

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 EMILIO LOZANO,
12 Plaintiff,
13 v.
14 REX TILLERSON, Secretary of State,
15 et al.,
16 Defendants.

Case No.: 17CV0047 JMA (MDD)

**ORDER GRANTING
DEFENDANTS' UNOPPOSED
MOTION TO PARTIALLY DISMISS
[ECF No. 10]**

17
18 Presently before the Court is Defendants' motion to partially dismiss. (ECF
19 No. 10.) Plaintiff does not oppose the motion. For the reasons set forth below,
20 Defendants' motion is **GRANTED**.


21 Plaintiff brings this action pursuant to 8 U.S.C. § 1503 to seek a declaratory
22 judgment that he is a United States citizen and is entitled to a United States
23 passport. Defendants seek dismissal of all defendants other than Rex Tillerson,
24 Secretary of State, pursuant to Fed. R. Civ. P. 12(b)(6), on the basis that section
25 1503 only allows Plaintiff to institute an action "against the head of such
26 department or independent agency" that denies a right or privilege to a person
27 claiming to be a national of the United States. 8 U.S.C. § 1503(a). The Court
28 finds the defendants other than Secretary Tillerson, namely the Under Secretary

1 for Management; Assistant Secretary of State of Consular Affairs; Managing
2 Director, Passport Services Directorate; and United States of America are not
3 proper parties, and hereby dismisses them from this action.

4 Defendants also contend that to the extent Plaintiff asserts a separate
5 claim for relief under 28 U.S.C. §§ 2201-2202, such claim should be dismissed
6 pursuant to Fed. R. Civ. P. 12(b)(1) on the grounds these sections do not
7 independently confer jurisdiction upon the Court absent some other statutory
8 basis. "Neither the Declaratory Judgment Act, § 2201, nor the 'Further Relief'
9 statute, § 2202, confer jurisdiction on [a federal court] but, rather, provide
10 additional remedies where jurisdiction independently already exists." *Harris v.*
11 *United States*, 820 F. Supp. 1018, 1021 n.2 (N.D. Miss. 1992) (citations omitted).
12 Because the remedy Plaintiff seeks is available under 28 U.S.C. § 1503, any
13 standalone claim for relief under sections 2201-2202 is unnecessary and
14 dismissed as redundant.

15 **IT IS SO ORDERED.**

16 Dated: February 21, 2018

17 
18 Honorable Jan M. Adler
United States Magistrate Judge