were "ideal and near where his family lives." He asserts that these employment opportunities enabled him to "save substantial money" because the factory provided free housing and lunch for the employees.

Plaintiff's complaint alleges:

> A so-called sponsor's wife and the relatives came to Ethiopia from US in April 2003, within a month when he started the second job. The so-called sponsor's wife and the relatives were his neighbors lived just across a street. The so-called sponsor's wife and the relatives are career fraudsters of the US permanent resident card. The month was [sic] the US Department of State annual diversity visa ("DV") lottery winner announcement. Surprisingly, within a month in May 2003 Plaintiff received a letter from Kentucky Consular Center ("KCC") that he is a winner of DV-2003. The letter stated a sponsor requirement was for "three months." He spoke to the so-called sponsor's wife. After a while, the so-called sponsor's wife coerced Plaintiff to sell his DV winning petition. He informed to the so-called sponsor's wife that is illegal. After a while, a son of a neighbor paralegal ("paralegal-son") came up and coerced him to fill out Form DS- 230. Form DS-230 is an Application for Immigrant Visa and Alien Registration Part I and Part II. In June 2003 after a month KCC sent Plaintiff another corrected notice stating that the DV lottery was DV-2004 not DV-2003; it was an error. In July 2003, the paralegal-son urged and compelled him to fill out Form DS-230.[2]

(footnote and alterations added). Plaintiff's complaint continues:

> The KCC Consular Officer acting within the normal scope of consular duties, in September 2003, mailed Plaintiff an appointment letter. The Officer with intent to take his money as fees and to destroy his permanent employment contract scheduled an appointment. The appointment was for DV immigrant visa interview at the US Embassy in Ethiopia. The Consular Officer did not provide him at least a notice about UC [Unemployment Compensation]. Cautiously, in case of future requirements, Plaintiff started collecting all original documents. Those documents are his police records, birth

[1] Plaintiff's complaint indicates that the Intellectual Property Office of the Ethiopian Science and Technology Commission "was renamed Ministry of Science and Technology."

[2] "Plaintiff argues in his response to the government's motion to dismiss that "[t]he so-called sponsor and the paralegal-son are presumed to be the alter egos of the Consular Officer. Those persons are part of the visa notices and forms to facilitate the process. Defendant used those facilitators to interfere with his employment contract." (alteration in original; internal reference omitted).

> certificate, high school transcript, Ethiopian school leaving certificate, college transcript, bachelor's degree, medical exam result, and passport. About in a couple of weeks the US Embassy consular office in Ethiopia called Plaintiff. The Embassy informed him to call the so-called sponsor, but he did not call. Later, the paralegal-son coerced him to call the so-called sponsor and took him to a cheapest internet-cafe. However, the so-called sponsor's stepson hanged up the phone within 30 seconds. After a while, the so-called sponsor's wife mailed Plaintiff fraudulent one-page "sponsorship" letter or "affidavit." The letter is from a financial institute (Sun Trust Bank), and he received it in his office. The letter said, "Everything until he leaves the house." The letter had the so-called sponsor signature and raised seal imprint. It is a perjury.

(alteration added). Plaintiff continues:

> On about October 24, 2003 Plaintiff went to the US Embassy in Ethiopia for the DV immigrant visa interview. He was in doubt and worried, and carried all original documents and the so-called "sponsorship" letter. The consular office prescreens applications to avoid paying the required fees. The Consular Officer, very young white male, and a translator were at the interviewing window. The Officer intended to take Plaintiff's permanent employment contract and money as fees. The Officer instructed him to raise his right hand and asked him "Do you speak English?" When Plaintiff said, "yes," the Consular Officer gave a gesture with his both hands like stamping a seal on the empty counter at the front. Plaintiff was confused and agitated. Then the translator, a matured Ethiopian female, said, "He gave you" and referred him to a fee payment window. The Consular Officer predictably issued the DV immigrant visa without reviewing Plaintiff's documents. The Officer did not give him a notice about UC. The Officer did not require him to complete or sign DS-230 under oath. The Officer unlawfully destroyed his permanent employment contract. The Officer caused him to be a homeless, public charge and unemployed in US indefinitely, without his consent.

Under a heading tilted: "Unlawful exaction of Plaintiff," plaintiff alleges: "The Consular Officer destroyed Plaintiff's permanent employment contract first and then exacted him immigrant visa fees unlawfully." Plaintiff continues:

> A casher [sic] at the visa fee payment window informed Plaintiff that the photos he submitted for permanent resident card were not the correct dimension. He paid about $450.00 immigrant visa processing fee. On October 28, 2003 he obtained and submitted the correct size and dimension photos. On about November 3, 2003 the US Embassy in Ethiopia called Plaintiff to pick up his DV immigrant visa. The Consular Officer actions to destroying his permanent employment contact was unconstitutional. The Officer exacting him immigrant visa fees was unlawful.

(alteration added). Plaintiff next alleges

> Plaintiff was unaware of about UC. The Consular Officer did not give him a notice and did not want to provide him the benefits. He stayed at his job for a while. He was worried about leaving his ideal job and be homeless here. However, the so-called sponsor's wife urged him to come here soon. The so-called sponsor's wife was willing to provide support to another DV immigrants [sic]. The so-called sponsor's wife and the relatives coerced Plaintiff to immigrate immediately, so he would leave space for the other DV immigrants. Plaintiff borrowed about $750.00, and on November 21, 2003 resigned from his employment. On November 29 at noon, he arrived in US, Newark International Airport. The airport was quite hectic. A very aggressive Immigration Officer took Plaintiff's sealed DV immigrant visa and stamped one-year temporary evidence on his passport. The Immigration Officer legally issued the I-551, temporary evidence of lawful admission for permanent residence for 1 year. The Immigration Officer required Plaintiff to translate for some strange Ethiopian immigrant how long has been out of US. When he spoked to the immigrant the officer yelled at him to answer the question and he said to the officer one year. When unable to get any help at the airport Plaintiff walked away to the exit. Another DV immigrant whose brother is a doctor and lived in Silver Spring, MD ("doctor brother") met him. The doctor-brother came on the same airplane with him. The so-called sponsor's wife and the son were at the airport parking lot and took him to the so-called sponsor's apartment in Silver Spring, MD.
>
> Plaintiff tried to call the US Citizenship and Immigration Services. He had a flyer the US Embassy consular office in Ethiopian gave him. However, he could not go through and just got a message saying call later. The so-called sponsor wife's son took Plaintiff to a Social Security Administration office in Silver Spring, MD. He applied for a social security card and for the permanent resident card. After about three or four weeks he received first his social security card and then the permanent resident card. The Social Security Administration and the US Citizenship and Immigration Services legally issued Plaintiff's social security card and the permanent resident card. The permanent resident card expired in ten year.

(alteration added). Regarding his first four years in the United States, Mr. Yifru alleges "2003-2007 Plaintiff was deprived interests in liberty and property, the criminal so-called sponsor family's domestic violence, nonprofit provider's coercion of him to work any job, and illegal rooms landlords and residents' campaign of harassment." Plaintiff's complaint states that he lived "at the so-called sponsor's, Mr. Ermias Gebremedhin, apartment Plaintiff was under intense domestic violence and sleeping on the floor. Every day the so-called sponsor's son about 16 to 18 years of age was harassing and fighting him." Through a "Newcomer-Community-Service Center" employment specialist, he then apparently found what he claims was an "illegal room" in Washington, D.C. for $275.00

per month and a part job, which he quit shortly thereafter at an unspecified date in September 2004. (capitalization in original). From January 2005 through September 2005, plaintiff's complaint states that he lived in multiple "illegal" rented rooms at unspecified times and locations and held a range of jobs, including as a housekeeper and a cashier for several unspecified employers, and as a custodian and food server at West Virginia University. In October 2006, plaintiff states that he was admitted to West Virginia University for pre-pharmacy classes, but that he was unable to remain enrolled because of financial hardship.

Thereafter, it appears that plaintiff resided at a non-profit homeless shelter called Bartlett House in Morgantown, West Virginia. Plaintiff's complaint alleges:

> 2008 Bartlett-House shelter coerced Plaintiff to work any job and deprive interests in life, liberty, and property, he was falsely arrested twice within two days and falsely imprisoned. Plaintiff went to an emergency homeless shelter called Bartlett-House at 5:00 pm. He was going to the salvation-army, a soup kitchen, and churches for meals. He was on the street, and deprived interests in life expectancy, liberty, and property. On March 17, 2008 at 5:00 pm, the shelter transferred Plaintiff to a resident program. At about 7:00 pm he called his former landlord. The landlord brought his belongings to the shelter immediately. The room at the shelter was crowded with bunk beds, drunkard, addicts, and incarcerated people. At 10:30 pm Plaintiff became extremely distressed and anxious. The shelter sent him to a psychiatric hospital. On March 24, 2008 at about 12:00 pm, the hospital discharged him in a week. When Plaintiff returned to the shelter, he found out the staff and the homeless people stole some of his belongings. Immediately the shelter referred him to Fairmont Morgantown Housing Authority for housing assistance.
>
> The housing authority sent Plaintiff a letter. The letter stated that the authority received his application and there was orientation every month. While he was waiting for housing assistance, he was going to the salvation-army and soup kitchen for meals. The shelter director, caseworker, and staff to deprive interests in life, liberty and property was harassing and intimidating Plaintiff. Those staff coerced him to do chores for the shelter and apply for any job. Those staff also coerced him to see caseworker every two weeks for a mandatory ILP [Independent Living Plan]. On about June 15, 2008 the shelter director coerced Plaintiff to work as custodian at WVU daytime shift. He worked for one month. Again, on about August 15, 2008 the director coerced him to work for WVU as food server for another one month. In October 2008 the shelter director made a quick programmatic change. The director to deprive Plaintiff interests in life, liberty and property returned him to 5:00 pm - 8:00 am program. Consequently, he was staying during wintertime in parking garages on Sundays and holidays in frigid cold. In November 2008 Plaintiff called Fairmont-Morgantown Housing Authority and the authority issued him an HCV [Housing Choice Voucher]. He located

> an efficiency apartment for $400.00 a month. The landlord with intent to defraud, and to deprive interests in life, liberty, and property did not let him to move in. Due to frigid temperatures outside Plaintiff did not feel well and the shelter staff allowed him to stay in his bed for a couple of days.

(alterations added). Plaintiff next alleges:

> On January 8, 2009 at about 10:00 am, the shelter staff to deprive interests in life, liberty, and property, harassed and attacked him to go outside in the frigid cold and snow. The shelter staff called Emergency Medical Service. Then the staff called police and Plaintiff decided to go out. While he was in front of the shelter, the same police officer came back and falsely arrested him without any verbal communication both times. The officer handcuffed behind and took him to a courthouse. At the courthouse Plaintiff signed papers, which stated quite the opposite situation. The paper stated, "I had told Yifru to leave the Bartlett-House and that he was not [allowed] to come back until 1700 HRS and if he did he would be arrested." At the courthouse, the officer told him to go to the shelter at 5:00 pm. Plaintiff went back to the Bartlett-House shelter at 5:00 pm and spent the night. The next day he went to the shelter at 5:00 pm and spent the night. The next day on January 10, 2009, he went to the shelter at 5:00 pm. At about 6:00 pm the shelter staff to deprive interests in life, liberty, and property, harassed him to go outside in a cold street. Then the shelter called police and an officer instructed Plaintiff to leave, and he went out. At about 6:45 pm while he was in front of the shelter another police officer came and falsely arrested him. The officer handcuffed behind and took him to the courthouse for the second time without any verbal communication. At the courthouse Plaintiff signed similar misleading papers. The paper stated, "I made contact with Yifru and asked what he was doing. Yifru stated that he was trying to get in the Bartlett-House for the night. Yifru had been told . . .he would be arrested for trespassing." The officer put him in a jail cell for few minutes that is false imprisonment.

(alterations and capitalization in original). Plaintiff's complaint continues:

> The officer took Plaintiff to a motel and he paid $50.00 for the night. The next day he called the prospective landlord. The landlord asked him where he was, and with intent to defraud allowed him to move in. On January 11, 2009 he moved to the efficiency apartment and brought his belongings from the homeless shelter. On January 12, 2009 the housing authority inspector came, but the landlord refused the inspection with intent to defraud. The landlord required him to sign a lease. Within a week, Plaintiff applied for SNAP benefits for the first time and registered for work. The landlord, refused to give him a copy of the lease. The landlord was harassing him not to use the mailbox. In February 2009 the apartment started severely leaking on Plaintiff's bed. The landlord maliciously refused to repair. In March 2009

he reported the problem to the housing authority. He also completed zero income form afterwards every month at the housing authority office. Even though Plaintiff had no income for basic needs, the housing authority did not provide him with cash assistance and $50.00 tenant share, to deprive interests in life, liberty, and property. Consequently, the landlord maliciously intensified the harassment every month for the $50.00 tenant share and to defraud him. On about January 12, 2010 the housing authority issued Plaintiff an HCV to move. He was unable to look for and find another apartment, because of the landlord harassment and he did not have enough money. In February 2010 the landlord called police, because the housing authority stopped paying the rent. On February 26, the apartment was condemned. The landlord called police again and an officer took Plaintiff back to the Bartlett-House shelter. The shelter maliciously did not accept him because of the previous false arrests. Plaintiff stayed at the shelter for only one month from 10:00 pm - 6:00 am program. He reapplied for an HCV at the housing authority. On March 26, 2010, the shelter discontinued his homeless shelter assistance to deprive interests in life, liberty, and property. Plaintiff went to the nearest city to Fairmont-Scott-Place shelter. The shelter maliciously refused and sent him to a faith-based shelter called Union-Mission-of-Fairmont. The Union-Mission-of-Fairmont was unsanitary basement with crowded bunk beds. On April 1, 2010 he brought his belongings from the previous Morgantown efficiency apartment. The Union-Mission-of-Fairmont maliciously was harassing Plaintiff to leave and he was staying in a parking garage for some time. Then the shelter dusted and covered the bunk beds with pesticide powder for bedbugs. He was going to a soup kitchen for meals, clothing, and personal hygiene items. Plaintiff was checking his housing assistance application status monthly by calling toll free. On November 23, 2010 the housing authority mailed him an HCV. However, the next day on November 24 in the evening the Union-Mission-of-Fairmont discontinued his homeless shelter assistance. The Union-Mission-of-Fairmont transported Plaintiff to the next city to Clarksburg-Mission shelter. He lost his HCV assistance again. On December 2, 2010 he reapplied for public housing at Clarksburg-Harrison-Regional Housing Authority. On a housing assistance application form it asked if Plaintiff ever been arrested and he checked yes. Therefore, the housing authority required the Clarksburg Police Department to process his fingerprint.

Plaintiff further alleges in his complaint:

The Clarksburg-Mission shelter transferred Plaintiff to a resident program. He brought his belongings from the Union-Mission-of-Fairmont shelter. The Clarksburg-Mission shelter mandatorily required him to work five days a week as volunteer at its thrift store. The store gave him clothing and shoes. On January 5, 2011 the housing authority sent misleading letter to Plaintiff stating, "The FBI fingerprint division was unable to get an image on your fingerprint card." [sic] and required him to give his fingerprint again on

> January 19 for the second time. On February 7, 2011 the housing authority to deprive interests in life, liberty and property sent misleading denial letter to Plaintiff. The letter stated, "Based on: the FBI criminal background check; obstructing an officer on 1/08/2009. You will not be eligible for housing until 1/08/2012." He had ten days for conference about the decision. Immediately, the shelter ministry director asked Plaintiff [sic] the letter and he gave it to the director. The Clarksburg-Mission shelter had half an hour free legal help by appointment only. He was expecting to get some assistance from the shelter or the lawyer. On the expiration date the director gave him the letter back without any help. The housing authority refused Plaintiff assistance. In March 2011 he was sleeping on the floor, because the shelter removed him from the resident program. On March 18, 2011 the Clarksburg-Mission shelter called police and terminated Plaintiff's homeless shelter assistance. The shelter terminated his assistance within four months to deprive interests in life, liberty, and property. On March 21, 2011 Plaintiff went to Harrison County Courthouse and he has been sent to public defenders of WV. The public defenders sent him to Legal Aid of WV. The Legal Aid asked him if he was working and how long been in the shelter, but did not give him any help. Plaintiff applied for SNAP benefits and was on the street and under a bridge for a month in a rain and frigid cold. From April 11, 2011 up to April 15, he went to the Clarksburg-Mission shelter in hopes that to get his belongings. The shelter staffs and the homeless people stole and discarded all his belongings. On April 13, 2011 Harrison County Welfare Office discontinue [sic] Plaintiff's SNAP benefits, because the Clarksburg-Mission shelter returned his withheld mail. He was deprived interests in life expectancy, liberty, and property.

(alterations added). Subsequently, plaintiff alleges that "[o]n April 16, 2011 at noon, he took a bus to NYC," and on "April 17, 2011 at about 12:00 pm, Plaintiff went to NYC DHS Intake Shelter. On April 18, 2011 the Intake transferred him to NYC DHS Assessment Shelter to coerce to work mandatory activities, and to deprive interests in life, liberty, and property." (capitalization in original; alteration added).

From 2011 through 2015, plaintiff's complaint describes his experiences navigating various work programs and homeless shelters, albeit without specificity.[3]

[3] With regard to the work programs, plaintiff explains that on April 21, 2011 he was referred to the Back 2 Work program (B2W), and later, on May 16, 2011, to the Work Experience Program (WEP), by the New York City Human Resources Administration Job Center 062. "Every two weeks up to the year 2020," plaintiff states that he was sent notices to comply with his WEP requirements and was "coerce[d] to work mandatory activities." (alteration added). Plaintiff states that he was regularly re-assigned, sent numerous notices of discontinuing benefits, and was repeatedly marked "failure to comply" with the WEP and Independent Living Plan Plaintiff states that he requested his first "fair hearing" regarding the mandatory work requirements on December 15, 2011, and that, in all, his has requested over 60 "fair hearings" to the Office of Temporary and

Regarding his living situation, it appears from the complaint that during this same time frame, plaintiff continuously relocated. According to the complaint, the New York City Department of Housing's "contracted providers" moved plaintiff moved around to different shelters "at least twenty times." Plaintiff also alleges:

> On June 16, 2015 Plaintiff paid for carfare from his own pocket for employment referral appointment. At about 12:00 pm, he went to Job Center 046 appointment and at about 5:00 pm returned to the shelter for dinner. The next morning, June 17 at about 8:30 am, a homeless resident attacked Plaintiff for breakfast. The contracted provider called police and sent him to an emergency room. Plaintiff stops using the shelter cafeteria up to now. When Plaintiff returned to the shelter for curfew at 9:30 pm the contracted provider already changed his bed to another room. At about 10:30 pm the same homeless resident came to the room and attacked him, and he had some bruises. After that day, he never used a shelter cafeteria On September 14, 2015 CUCS [Center for Urban Community Services] transferred Plaintiff to another provider called Services for the Under Served ("SUS") in Brooklyn. Then Plaintiff was going to a local Brooklyn Public Library and searching online about New York Social Services Law all day every day, and applying for housing without a voucher up to about February 2022.

(capitalization in original; alteration added).

On August 13, 2013, plaintiff claims he filed a complaint against the City of New York in the New York State Supreme Court, New York County for conversion of a "stolen wallet, cash, and permanent resident card by NYC HRA [New York City Human Resources Administration] staff." (alterations added). The case was dismissed on February 17, 2015. See Yifru vs. City of New York, No. 400175/2014 (N.Y. Sup. Ct. Feb. 12, 2015). On December 29, 2015, plaintiff alleges he

> requested a fair hearing for Home Relief grants pursuant to 18 NYCRR 352.8 (f); and 385.4 (a) (1). Then OTDA [Office of Temporary Disability Assistance] granted him a right to aid-continuing and directed Job Center 064. Since then up to September 9, 2021 OTDA was granting him a right to aid-continuing repeatedly for his Home Relief grants.

(alteration added).

In 2018, plaintiff states that he filed an Article 78 mandamus complaint in the New York State Supreme Court, New York County to "compel NYC HPD [New York City Housing Preservation and Development] to provide him an HCV [Housing Choice Voucher] assistance." (alterations added). On October 23, 2018, plaintiff alleges that the

Disability Assistance (OTDA), although plaintiff does not include the results of the more than 60 fair hearing requests in the complaint.

"NYC Corporation Counsel sent him an improper cross-motion to dismiss with an express priority mail." On December 6, 2018, the New York State Supreme Court, New York County dismissed plaintiff's claims.

On February 18, 2022, plaintiff filed a civil rights action in the United States District Court for the Southern District of New York under 42 U.S.C § 1983 (2018), and the Fifth and Fourteenth Amendments to the United States Constitution against Daniel W. Tietz, Acting Commissioner of the New York State Office of Temporary and Disability Assistance, Eric L. Adams, The Mayor of New York City, Adolfo Carrion Jr., the Commissioner of the New York City Department of Housing, and Gary Jenkins, the Commissioner of the New York City Department of Social Services. See Yifru v. Tietz, 22-CV-1385, 2022 WL 956704 (S.D.N.Y. Mar. 29, 2022). In the District Court, plaintiff argued that his "Home Relief Grants" and "other public benefits" were improperly "denied and reduced without notice," and further that he was denied due process by the New York City Department of Housing Preservation and Development because of their policy not to accept Housing Choice Voucher applications from the general public. In her Order, District Court Judge Laura Swaine stated:

> Plaintiff's complaint includes events arising during a nineteen-year period, from 2003 to the present. The majority of the events described in Plaintiff's complaint took place years or decades ago. Defendants have no apparent relationship to many of the events in the complaint, many of which arose outside New York. He includes allegations about dozens of incidents, including thefts, violence, arrests, homelessness, and evictions. Plaintiff's complaint is not a short and plain statement showing that he is entitled to relief and therefore does not comply with Rule 8.

See Yifru v. Tietz, 2022 WL 956704, at *4. Regarding plaintiff's Takings claim, Judge Swaine held: "Plaintiff does not plead any facts that plausibly show that his civil service job in Ethiopia was taken for public use, without just compensation, and he thus fails to state a claim under the Takings Clause." Id. at *5. Moreover, with regard to the substantive due process claim, the court determined:

> Plaintiff's allegations also do not suggest any conduct by government officials that "rise[s] to the conscience-shocking level." Moreover, the allegations are insufficient to allege that Defendants, who are city and state officials, were personally involved in playing any role in the termination of Plaintiff's employment in Ethiopia in 2003, when he came to the United States.

Id. at *8 (alteration in original; citations omitted). Judge Swain dismissed the case on June 1, 2022, for failure to state a claim.

On May 19, 2022, plaintiff filed his complaint in this court.[4] In this case, plaintiff makes a number of sometimes difficult to follow allegations. In his sole count, "Taking - Unconstitutional Taking and Unconstitutional-Condition," plaintiff alleges:

> Plaintiff's private property, valid permanent employment contract, was taken when Defendant issued DV immigrant visa to destroy the contract. Defendant extorted and compelled him to immigrate to US. Defendant issued the immigrant visa and destroyed his permanent employment contract on about October 24, 2003. The Consular Officer destroyed Plaintiff's permanent employment contract for the benefit of the public and Defendant. The purpose of the taking is to ensure the deterrence of fraud and illegal immigrants, and obtain cheapest skilled or nonskilled labor. Plaintiff's contract right was destroyed as the natural, direct, and predictable result of Defendant's issuance of DV immigrant visa. The Consular Officer issued the immigrant visa without completing the standard forms. The Officer blatantly violated established clearance and safety procedures and his constitutional rights.
>
> Defendant extortionately destroyed Plaintiff's permanent employment contract as well as exacted him immigrant visa fees. Furthermore, he was compelled to be in debt for unnecessary airplane transport costs. All the monies paid by Plaintiff was used for the benefit of the public and Defendant. The public use purposes are to maintain and finance the US commerce and immigration system particularly the DV program. The Consular Officer to extort did not give him a notice about UC. The Officer knew that he would be a public charge and deprived interests in liberty by the mandatory workfare for his subsistence. The Officer knew that he would be dependent on welfare gratuities and charities indefinitely. The Officer knew that he would be deprived interests in life by homelessness, malnutrition, and brutal poverty. Plaintiff will never regain the lost decades of his life, decades that were stolen from him by Defendant. Defendant robbed him 19 critical years of adult life and he lost the opportunity to make contracts and pursue his career. He was deprived the fundamental freedom to live his life as an autonomous human being.

Plaintiff continues:

> Substantive due process is reserved for the most egregious governmental abuses against life, liberty and property rights as Plaintiff suffered. The abuses shock the conscience or otherwise offend judicial notions of fairness

[4] The court notes that plaintiff had previously filed a case in the United States Court of Federal Claims. See Yifru v. United States, Case No. 20-316C. On July 24, 2020, the Judge of the United States Court of Federal Claims dismissed plaintiff's case without prejudice "[b]ecause plaintiff has failed to comply with the Court's June 25, 2020, Show Cause Order and to prosecute this matter." (alteration added).

> and are offensive to human dignity. Defendant terrorized the respected and prosperous free man into indefinite homelessness and its stigma. Defendant misconduct directly resulted in Plaintiff's immigration in to indefinite homelessness and destitution, thereby denying him his constitutional rights of life, liberty, and property. Substantive due process forbids the government from infringing fundamental liberty interests at all, no matter what process is provided. Defendant violated Plaintiff's constitutional rights of life, liberty, and property. He suffered injuries, including, but not limited to, emotional distress, as is more fully alleged above. The misconduct described was objectively unreasonable and was undertaken with reckless disregard to his constitutional rights.

In his submissions filed in this court, plaintiff subsequently claims that the visa processing fee also constituted a taking, stating, "[t]he visa processing fee was a substantial amount of property let alone Plaintiff's employment contract." (alteration added).

Additionally, plaintiff alleges that he is entitled to a preliminary injunction granting unemployment compensation and a housing voucher. Plaintiff states that he "will suffer irreparable injury if Defendant is not required to pay UC [Unemployment Compensation] and provide him with a SHCV [Special Housing Choice Voucher] assistance while this suit is pending." (alterations added). Plaintiff also requests the court assign him counsel, arguing "[t]he Court should assign counsel for Plaintiff, unless the necessary result to deprive him interests in life, liberty, and property without compensation." (alteration added). In his prayer for relief

> Plaintiff respectfully requests that the Court to issue a judgment for him and against Defendant in this Complaint by:
>
> 1. Granting preliminary injunctive relief by directing DOL [United States Department of Labor] to pay Plaintiff UC [Unemployment Compensation];
>
> 2. Granting preliminary injunctive relief by directing HUD [United States Department of Housing and Urban Development] to provide Plaintiff with a SHCV [Special Housing Choice Voucher];
>
> 3. Assigning counsel for Plaintiff at the government expense;
>
> 4. Awarding full and just compensation for Plaintiff's deprivation and losses, in an amount to be proven at trial; and
>
> 5. Granting such other and further relief as the Court may seem just and proper.

(capitalization in original; alterations added).

As noted above, in response to plaintiff's complaint, defendant filed a motion to dismiss plaintiff's complaint pursuant to RCFC 12(b)(1) and RCFC 12(b)(6) for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. Regarding plaintiff's taking claims, defendant argues that plaintiff fails to state a claim under the Takings Clause of the Fifth Amendment to the United States Constitution because "Mr. Yifru never claims that the United States seized, took possession of, became a party to, or benefited from his employment contract." Defendant further argues that this court lacks subject matter jurisdiction over the balance of plaintiff's claims. Defendant's motion to dismiss has been fully briefed.

DISCUSSION

The court recognizes that plaintiff in the above captioned case is proceeding pro se. When determining whether a complaint filed by a pro se plaintiff is sufficient to invoke review by a court, a pro se plaintiff is entitled to a more liberal construction of the pro se plaintiff's pleadings. See Haines v. Kerner, 404 U.S. 519, 520-21 (requiring that allegations contained in a pro se complaint be held to "less stringent standards than formal pleadings drafted by lawyers"), reh'g denied, 405 U.S. 948 (1972); see also Erickson v. Pardus, 551 U.S. 89, 94 (2007); Hughes v. Rowe, 449 U.S. 5, 9-10 (1980); Estelle v. Gamble, 429 U.S. 97, 106 (1976), reh'g denied, 429 U.S. 1066 (1977); Matthews v. United States, 750 F.3d 1320, 1322 (Fed. Cir. 2014); Jackson v. United States, 143 Fed. Cl. 242, 245 (2019), Diamond v. United States, 115 Fed. Cl. 516, 524 (2014), aff'd, 603 F. App'x 947 (Fed. Cir.), cert. denied, 135 S. Ct. 1909 (2015). However, "there is no 'duty [on the part] of the trial court . . . to create a claim which [plaintiff] has not spelled out in his [or her] pleading . . . .'" Lengen v. United States, 100 Fed. Cl. 317, 328 (2011) (alterations in original) (quoting Scogin v. United States, 33 Fed. Cl. 285, 293 (1995) (quoting Clark v. Nat'l Travelers Life Ins. Co., 518 F.2d 1167, 1169 (6th Cir. 1975))); see also Bussie v. United States, 96 Fed. Cl. 89, 94, aff'd, 443 F. App'x 542 (Fed. Cir. 2011); Minehan v. United States, 75 Fed. Cl. 249, 253 (2007). "While a pro se plaintiff is held to a less stringent standard than that of a plaintiff represented by an attorney, the pro se plaintiff, nevertheless, bears the burden of establishing the Court's jurisdiction by a preponderance of the evidence." Riles v. United States, 93 Fed. Cl. 163, 165 (2010) (citing Hughes v. Rowe, 449 U.S. at 9; and Taylor v. United States, 303 F.3d 1357, 1359 (Fed. Cir.), reh'g and reh'g en banc denied (Fed. Cir. 2002)); see also Kelley v. Secretary, U.S. Dep't of Labor, 812 F.2d 1378, 1380 (Fed. Cir. 1987) ("[A] court may not similarly take a liberal view of [] jurisdictional requirement[s] and set a different rule for pro se litigants only."); Hartman v. United States, 150 Fed. Cl. 794, 796 (2020); Schallmo v. United States, 147 Fed. Cl. 361, 363 (2020); Hale v. United States, 143 Fed. Cl. 180, 184 (2019) ("[E]ven pro se plaintiffs must persuade the court that jurisdictional requirements have been met." (citing Bernard v. United States, 59 Fed. Cl. 497, 499, aff'd, 98 F. App'x 860 (Fed. Cir. 2004))); Golden v. United States, 129 Fed. Cl. 630, 637 (2016); Shelkofsky v. United States, 119 Fed. Cl. 133, 139 (2014) ("[W]hile the court may excuse ambiguities in a pro se plaintiff's complaint, the court 'does not excuse [a complaint's] failures.'" (quoting Henke v. United States, 60 F.3d 795, 799 (Fed. Cir. 1995))); Harris v. United States, 113 Fed. Cl. 290, 292 (2013) ("Although plaintiff's pleadings are held to a less stringent standard, such leniency 'with respect to mere formalities does not relieve the

burden to meet jurisdictional requirements.'" (quoting Minehan v. United States, 75 Fed. Cl. at 253)).

Plaintiff's complaint alleges a number of grounds for relief, but does so in a stream of historical allegations, some of which are unrelated or unclear as to the alleged grounds for relief, and, even if more clear, are claims which are not within the jurisdiction of this court. Initially, the court notes that plaintiff continuously refers to an employment contract in the complaint before the court. Plaintiff's complaint alleges:

> On February 20, 2001 Plaintiff graduated college. He obtained his first permanent employment contract in August. The employment was a valid contract at Hormat Engineering Complex Project. The project was renamed Hormat Engineering Factory and is in Ambo, Ethiopia. The location is a small town about three hours from the capital city where Plaintiff's family lives. The factory was providing free rooms and lunch for the employees, so he was able to save substantial money. On about March 17, 2003 Plaintiff obtained another permanent employment contract. The employment was a valid contract at the Intellectual Property Office of the Ethiopian Science and Technology Commission. The office was renamed Ministry of Science and Technology and is in Addis Ababa, Ethiopia. The employment was ideal and near where his family lives.

Plaintiff has not alleged a contract between plaintiff and the United States. The United States Court of Appeals for the Federal Circuit has explained the requirements of a binding contract with the United States are "'(1) mutuality of intent to contract; (2) consideration; and, (3) lack of ambiguity in offer and acceptance." Lewis v. United States, 70 F.3d 597, 600 (Fed. Cir. 1995) (quoting City of El Centro v. United States, 922 F.2d 816, 820 (Fed. Cir. 1990), cert. denied, 501 U.S. 1230 (1991)). "When the United States is a party, a fourth requirement is added: the government representative 'whose conduct is relied upon must have actual authority to bind the government in contract.'" Id. (quoting City of El Centro v. United States, 922 F.2d at 820). Plaintiff exclusively refers to contracts in Ethiopia with entities other than the United States, and does not demonstrates any of the requirements of a contract with the United States.

Plaintiff's only identified cause of action in his complaint filed in this court is a takings claim. Plaintiff alleges that "Plaintiff's private property, valid permanent employment contract, was taken when Defendant issued DV immigrant visa to destroy the contract. Defendant extorted and compelled him to immigrate to US. Defendant issued the immigrant visa and destroyed his permanent employment contract on about October 24, 2003." Defendant, in its motion to dismiss, argues "Mr. Yifru fails to state a claim under the Taking Clause." Therefore, according to defendant, "Mr. Yifru's complaint fails to demonstrate any actual appropriation of his property by the United States."

When examining what must be pled in order to state a claim, a plaintiff need only state in the complaint "a short and plain statement of the claim showing that the pleader is entitled to relief." RCFC 8(a)(2) (2021); see also Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). When deciding a case based on a failure to state a claim, the court "must accept as true the factual allegations in the complaint." Engage Learning, Inc. v. Salazar,

660 F.3d 1346, 1355 (Fed. Cir. 2011); see also Erickson v. Pardus, 551 U.S. 89, 94 (2007) ("In addition, when ruling on a defendant's motion to dismiss, a judge must accept as true all of the factual allegations contained in the complaint." (citing Bell Atl. Corp. v. Twombly, 550 U.S. at 555–56 (citing Swierkiewicz v. Sorema N. A., 534 U.S. 506, 508 n.1 (2002)))); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) ("Moreover, it is well established that, in passing on a motion to dismiss, whether on the ground of lack of jurisdiction over the subject matter or for failure to state a cause of action, the allegations of the complaint should be construed favorably to the pleader."), abrogated on other grounds by Harlow v. Fitzgerald, 457 U.S. 800 (1982), recognized by Davis v. Scherer, 468 U.S. 183, 190 (1984); Am. Bankers Ass'n v. United States, 932 F.3d at 1380 ("In reviewing a motion to dismiss, we accept as true the complaint's well-pled factual allegations; however, we are not required to accept the asserted legal conclusions." (citing Ashcroft v. Iqbal, 556 U.S. at 678)); Harris v. United States, 868 F.3d 1376, 1379 (Fed. Cir. 2017) (citing Call Henry, Inc. v. United States, 855 F.3d 1348, 1354 (Fed. Cir. 2017)); United Pac. Ins. Co. v. United States, 464 F.3d 1325, 1327–28 (Fed. Cir. 2006); Samish Indian Nation v. United States, 419 F.3d 1355, 1364 (Fed. Cir. 2005); Boise Cascade Corp. v. United States, 296 F.3d 1339, 1343 (Fed. Cir.), reh'g and reh'g en banc denied (Fed. Cir. 2002), cert. denied, 538 U.S. 906 (2003).

The United States Supreme Court, however, has stated:

> While a complaint attacked by Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, ibid. [Conley v. Gibson, 355 U.S. 41, 47 (1957)]; Sanjuan v. American Bd. Of Psychiatry and Neurology, Inc., 40 F.3d 247, 251 (C.A.7 1994), 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, see Papasan v. Allain, 478 U.S. 265, 286 (1986) (on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation"). Factual allegations must be enough to raise a right to relief above the speculative level, see 5 C. Wright & A. Miller, Federal Practice and Procedure §1216 pp. 235-236 (3d ed. 2004) (hereinafter Wright & Miller) ("[T]he pleading must contain something more . . . than . . . a statement of facts that merely creates a suspicion [of] a legally cognizable right of action"), on the assumption that all the allegations in the complaint are true (even if doubtful in fact), see, e.g., Swierkiewicz v. Sorema N.A., 534 U.S. 506, 508 n.1 (2002); Neitzke v. Williams, 490 U.S. 319, 327 (1989) ("Rule 12(b)(6) does not countenance . . . dismissals based on a judge's disbelief of a complaint's factual allegations"); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (a well-pleaded complaint may proceed even if it appears "that a recovery is very remote and unlikely") . . . . [W]e do not require heightened fact pleading of specifics, but only enough facts to state a claim that relief that is plausible on its face.

Bell Atl. Corp. v. Twombly, 550 U.S. at 555-56, 570 (footnote and other citations omitted; omissions in original); see also Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. at 555-57, 570); First Mortg. Corp. v. United States, 1961

F.3d 1331, 1339 (Fed. Cir. 2020); Am. Bankers Ass'n v. United States, 932 F.3d 1375, 1380 (Fed. Cir. 2019); Frankel v. United States, 842 F.3d 1246, 1249 (Fed. Cir. 2016); A&D Auto Sales, Inc. v. United States, 748 F.3d 1142, 1157 (Fed. Cir. 2014); Bell/Heery v. United States, 739 F.3d 1324, 1330 (Fed. Cir.), reh'g and reh'g en banc denied, (Fed. Cir. 2014); Kam-Almaz v. United States, 682 F.3d 1364, 1367 (Fed. Cir. 2012) ("The facts as alleged 'must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact).'" (quoting Bell Atl. Corp. v. Twombly, 550 U.S. at 557)); Totes-Isotoner Corp. v. United States, 594 F.3d 1346, 1354-55 (Fed. Cir.), cert. denied, 562 U.S. 830 (2010); Bank of Guam v. United States, 578 F.3d 1318, 1326 (Fed. Cir.) ("In order to avoid dismissal for failure to state a claim, the complaint must allege facts 'plausibly suggesting (not merely consistent with)' a showing of entitlement to relief." (quoting Bell Atl. Corp. v. Twombly, 550 U.S. at 557)), reh'g and reh'g en banc denied (Fed. Cir. 2009), cert. denied, 561 U.S. 1006 (2010); Cambridge v. United States, 558 F.3d 1331, 1335 (Fed. Cir. 2009) ("[A] plaintiff must plead factual allegations that support a facially 'plausible' claim to relief in order to avoid dismissal for failure to state a claim." (quoting Bell Atl. Corp. v. Twombly, 550 U.S. at 570)); Cary v. United States, 552 F.3d 1373, 1376 (Fed. Cir.) ("The factual allegations must be enough to raise a right to relief above the speculative level. This does not require the plaintiff to set out in detail the facts upon which the claim is based, but enough facts upon which the claim is based, but enough facts to state a claim to relief that is plausible on its face." (citing Bell Atl. Corp. v. Twombly, 550 U.S. at 555, 570)), reh'g denied (Fed. Cir.), cert. denied, 557 U.S. 937 (2009); Christen v. United States, 133 Fed. Cl. 226, 229 (2017); Christian v. United States, 131 Fed. Cl. 134, 144 (2017); Vargas v. United States, 114 Fed. Cl. 226, 232 (2014); Fredericksburg Non-Profit Hous. Corp. v. United States, 113 Fed. Cl. 244, 253 (2013), aff'd, 579 F. App'x 1004 (Fed. Cir. 2014); Peninsula Grp. Capital Corp. v. United States, 93 Fed. Cl. 720, 726-27 (2010); Legal Aid Soc'y of N.Y. v. United States, 92 Fed. Cl. 285, 292, 298 n.14 (2010).

With respect to plaintiff's takings allegation, the Takings Clause of the Fifth Amendment to the United States Constitution provides in pertinent part: "nor shall private property be taken for public use without just compensation." U.S. Const. amend. V. The purpose of this Fifth Amendment provision is to prevent the government from "'forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'" Ark. Game & Fish Comm'n v. United States, 568 U.S. 23, 31 (2018) (quoting Armstrong v. United States, 364 U.S. 40, 49 (1960)); see also Palazzolo v. Rhode Island, 533 U.S. 606, 618 (2001) (quoting Armstrong v. United States, 364 U.S. at 49), abrogated on other grounds by Lingle v. Chevron U.S.A. Inc., 544 U.S. 528 (2005), recognized by Hageland Aviation Servs., Inc. v. Harms, 210 P.3d 444 (Alaska 2009)); Penn Cent. Transp. Co. v. City of New York, 438 U.S. 104, 123-24 (1978); Lingle v. Chevron U.S.A. Inc., 544 U.S. at 536; E. Enters. v. Apfel, 524 U.S. 498, 522 (1998); Pumpelly v. Green Bay & Miss. Canal Co., 80 U.S. (13 Wall.) 166, 179 (1871) (citing principles which establish that "private property may be taken for public uses when public necessity or utility requires" and that there is a "clear principle of natural equity that the individual whose property is thus sacrificed must be indemnified"); Reoforce, Inc. v. United States, 853 F.3d 1249, 1265 (Fed. Cir.), cert. denied, 138 S. Ct. 517 (2017); Rose Acre Farm, Inc. v. United States, 559 F.3d 1260, 1266 (2009); Dimare Fresh, Inc. v. United States, 808 F.3d 1301, 1306 (Fed. Cir. 2015) (stating that the "'classic taking'" is

one in which the government directly appropriates private property for its own use (quoting Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency, 535 U.S. 302, 324 (2002)), cert. denied, 579 U.S. 902 (2016); Adams v. United States, 391 F.3d 1212, 1218 (Fed. Cir. 2004), cert. denied, 546 U.S. 811 (2005); Arbelaez v. United States, 94 Fed. Cl. 753, 762 (2010); Gahagan v. United States, 72 Fed. Cl. 157, 162 (2006). Moreover, the government must be operating in its sovereign rather than in its proprietary capacity when it initiates a taking. See St. Christopher Assocs., L.P. v. United States, 511 F.3d 1376, 1385 (Fed. Cir. 2008).

The United States Court of Appeals for the Federal Circuit has established a two-part test to determine whether government actions amount to a taking of private property under the Fifth Amendment. See Casitas Mun. Water Dist. v. United States, 708 F.3d 1340, 1348 (Fed. Cir. 2013); Klamath Irr. Dist. v. United States, 635 F.3d 505, 511 (Fed. Cir. 2011); Am. Pelagic Fishing Co. v. United States, 379 F.3d 1363, 1372 (Fed. Cir.) (citing M & J Coal Co. v. United States, 47 F.3d 1148, 1153-54 (Fed. Cir.), cert. denied, 516 U.S. 808 (1995)) reh'g en banc denied (Fed. Cir. 2004), cert. denied, 545 U.S. 1139 (2005). A court first determines whether a plaintiff possesses a cognizable property interest in the subject of the alleged taking. See Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 435 (1982) (citing United States v. Gen. Motors Corp., 323 U.S. 373 (1945)); see also McCutchen v. United States, 14 F.4th 1355, 1364 (Fed. Cir. 2021) (quoting Huntleigh USA Corp. v. United States, 525 F.3d 1370, 1377 (Fed. Cir.), cert. denied, (2008)); Welty v. United States, 926 F.3d 1319, 1323-24 (Fed. Cir. 2019) ("To maintain a cognizable claim for a Fifth Amendment taking, a plaintiff must establish that he possessed an enforceable property right." (citing Lucas v. S.C. Coastal Council, 505 U.S. 1003, 1014-19 (1992))); Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1372 ("'It is axiomatic that only persons with a valid property interest at the time of the taking are entitled to compensation.'" (quoting Wyatt v. United States, 271 F.3d 1090, 1096 (Fed. Cir. 2001), cert. denied, 353 U.S. 1077 (2002); and citing Cavin v. United States, 956 F.2d 1131, 1134 (Fed. Cir. 1992))); Air Pegasus of D.C., Inc. v. United States, 424 F.3d 1206, 1213 (Fed. Cir.) (stating that the court does not address the second step "without first identifying a cognizable property interest" (citing Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1381; and Conti v. United States, 291 F.3d 1334, 1340 (Fed. Cir. 2002))), reh'g denied and reh'g en banc denied (Fed. Cir. 2005); Karuk Tribe of Cal. v. Ammon, 209 F.3d 1366, 1374-75 (Fed. Cir.), reh'g denied and en banc suggestion denied (Fed. Cir. 2000), cert. denied, 532 U.S. 941 (2001). "If the claimant fails to demonstrate the existence of a legally cognizable property interest, the courts [sic] task is at an end." Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1372 (citing Maritrans Inc. v. United States, 342 F.3d 1344, 1352 (Fed. Cir. 2003); and M & J Coal Co. v. United States, 47 F.3d at 1154); see also Hearts Bluff Game Ranch, Inc. v. United States, 669 F.3d 1326, 1329 (Fed. Cir.) (citing Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1372), cert. denied, 567 U.S. 917 (2012).

Only if there is to be a next step, "'after having identified a valid property interest, the court must determine whether the governmental action at issue amounted to a compensable taking of that property interest.'" Huntleigh USA Corp. v. United States, 525 F.3d at 1378 (quoting Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1372).

In this case, plaintiff alleges "[t]his is a claim to recover just compensation for an unconstitutional taking in unconstitutional-condition of Plaintiff's private property by Defendant, US. Plaintiff's valid permanent employment contract was unlawfully taken. This claim arises under the Fifth Amendment to the US Constitution." (alteration added). Plaintiff's complaint further states:

> On about October 24, 2003 Plaintiff went to the US Embassy in Ethiopia for the DV immigrant visa interview. He was in doubt and worried, and carried all original documents and the so-called "sponsorship" letter. The consular office prescreens applications to avoid paying the required fees. The Consular Officer, very young white male, and a translator were at the interviewing window. The Officer intended to take Plaintiff's permanent employment contract and money as fees. The Officer instructed him to raise his right hand and asked him "Do you speak English?" When Plaintiff said, "yes," the Consular Officer gave a gesture with his both hands like stamping a seal on the empty counter at the front. Plaintiff was confused and agitated. Then the translator, a matured Ethiopian female, said, "He gave you" and referred him to a fee payment window. The Consular Officer predictably issued the DV immigrant visa without reviewing Plaintiff's documents. The Officer did not give him a notice about UC. The Officer did not require him to complete or sign DS-230 under oath. The Officer unlawfully destroyed his permanent employment contract. The Officer caused him to be a homeless, public charge and unemployed in US indefinitely, without his consent.

In its motion to dismiss, defendant specifically argues that plaintiff failed to state a claim under the Takings Clause because,

> First, Mr. Yifru never claims that the United States seized, took possession of, became a party to, or benefited from his employment contract. Rather, Mr. Yifru vaguely asserts that an American Consular Officer "abused" their position and "unlawfully destroyed" the contract in order to coerce Mr. Yifru into immigrating to the United States.

Defendant also argues:

> Second, Mr. Yifru's factual allegations indicate that his decision to leave his employer and immigrate to the United States was ultimately a product of pressure by non-government individuals. Mr. Yifru notes that after his October 24 appointment, and after he picked up his visa on November 3, he returned to work. At that point, "he was worried about leaving his ideal job and be[ing] homeless here [in the United States]." Compl. at 7,9. Mr. Yifru notes no further interaction with the Consular Officer, but clearly states that it was "the so-called sponsor's wife and the relatives" who "coerced [Mr. Yifru] to immigrate immediately."

(alterations in original). In response, plaintiff states, "[o]bviously, Plaintiff did not consent for the taking [sic] otherwise demonstrated any voluntariness. Rather he was vigorously protecting his employment contract from interference and destruction. (ECF 1 at ¶¶ 21,

22, 24, 25, 30, 31, 34, 36, 40.) The Consular Officer blatantly interfered with his employment contract for six months and, finally extorted him, and constructively caused him to resign." (alteration added).

Plaintiff, upon being informed that his Diversity Visa was approved, decided to quit his job and move to the United States, without any pressure or coercion by the United States. As indicated in plaintiff's complaint, plaintiff "was worried about leaving his ideal job and be homeless here. However, the so-called sponsor's wife urged him to come here soon. The so-called sponsor's wife was willing to provide support to another DV immigrants." As defendant correctly points out that the United States never "seized, took possession of, became a party to, or benefited from his employment contract." Although plaintiff makes the allegation, plaintiff does not explain how he was "vigorously protecting his employment contract from interference and destruction," or how the "Consular Officer blatantly interfered with his employment contract for six months and, finally extorted him, and constructively caused him to resign." Therefore, plaintiff has not demonstrated any governmental action that "amounted to a compensable taking of that property interest,'" Huntleigh USA Corp. v. United States, 525 F.3d at 1378 (quoting Am. Pelagic Fishing Co. v. United States, 379 F.3d at 1372), and plaintiff has failed to state a claim under the Takings Clause of the Fifth Amendment.

Defendant argues that "[i]n addition to the Takings Clause issue concerning his employment contract, Mr. Yifru's complaint raises, to varying degrees of specificity, numerous claims and grievances that fall outside the subject matter jurisdiction of this Court," and "[t]his Court lacks jurisdiction over the remainder of Mr. Yifru's complaint." (alterations added). Plaintiff responds that "Plaintiff has sufficiently alleged constitutional violations."

"Subject-matter jurisdiction may be challenged at any time by the parties or by the court sua sponte." Folden v. United States, 379 F.3d 1344, 1354 (Fed. Cir. 2004) (quoting Fanning, Phillips & Molnar v. West, 160 F.3d 717, 720 (Fed. Cir. 1998)), reh'g and reh'g en banc denied (Fed. Cir. 2004), cert. denied, 545 U.S. 1127 (2005); see also St. Bernard Parish Gov't v. United States, 916 F.3d 987, 992-93 (Fed. Cir. 2019) ("[T]he court must address jurisdictional issues, even sua sponte, whenever those issues come to the court's attention, whether raised by a party or not, and even if the parties affirmatively urge the court to exercise jurisdiction over the case." (citing Foster v. Chatman, 136 S. Ct. 1737, 1745 (2016)); Int'l Elec. Tech. Corp. v. Hughes Aircraft Co., 476 F.3d 1329, 1330 (Fed. Cir. 2007); Haddad v. United States, 152 Fed. Cl. 1, 16 (2021); Fanelli v. United States, 146 Fed. Cl. 462, 466 (2020). The Tucker Act, 28 U.S.C. § 1491 (2018), grants jurisdiction to this court as follows:

> The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

28 U.S.C. § 1491(a)(1). As interpreted by the United States Supreme Court, the Tucker Act waives sovereign immunity to allow jurisdiction over claims against the United States

(1) founded on an express or implied contract with the United States, (2) seeking a refund from a prior payment made to the government, or (3) based on federal constitutional, statutory, or regulatory law mandating compensation by the federal government for damages sustained. See United States v. Navajo Nation, 556 U.S. 287, 289-90 (2009); see also Me. Community Health Options v. United States, 140 S. Ct. 1308, 1327-28 (2020); United States v. Mitchell, 463 U.S. 206, 216 (1983); Sanford Health Plan v. United States, 969 F.3d 1370, 1378 (Fed. Cir. 2020); Alvarado Hosp., LLC v. Price, 868 F.3d 983, 991 (Fed. Cir. 2017); Greenlee Cnty., Ariz. v. United States, 487 F.3d 871, 875 (Fed. Cir.), reh'g and reh'g en banc denied (Fed. Cir. 2007), cert. denied, 552 U.S. 1142 (2008); Palmer v. United States, 168 F.3d 1310, 1314 (Fed. Cir. 1999); Gulley v. United States, 150 Fed. Cl. 405, 411 (2020); Kuntz v. United States, 141 Fed. Cl. 713, 717 (2019). "Not every claim invoking the Constitution, a federal statute, or a regulation is cognizable under the Tucker Act. The claim must be one for money damages against the United States . . . ." United States v. Mitchell, 463 U.S. at 216; see also United States v. White Mountain Apache Tribe, 537 U.S. 465, 472 (2003); N.Y. & Presbyterian Hosp. v. United States, 881 F.3d 877, 881 (Fed. Cir. 2018); Smith v. United States, 709 F.3d 1114, 1116 (Fed. Cir.), cert. denied, 571 U.S. 945 (2013); RadioShack Corp. v. United States, 566 F.3d 1358, 1360 (Fed. Cir. 2009); Rick's Mushroom Serv., Inc. v. United States, 521 F.3d 1338, 1343 (Fed. Cir. 2008) ("[P]laintiff must . . . identify a substantive source of law that creates the right to recovery of money damages against the United States."); Olson v. United States, 152 Fed. Cl. 33, 40-41 (2021); Jackson v. United States, 143 Fed. Cl. at 245. In Ontario Power Generation, Inc. v. United States, the United States Court of Appeals for the Federal Circuit identified three types of monetary claims for which jurisdiction is lodged in the United States Court of Federal Claims. The Ontario Power Generation, Inc. court wrote:

> The underlying monetary claims are of three types. . . . First, claims alleging the existence of a contract between the plaintiff and the government fall within the Tucker Act's waiver . . . . Second, the Tucker Act's waiver encompasses claims where "the plaintiff has paid money over to the Government, directly or in effect, and seeks return of all or part of that sum." Eastport S.S. [Corp. v. United States, 178 Ct. Cl. 599, 605-06,] 372 F.2d [1002,] 1007-08 [(1967)] (describing illegal exaction claims as claims "in which 'the Government has the citizen's money in its pocket'" (quoting Clapp v. United States, 127 Ct. Cl. 505, 117 F. Supp. 576, 580 (1954)) . . . . Third, the Court of Federal Claims has jurisdiction over those claims where "money has not been paid but the plaintiff asserts that he is nevertheless entitled to a payment from the treasury." Eastport S.S., 372 F.2d at 1007. Claims in this third category, where no payment has been made to the government, either directly or in effect, require that the "particular provision of law relied upon grants the claimant, expressly or by implication, a right to be paid a certain sum." Id.; see also [United States v.]Testan, 424 U.S. [392,] 401-02 [(1976)] ("Where the United States is the defendant and the plaintiff is not suing for money improperly exacted or retained, the basis of the federal claim-whether it be the Constitution, a statute, or a regulation-does not create a cause of action for money damages unless, as the Court of Claims has stated, that basis 'in itself . . . can fairly be interpreted as

> mandating compensation by the Federal Government for the damage sustained.'" (quoting Eastport S.S., 372 F.2d at 1009)). This category is commonly referred to as claims brought under a "money-mandating" statute.

Ont. Power Generation, Inc. v. United States, 369 F.3d 1298, 1301 (Fed. Cir. 2004); see also Samish Indian Nation v. United States, 419 F.3d at 1364; Twp. of Saddle Brook v. United States, 104 Fed. Cl. 101, 106 (2012).

To prove that a statute or regulation is money-mandating, a plaintiff must demonstrate that an independent source of substantive law relied upon "'can fairly be interpreted as mandating compensation by the Federal Government.'" United States v. Navajo Nation, 556 U.S. at 290 (quoting United States v. Testan, 424 U.S. at 400); see also United States v. White Mountain Apache Tribe, 537 U.S. at 472; United States v. Mitchell, 463 U.S. at 217; Blueport Co., LLC v. United States, 533 F.3d 1374, 1383 (Fed. Cir. 2008), cert. denied, 555 U.S. 1153 (2009); Szuggar v. United States, 145 Fed. Cl. 331, 335 (2019). The source of law granting monetary relief must be distinct from the Tucker Act itself. See United States v. Navajo Nation, 556 U.S. at 290 (The Tucker Act does not create "substantive rights; [it is simply a] jurisdictional provision[] that operate[s] to waive sovereign immunity for claims premised on other sources of law (*e.g.*, statutes or contracts)."); see also Me. Community Health Options v. United States, 140 S. Ct. at 1327-28. "'If the statute is not money-mandating, the Court of Federal Claims lacks jurisdiction, and the dismissal should be for lack of subject matter jurisdiction.'" Jan's Helicopter Serv., Inc. v. Fed. Aviation Admin., 525 F.3d 1299, 1308 (Fed. Cir. 2008) (quoting Greenlee Cnty., Ariz. v. United States, 487 F.3d at 876); see also N.Y. & Presbyterian Hosp. v. United States, 881 F.3d at 881; Fisher v. United States, 402 F.3d 1167, 1173 (Fed. Cir. 2005) (noting that the absence of a money-mandating source is "fatal to the court's jurisdiction under the Tucker Act"); Olson v. United States, 152 Fed. Cl. at 41; Downey v. United States, 147 Fed. Cl. 171, 175 (2020) ("And so, to pursue a substantive right against the United States under the Tucker Act, a plaintiff must identify and plead a money-mandating constitutional provision, statute, or regulation." (citing Cabral v. United States, 317 F. App'x 979, 981 (Fed. Cir. 2008))); Jackson v. United States, 143 Fed. Cl. at 245 ("If the claim is not based on a 'money-mandating' source of law, then it lies beyond the jurisdiction of this Court." (citing Metz v. United States, 466 F.3d 991, 997 (Fed. Cir. 2006)).

As indicated above, "[d]etermination of jurisdiction starts with the complaint, which must be well-pleaded in that it must state the necessary elements of the plaintiff's claim, independent of any defense that may be interposed." Holley v. United States, 124 F.3d 1462, 1465 (Fed. Cir.) (citing Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 9-10 (1983)), reh'g denied (Fed. Cir. 1997); see also Klamath Tribe Claims Comm. v. United States, 97 Fed. Cl. 203, 208 (2011); Gonzalez-McCaulley Inv. Grp., Inc. v. United States, 93 Fed. Cl. 710, 713 (2010). To properly state a claim for relief, "[c]onclusory allegations of law and unwarranted inferences of fact do not suffice to support a claim." Bradley v. Chiron Corp., 136 F.3d 1317, 1322 (Fed. Cir. 1998); see also McZeal v. Sprint Nextel Corp., 501 F.3d 1354, 1363 n.9 (Fed. Cir. 2007) (Dyk, J., concurring in part, dissenting in part) (quoting C. Wright and A. Miller, Federal Practice and Procedure § 1286 (3d ed. 2004)); "A plaintiff's factual allegations must 'raise a right

to relief above the speculative level' and cross 'the line from conceivable to plausible.'" Three S Consulting v. United States, 104 Fed. Cl. 510, 523 (2012) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. at 555), aff'd, 562 F. App'x 964 (Fed. Cir.), reh'g denied (Fed. Cir. 2014); see also Hale v. United States, 143 Fed. Cl. at 190. As stated in Ashcroft v. Iqbal, "[a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.' 550 U.S. at 555. Nor does a complaint suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" Ashcroft v. Iqbal, 556 U.S. at 678 (quoting Bell Atl. Corp. v. Twombly, 550 U.S. at 555).

Plaintiff's complaint appears to try to raise a due process claim. As noted above, plaintiff alleges:

> Plaintiff will never regain the lost decades of his life, decades that were stolen from him by Defendant. Defendant robbed him 19 critical years of adult life and he lost the opportunity to make contracts and pursue his career. He was deprived the fundamental freedom to live his life as an autonomous human being.
>
> Substantive due process is reserved for the most egregious governmental abuses against life, liberty and property rights as Plaintiff suffered. The abuses shock the conscience or otherwise offend judicial notions of fairness and are offensive to human dignity. Defendant terrorized the respected and prosperous free man into indefinite homelessness and its stigma. Defendant misconduct directly resulted in Plaintiff's immigration in to indefinite homelessness and destitution, thereby denying him his constitutional rights of life, liberty, and property. Substantive due process forbids the government from infringing fundamental liberty interests at all, no matter what process is provided. Defendant violated Plaintiff's constitutional rights of life, liberty, and property. He suffered injuries, including, but not limited to, emotional distress, as is more fully alleged above. The misconduct described was objectively unreasonable and was undertaken with reckless disregard to his constitutional rights.

Defendant argues that "[t]he Due Process Clause of the Fifth Amendment does not provide 'sufficient basis for jurisdiction' in this Court because it does 'not mandate payment of money by the government.'" (alteration added). To the extent plaintiff's complaint raises due process claims pursuant to the United States Constitution, the United States Court of Appeals for the Federal Circuit has held that the United States Court of Federal Claims does not possess jurisdiction to consider claims arising under the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution. See Crocker v. United States, 125 F.3d 1475, 1476 (Fed. Cir. 1997) (concluding that the United States Court of Federal Claims has no jurisdiction over a due process violation under the Fifth and Fourteenth Amendments (citing LeBlanc v. United States, 50 F.3d at 1028)); see also Smith v. United States, 709 F.3d at 1116 ("The law is well settled that the Due Process clauses of both the Fifth and Fourteenth Amendments do not mandate the payment of money and thus do not provide a cause of action under

the Tucker Act." (citing LeBlanc v. United States, 50 F.3d at 1028)); In re United States, 463 F.3d 1328, 1335 n.5 (Fed. Cir.) ("[B]ecause the [Fifth Amendment] Due Process Clause is not money-mandating, it may not provide the basis for jurisdiction under the Tucker Act."), reh'g and reh'g en banc denied (Fed. Cir. 2006), cert. denied sub nom. Scholl v. United States, 552 U.S. 940 (2007); Acadia Tech., Inc. & Global Win Tech., Ltd. v. United States, 458 F.3d 1327, 1334 (Fed. Cir. 2006); Collins v. United States, 67 F.3d 284, 288 (Fed. Cir.) ("[T]he [Fifth Amendment] due process clause does not obligate the government to pay money damages."), reh'g denied (Fed. Cir. 1995); Mullenberg v. United States, 857 F.2d 770, 773 (Fed. Cir. 1988) (finding that the Due Process clauses "do not trigger Tucker Act jurisdiction in the courts"); Murray v. United States, 817 F.2d 1580, 1583 (Fed. Cir. 1987) (noting that the Fifth Amendment Due Process clause does not include language mandating the payment of money damages); Yates v. United States, 150 Fed. Cl. 128, 135 (2020) (citing LeBlanc v. United States, 50 F.3d at 1028); Whiteford v. United States, 148 Fed. Cl. at 121 (citing Smith v. United States, 709 F.3d at 1116); Vondrake v. United States, 141 Fed. Cl. 599, 602 (2019) (citing Smith v. United States, 709 F.3d at 1116); Maehr v. United States, 139 Fed. Cl. 1, 3-4 (2018) (stating that Smith v. United States, 709 F.3d at 1114, "remains controlling law today"), aff'd, 767 F. App'x 914 (Fed. Cir. 2019), petition for cert. docketed, (U.S. July 11, 2019) (No. 19-5151); Zainulabeddin v. United States, 138 Fed. Cl. 492, 505 (2018) (citing LeBlanc v. United States, 50 F.3d at 1028); Harper v. United States, 104 Fed. Cl. 287, 291 n.5 (2012); Hampel v. United States, 97 Fed. Cl. at 238. Accordingly, this court does not have jurisdiction over any due process claims plaintiff may be trying to bring in this court.

Plaintiff also asserts a range of claims against a number of individuals, non-profit organizations, and state and local governments, and local government organizations. For example, plaintiff states that "[t]he Consular Officer predictably issued the DV immigrant visa without reviewing Plaintiff's documents. The Officer did not give him a notice about UC [unemployment compensation]. Officer did not require him to complete or sign DS-230 under oath." (alterations added). Furthermore, plaintiff states, "[t]he Officer blatantly violated established clearance and safety procedures and his constitutional rights." As noted above, plaintiff claims that "the criminal so-called sponsor family's domestic violence, nonprofit provider's coercion of him to work any job, and illegal rooms landlords and residents' campaign of harassment." Additionally, as noted above, plaintiff claims that in 2008, the non-profit "Bartlett-House shelter coerced Plaintiff to work any job and deprive interests in life, liberty, and property, he was falsely arrested twice within two days and falsely imprisoned." Once plaintiff relocated to New York, according to the plaintiff's complaint, the New York City Department of Housing "contracted providers" moved plaintiff moved around to different shelters "at least twenty times." Defendant argues that this court does not have jurisdiction over claims raised against any defendant other than the United States. Defendant is correct. It is well established that this court lacks jurisdiction to hear claims against state or local officials, who are not federal employees. See United States v. Sherwood, 312 U.S. 584, 588 (1941) (noting that "if the relief sought is against others than the United States the suit as to them must be ignored as beyond the jurisdiction of the court [United States Court of Claims]" (citing United States v. Jones, 131 U.S. 1, 9 (1889); Lynn v. United States, 110 F.2d 586, 588 (5th Cir. 1940); Leather & Leigh v. United States, 61 Ct. Cl. 388 (1925))); (alteration added); see also Brown v. United States, 105 F.3d 621, 624 (Fed. Cir. 1997) ("The Tucker Act grants the Court of

Federal Claims jurisdiction over suits against the United States, not against individual federal officials."); Bey v. United States, 153 Fed. Cl. 814, 819 (2021) (holding that the United States Court of Federal Claims does not have jurisdiction over claims against state and local agencies); Gulley v. United States, 150 Fed. Cl. 405, 412-13 (2020); Cooper v. United States, 137 Fed. Cl. 432, 434 (2018) (finding that the United States Court of Federal Claims "lacks subject matter jurisdiction to consider plaintiff's claims to the extent they are made against individuals"); Robinson v. United States, 127 Fed. Cl. 417, 420 (2016) ("The court is without 'jurisdiction over claims against individuals.'" (quoting Emerson v. United States, 123 Fed. Cl. 126, 129 (2015))); Merriman v. United States, 128 Fed. Cl. 599, 602 (2016) ("The United States Court of Federal Claims does not have subject matter jurisdiction over claims against private individuals or state officials." (citing United States v. Sherwood, 312 U.S. at 588)); Hicks v. United States, 118 Fed. Cl. 76, 81 (2014); Cox v. United States, 105 Fed. Cl. 213, 216, appeal dismissed, 12-5108 (Fed. Cir. 2012); Reid v. United States, 95 Fed. Cl. 243, 248 (2010) ("When a plaintiff's complaint names private parties, or local, county, or state agencies, rather than federal agencies, this court [the United States Court of Federal Claims] has no jurisdiction to hear those allegations." (quoting Moore v. Pub. Defs. Office, 76 Fed. Cl. 617, 620 (2007))) (alteration added). Therefore, this court lacks jurisdiction to review plaintiff's claims against any of the individuals, such as the Consular Officer, or any non-profit organizations or state and local entities identified in plaintiff's complaint.

Plaintiff also tries to argue that the government illegally exacted fees from plaintiff when the consular officer charged him "about $450.00 immigrant visa processing fee." The United States Court of Appeals for the Federal Circuit has indicated that:

> An "illegal exaction," as that term is generally used, involves money that was "improperly paid, exacted, or taken from the claimant in contravention of the Constitution, a statute, or a regulation." Eastport S.S. Corp. v. United States, 178 Ct. Cl. 599, 372 F.2d 1002, 1007 (1967). The classic illegal exaction claim is a tax refund suit alleging that taxes have been improperly collected or withheld by the government. See, e.g., City of Alexandria v. United States, 737 F.2d 1022, 1028 (Fed. Cir. 1984). An illegal exaction involves a deprivation of property without due process of law, in violation of the Due Process Clause of the Fifth Amendment to the Constitution. See, e.g., Casa de Cambio Comdiv [S.A. de C.V. v. United States], 291 F.3d [1356,] 1363 [(Fed. Cir. 2002)].

Norman v. United States, 429 F.3d 1081, 1095 (Fed. Cir. 2005) cert. denied, 547 U.S. 1147 (2006); see also Columbus Reg'l Hosp. v. United States, 990 F.3d 1330, 1348 (2021) ("An illegal exaction occurs when the plaintiff has paid money to the government and seeks return of the money that was 'improperly . . . taken from the claimant in contravention of the Constitution, a statute, or a regulation.'" (quoting Virgin Islands Port Auth. v. United States, 922 F.3d 1328, 1333 (Fed. Cir. 2019))); Christy, Inc. v. United States, 971 F.3d 1332, 1336 (Fed. Cir. 2020), cert. denied, 141 S. Ct. 1393 (2021); Nat'l Veterans Legal Servs. Program v. United States, 968 F.3d 1340, 1348 (Fed. Cir. 2020). "The essence of an illegal exaction is when 'the government has the citizen's money in its pocket.'" Columbus Reg'l Hosp. v. United States, 990 F.3d at 1348 (quoting Nat'l

Veterans Legal Servs. Program v. United States, 968 F.3d at 1348). The Federal Circuit has explained that "a plaintiff has a claim for an illegal exaction only where the government [action] has direct and substantial impact on the plaintiff asserting the claim." Casa de Cambio Comdiv S.A., de C.V. v. United States, 291 F.3d 1356, 1364 (Fed. Cir. 2002), cert. denied, 538 U.S. 921 (2003).

As the Federal Circuit has explained, "to establish Tucker Act jurisdiction for an illegal exaction claim, a party that has paid money over to the government and seeks its return must make a non-frivolous allegation that the government, in obtaining the money, has violated the Constitution, a statute, or a regulation." Boeing Co. v. United States, 968 F.3d 1371, 1383 (Fed. Cir. 2020). As plaintiff, however, concedes

> Congress authorized the US Department of State to collect a fee for the processing of DV immigrant visas. Section 636 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (8 USC § 1153 Note) provides "The Secretary of State may establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act."

Plaintiff does not further explain his exaction claim except to allege "[o]n about November 3, 2003 the US Embassy in Ethiopia called Plaintiff to pick up his DV immigrant visa. The Consular Officer actions to destroying his permanent employment contact was unconstitutional. The Officer exacting him immigrant visa fees was unlawful." (alteration added). Plaintiff's allegations are insufficient to survive a motion to dismiss.

Plaintiff requests this court grant "preliminary injunctive relief by directing DOL to pay Plaintiff UC [Unemployment Compensation]," and "preliminary injunctive relief by directing HUD to provide Plaintiff with a SHCV [Special Housing Choice Voucher]." (alterations added). As explained by the United States Court of Appeals for the Federal Circuit,

> [t]he Court of Federal Claims has never been granted general authority to issue declaratory judgments, and to hold that the Court of Federal Claims may issue a declaratory judgment in this case, unrelated to any money claim pending before it, would effectively override Congress's decision not to make the Declaratory Judgment Act applicable to the Court of Federal Claims.

Nat'l Air Traffic Controllers Ass'n v. United States, 160 F.3d 714, 716–17 (Fed. Cir. 1998) (alteration added); see also United States v. Tohono O'Odham Nation, 563 U.S. 307 (2011) (The United States Court of Federal Claims "has no general power to provide equitable relief against the Government or its officers."). In an action brought under 28 U.S.C. § 1491(a), this court can only provide declaratory or injunctive relief "as an incident of and collateral to" a judgment for money damages. See 28 U.S.C. § 1492(a)(2); see also Brown v. United States, 105 F.3d 621, 624 (Fed. Cir. 1997) (Plaintiff's "demands, which are for declaratory or injunctive relief, are also outside the jurisdiction of the Court of Federal Claims. The Tucker Act does not provide independent jurisdiction over such claims for equitable relief."); Kaetz v. United States, 158 Fed. Cl. 422, 431 (2022); Cato

v. United States, 141 Fed. Cl. 140, 144 (2018) ("'[T]he Tucker Act does not provide independent jurisdiction over . . . claims for equitable relief.'" (alteration in original) (quoting Taylor v. United States, 113 Fed. Cl. 171, 173 (2013))). Plaintiffs allegations do not fall within this court's limited injunction authority. Therefore, this court does not have jurisdiction over plaintiff's claims for injunctive relief.

Finally, the court notes that plaintiff requests the court assign "counsel for Plaintiff at the government expense." In civil cases, such as plaintiff's case, the court does not have an obligation to appoint counsel to plaintiffs. See Lassiter v. Dep't of Soc. Servs. of Durham Cnty. N.C., 452 U.S. 18, 26–27 (1981) ("[A]n indigent litigant has a right to appointed counsel only when, if he loses, he may be deprived of his physical liberty."); see also Pitts v. Shinseki, 700 F.3d 1279, 1283 (Fed. Cir. 2012), cert. denied, 570 U.S. 918 (2013); Ross v. United States, 155 Fed. Cl. 792, 796 (2021) (citing Lassiter v. Dep't of Soc. Servs. of Durham Cnty. N.C., 452 U.S. at 26–27); Heuss v. United States, 75 Fed. Cl. 636, 637 (2007) ("Plaintiff does not have the right to assistance of counsel in this matter before the Court of Federal Claims." (citing Lariscey v. United States, 861 F.2d 1267, 1270-71 (Fed. Cir. 1988))). For the reasons above, given the absence of jurisdiction to resolve the allegations included in complaint's complaint, the court should not assign counsel for the allegations in plaintiff's complaint. The court declines to appoint counsel to plaintiff at the defendant's expense.

CONCLUSION

Defendant's motion to dismiss is **GRANTED** and plaintiff's complaint is **DISMISSED**. The Clerk of the Court shall enter **JUDGMENT** consistent with this Order.

IT IS SO ORDERED.

s/Marian Blank Horn
MARIAN BLANK HORN
Judge

Additional material from this filing is available in the Clerk's Office.