

United States Court of Appeals
for the Fifth Circuit

No. 26-50492

United States Court of Appeals
Fifth Circuit

FILED

September 15, 2026

Lyle W. Cayce
Clerk

MONTE ALBERT,

Plaintiff—Appellant,

versus

CALSOFT, INC., ET AL.,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:26-CV-909

Before JONES, HO, and WILSON, *Circuit Judges*.

PER CURIAM:*

Pro se Plaintiff-Appellant Monte Albert sued Calsoft, Inc. under Title VII for alleged employment discrimination on the basis of national origin. **ROA.4-6.** Albert—who is Pakistani—alleges that he is a qualified software engineer who applied and was interviewed for an engineering role with Calsoft. **ROA.4.** He was not selected for the position. **ROA.4-5.** Sometime later, Calsoft represented that Albert was never a candidate for the role. *Id.*

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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In his original complaint, Albert does not allege that non-Pakistani job applicants were selected for the position or otherwise treated differently in the hiring process. **ROA.4-6.** Given this omission, the district court dismissed Albert's complaint for failure to state a claim on the ground he had not alleged any facts that would allow the court to infer invidious discrimination. **ROA.37-38.** It later denied Albert leave to file a proposed amended complaint as futile for the same reason. **ROA.43-46.** We affirm.

On appeal, Albert argues the district court's dismissal of his suit has the effect of imposing the prima-facie-case evidentiary burden on him at the pleading stage. **Blue Br. 7-9.** But that is incorrect. While Albert certainly need not produce evidence to support each element of his claim at the pleading stage, he must still "*plead* sufficient facts on all of the *ultimate elements* of a disparate treatment claim to make [his] case plausible." *Cicalese v. Univ. of Tex. Med. Branch*, 924 F.3d 762, 766 (5th Cir. 2019) (citation modified). Here, that means he must have sufficiently alleged his non-hiring was "*because of*" his national origin. *Id.* at 767. The original complaint's allegations that Albert is Pakistani, wasn't hired for the job he wanted despite being qualified, and that Calsoft later (incorrectly) stated he was never a candidate are not facts allowing the court to infer—except by pure speculation—that he was rejected on account of his national origin. And his proposed amendment adds only the cursory allegation that "[u]pon information and belief, individuals selected for such roles were outside Plaintiff's protected class or were selected under circumstances giving rise to an inference of discrimination." **ROA.41.** But this sort of formulaic recitation of one of the elements of his Title VII cause of action, without any further factual enhancement, is not enough to survive a motion to dismiss. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

AFFIRMED.