

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

OCT 08 2019

Clerk, U.S. District and  
Bankruptcy Courts

Fulvio Flete-Garcia,

Petitioner,

v.

United States of America,

Respondent.

Civil Action No. 19-2547 (UNA)

**MEMORANDUM OPINION**

This matter, brought *pro se* by a federal prisoner, is before the Court on review of his “Petition for Declaratory Judgment” under 28 U.S.C. § 2201, and application for leave to proceed *in forma pauperis* (IFP). The Court will grant the *in forma pauperis* application and dismiss the case pursuant to 28 U.S.C. § 1915A (requiring immediate dismissal of a prisoner’s case upon a determination that the complaint or petition fails to state a claim upon which relief may be granted).

A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Declaratory Judgment Act creates no cause of action but rather a remedy “[i]n a case of actual controversy within [a federal court’s] jurisdiction[.]” 28 U.S.C. § 2201. Because the Act is not “‘an independent source of federal jurisdiction,’ . . . ‘the availability of [declaratory] relief presupposes the existence of a judicially remediable right’” derived from some other source. *Ali v. Rumsfeld*, 649 F.3d 762, 778 (D.C. Cir. 2011) (quoting *C & E Servs., Inc. of Washington v. D.C. Water & Sewer Auth.*, 310 F.3d

197, 201 (D.C. Cir. 2002) (other citation omitted) (alteration in original)). In other words, to obtain a declaratory judgment, petitioner must allege a “cognizable cause of action” over which this Court has jurisdiction. *Id.*

In this case, petitioner seeks “a legal declaration . . . with respect to the legality and validity of [his] court appearances on June 11, 2015 related to case No. 1:15-CR-10139PBS-1.” Pet. at 2; *see id.* at 5. Because the criminal case was prosecuted in the United States District Court for the District of Massachusetts, *see* Pet. Ex. B, jurisdiction is lacking over this aspect of the petition. Petitioner contends that the criminal case “is an integrated component” of a Freedom of Information Act case that is pending in this Court, *Flete-Garcia v. United States Marshals Service*, No. 18-cv-02442 (RDM). Pet. at 2. But he does not explain, and the Court does not fathom, how that connection entitles him to declaratory relief in a wholly separate civil action. Consequently, this case will be dismissed. A separate order accompanies this Memorandum Opinion.

Date: September 30, 2019

  
United States District Judge