

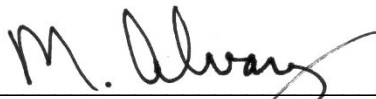


“[T]he plaintiff’s elimination of a fragment of an action as was the case here is more appropriately considered to be an amendment to the complaint under Rule 15.”<sup>6</sup> Plaintiff is effectively requesting to amend his complaint under Federal Rule of Civil Procedure 15(a)(1)(B). Accordingly, the Court **GRANTS** Defendants’ motion for partial dismissal,<sup>7</sup> **DISMISSES** all of Plaintiff’s claims except for his claim brought under 8 U.S.C. § 1503, and **DISMISSES** all Defendants except for Antony J. Blinken in his official capacity as U.S. Secretary of State.<sup>8</sup>

The Court notes that Plaintiff originally sought habeas corpus relief<sup>9</sup> and, as such, Plaintiff was entitled to a reduced filing fee under 28 U.S.C. § 1914. However, Plaintiff no longer seeks habeas corpus relief, and his original complaint is now outmoded. Accordingly, the Court **ORDERS** Plaintiff to file an amended complaint consistent with this order, together with the difference in the filing fee paid and now required (viz. \$397) no later than **August 19, 2021**. Failure to file an amended complaint or pay the difference in filing fee as ordered will be treated as a failure to prosecute or comply with the Court’s order.<sup>10</sup>

IT IS SO ORDERED.

DONE at McAllen, Texas, this 9th day of August 2021.



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Micaela Alvarez  
United States District Judge

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<sup>6</sup> *Ryan v. Occidental Petrol. Corp.*, 577 F.2d 298, 302 n.2 (5th Cir. 1978) (citing 8 JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE – CIVIL § 41.21[2] (3d ed. 1999)), *overruled on other grounds by Curtiss–Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1 (1980).

<sup>7</sup> Dkt. No. 10.

<sup>8</sup> *See Rosales-Rodriguez v. Berryhill*, No. 1:16-CV-00258, 2018 WL 1388531, at \*1 (S.D. Tex. Mar. 15, 2018) (dismissing the United States as an improper party for the plaintiff’s 8 U.S.C. § 1503 claim), *aff’d*, 751 F. App’x 569 (5th Cir. 2019).

<sup>9</sup> Dkt. No. 1 at 6, ¶ 22.

<sup>10</sup> *See* FED. R. CIV. P. 41(b).