26-10025

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Brian P. Carr; Rujipas Lawichai; Rueangrong Carr; Tanapon Lawichai; Buakho Von Kramer.

Plaintiffs-Appellants

v.

United States of America; United States Department of Justice; United States Postal Service; United States Postal Service Office of the Inspector General; United States Postal Service Board of Governors; United States Department of State; United States Department of State Inspector General; Council of the Inspectors General on Integrity and Efficiency; United States Citizenship & Immigration Services; Department of Homeland Security; Social Security Administration; United States Department of Homeland Security; Tami C. Parker; George M. Padis; Internal Revenue Service; TIGTA

Defendants-Appellees

On Appeal from the United States District Court
for the Northern District of Texas, Dallas Division
District Court No. 3:23-cv-02875-S-BT

BRIEF FOR APPELLEES

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STATEMENT REGARDING ORAL ARGUMENT

This appeal was brought by *pro se* plaintiffs seeking to challenge the district court's dismissal of their claims against the United States and various agencies and offices of inspectors general arising from the allegedly late delivery of a package, delays in processing immigration benefits, and refusal to investigate and/or refer for investigation Appellants' complaints related to the postal refund and immigration benefits. Appellants also re-urge sanctions against counsel for Appellees and seek the recusal of the United States Magistrate Judge. Because the facts and legal conclusions are adequately presented in the briefs, the decisional process would not be significantly aided by oral argument.

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STATEMENT OF JURISDICTION

This is an appeal from the dismissal of a tort claim against the United States Postal Service filed by Appellants Brian Carr (herein after "Mr. Carr"), his wife, Rueangrong Carr (hereinafter "Mrs. Carr"), and his sister-in-law Baukhao Von Kramer (hereinafter "Von Kramer").[1] Appellants also raise a host of additional due process claims regarding the visa processing for Mrs. Carr and Von Kramer, complaining of the costs associated with pursuing the immigration benefits and that their allegations of malfeasance and possible criminal conduct related to the untimely delivery and delayed immigration benefits were not properly referred for investigation or investigated.

The district court had federal jurisdiction over Appellants' lawsuit pursuant to 28 U.S.C. § 1331. The district court dismissed Appellants' amended complaint on March 21, 2025, ROA.1433, and denied the post-judgment motions on December 15, 2025. ROA.2624.

Appellants filed a timely notice of appeal on January 12, 2026.

[1] The original complaint and first amended complaint named Mr. Carr, Mrs. Carr, and Von Kramer as plaintiffs. ROA.31-32., ROA.619. Following dismissal of their complaint, Appellants sought leave to file amended complaints, one of which added Mrs. Carr's adult children, Rujipas Lawichai and Tanapon Lawichai. ROA.1578, ROA.2068. The motions were denied. ROA.2532-33, ROA.2624. Nonetheless, Appellants petitioned to have Rujipas and Tanapon added to the caption in this appeal and they were added. Their names in the caption of the case do not, however, make them actual parties to the case or in this appeal.

ROA.2625. This Court has appellate jurisdiction. *See* 28 U.S.C. § 1291.

STATEMENT OF THE ISSUES

1. The magistrate judge recommended that Mr. Carr's standalone tort claim against the Postal Service be dismissed because he identified no applicable waiver of the United States' sovereign immunity. The Appellants did not file objections to the February 27, 2025, Findings, Conclusions, and Recommendations of the Magistrate Judge (FCR) and, reviewing for plain error and finding none, the district court adopted the FCR. Can Appellants demonstrate plain error in the dismissal of their claim for a "credit" for alleged late delivery of a package? (Appellants' Issue No. 1, Brief at 17-19.)

2. The magistrate judge recommended that Mrs. Carr and Von Kramer's immigration claims be dismissed because Mr. Carr, who is not an attorney, was improperly representing his wife and sister-in-law with respect to those claims. The Appellants did not file objections to the FCR and, reviewing for plain error and finding none, the district court adopted the FCR. Can Mrs. Carr and Von Kramer demonstrate plain error in the dismissal of their claims? (Appellants' Issue No. 2, Brief at 19-23.)

3. The magistrate judge recommended that Mr. Carr's claims regarding the handling of his numerous complaints to various federal agencies be dismissed because he identified no applicable waiver of the United States' sovereign immunity. The Appellants did not file objections to the FCR and, reviewing for plain error and finding none, the district court adopted the FCR. Can Appellants demonstrate plain error in the dismissal of these claims? (Appellants' Issue No. 8; Brief at 34-36.)

4. The magistrate judge recommended that Mrs. Carr's motion to file a second amended complaint post-judgment be denied because, having already received the relief she sought in the litigation, namely citizenship, she sought to bring new claims against new parties. Can Appellants demonstrate that denying the motion for leave to file this amended complaint was an abuse of discretion? (Appellants' Issues Nos. 3, Brief at 23-25.)

5. The magistrate judge denied Appellants' pre-judgment motion for sanctions against an Assistant United States Attorney. Can Appellants demonstrate that the magistrate judge abused her discretion or otherwise failed to adequately support her decision? (Appellants' Issue No. 9.)

6. The magistrate judge refused to recuse herself because Appellants were dissatisfied with her rulings. Can Appellants demonstrate the magistrate judge's refusal to recuse herself was an abuse of discretion. (Appellant's Issue No. 10.)

STATEMENT OF THE CASE

This appeal arises from a far-ranging complaint filed by the Appellants. Proceeding pro se, the Appellants complain that Appellees the United States of America, and several other federal agencies and inspector generals[2], allegedly violated the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Appellants seek credit from the United States Postal Service (the Postal Service) for an allegedly delayed delivery of a package. They seek also

[2] Appellants originally named as defendants in this litigation: (1) the United States of America; (2) the United States Postal Service; (3) the United States Postal Service Office of the Inspector General; (4) The United States Postal Service Board of Governors; (5) the United States Department of State; (6) the United States Department of State Inspector General; the Counsel of the Inspectors General on Integrity and Efficiency (CIGIE), the U.S. Citizenship and Immigration Services (USCIS); the Department of Homeland Security; and the Social Security Administration. ROA.32-34. The same defendants were named in the amended complaint. ROA.620. Following dismissal of their complaint, Appellants sought leave to file amended complaints, one of which added the Internal Revenue Service and Office of the Treasury Inspector General for Tax Administration (TIGTA) as defendants. ROA.2363. The motions were denied and no summonses were issued for those entities. ROA.2532-33, ROA.2624. Nonetheless, Appellants petitioned to have the IRS and TIGTA added to the caption in this appeal and they were added. Their names in the caption of the case do not, however, make them actual parties to the case or in this appeal. Similarly, Appellants sought to add current and former counsel for Appellees to the caption of this appeal because they sought, without justification, sanctions against counsel. Seeking sanctions against counsel does not make counsel a party in the litigation.

complain, and seek orders mandating that the various federal Appellees, including the U.S. Department of Justice, initiate investigations into allegedly criminal circumstances surrounding the misdelivery of this package and delays in Appellees' various attempts to obtain immigration benefits. Those efforts to obtain immigration benefits include seeking lawful-permanent-resident status (commonly known as a "green card"), naturalization for Mrs. Carr, and a non-immigrant visa for Mrs. Von Kramer. Appellants also seek a court order mandating that various federal agencies make numerous changes to administrative processes related to visa applications and internal investigations, and credits for the various fees they paid in seeking immigration benefits.

A. Factual Background

Mr. Carr is a U.S. Citizen who married Mrs. Carr in Thailand and petitioned, as her spouse, for her to receive lawful-permanent-resident status in the United States (commonly known as a green card), which was expedited and approved within four months' time. ROA.630, ROA.632.

Appellant Von Kramer is Mrs. Carr's sister, and in 2019, she desired to travel to the United States. ROA.620, ROA.633. Her requests for a non-immigrant tourist visa were initially denied; however, her fourth application for a visa was granted in 2022 (about three years later). ROA.635, ROA.637.

Appellants allege they complained to the State Department's Office of Inspector General about the challenges Von Kramer encountered in attempting to obtain a visa, but the OIG refused to report or investigate allegations of (what Appellants allege constituted) federal crimes. ROA.639-40.

In 2022, Appellant Mrs. Carr applied for naturalization. ROA.656-57. At her scheduled naturalization interview, she was unable to write a sentence in English and failed the government and history (civics) portions of the naturalization test. *Id.* She was then scheduled for another interview to retake those portions of the naturalization test, but she did not show up—resulting in the denial of her naturalization application. *Id.* It appears that Mr. and Mrs. Carr had a previously scheduled international vacation that conflicted with the scheduled interview ROA.652, but their request to reschedule the interview was denied. ROA.653. Appellants complained to DOJ, DHS's OIG, and USCIS about alleged due process violations (because he could not represent his spouse) malfeasance, federal crimes, and retaliation, but his concerns were not addressed. ROA.631-32, ROA.639-42.

In addition, Mr. Carr in 2021 purchased overnight shipping from the Postal Service to deliver his passport from the Thai Embassy in Washington, D.C. to his home in Irving, Texas. ROA.625. The package allegedly arrived a day late. The Postal Service agreed to refund the postage, but Mr. Carr alleges

that he did not receive the payment. ROA.620, ROA.625. Mr. Carr complained to his Congressman, who was allegedly informed that a refund had been paid. ROA.626-27. Appellants complained that the Postal Service official who reported the refund to Mr. Carr's Congressmen had been misled by "numerous falsified documents." ROA.627.

Appellants allegedly notified various government agencies including the U.S. Department of Justice about the circumstances of their challenges in obtaining a visa for Appellant Von Kramer, naturalization for Mrs. Carr, and timely delivery (or a refund) of a package for Mr. Carr. *See, e.g.*, ROA.662-63. But to date, the federal government has not taken (in Appellants' view) appropriate or timely action to correct allegedly inaccurate records and fix supposedly broken systems (such as United States Citizenship and Immigration Service's automated phone system). *See, e.g.*, ROA.628-29 ("USCIS must immediately disable hang ups by the automated phone system and instead fail over to a human representative.").

B. Procedural Background

On December 29, 2023, Appellants filed a sweeping lawsuit in federal court naming eleven federal agencies or divisions and claiming jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1367, 42 U.S.C. Ch. § 2000bb-1, the Administrative Procedure Act (5 U.S.C. §§ 551-559, 5 U.S.C. § 702), and a

host of other criminal statues, employment statutes, etc. ROA.28. Appellants complained that the Postal Service delivered a package late but an unidentified employee "falsified the delivery record to indicate that the package was delivered on time. ROA.620.

The Appellees moved to dismiss the complaint. ROA.303. Appellees explained that Appellants failed to identify any waiver of sovereign immunity that would allow their claims to proceed before the district court. ROA.306-310. Appellants filed both a response in opposition to Appellees' motion to dismiss, and their own motion for partial summary judgment which included an amended complaint. ROA.359-560. Appellants claimed that the Appellees' motion to dismiss mischaracterized the basis for their complaint and that sovereign immunity did not bar their claims because they were not seeking monetary relief, but rather "credits for future services" from the Postal Service, *see generally* ROA.361, and a directive for the remaining agencies to fulfill what Appellants believe are their nondiscretionary duties to investigate allegations of crimes and to grant a requested non-immigrant tourist visa. ROA.362-364.

Relief was denied on all pending motions, and Appellants were granted the right to file an amended complaint. ROA.585. The amended complaint was formally docketed on April 23, 2024. ROA.619. It remained the

operative complaint throughout the course of the district court litigation. Appellees moved to dismiss that complaint as well, citing the same bases set forth in the original motion to dismiss because Appellants had not and could not cure the jurisdictional defects. ROA.875. In response, Appellants once again filed a response in opposition to dismissal and their own motion for partial summary judgment. ROA.896, ROA.901. Appellants also moved for sanctions against counsel for Appellees under Federal Rules of Civil Procedure 11(c)(2)–(3) and 56(h) , 28 U.S.C. § 1927, 18 U.S.C. §§ 1621 and 1001, Local Rule 83.8(b)(3), and Texas Disciplinary Rule of Professional Conduct 4.01, arguing that the motion to dismiss was factually false insofar as it allegedly mischaracterized his claims, meritless, and filed for purposes of delay. ROA.677-680.

By Order dated February 26, 2025, the magistrate judge denied the motion for sanctions. ROA.1418. The Order noted that Mr. Carr had conceded in his reply that sanctions under Rule 11(c)(2) and 28 U.S.C. § 1927 are unavailable. ROA.1419, ROA.1043-44, and thus was left relying upon the Court's inherent authority under Fed. R. Civ. P. 11(c)(3). ROA.1419. Having reviewed the motion, the magistrate judge determined that Appellees' conduct was not sanctionable and declined to issue sanctions under its inherent authority. ROA.1418-20.

The following day, February 27, 2025, the magistrate judge issued an FCR recommending that the district court dismiss the amended complaint. ROA.1425. First, the magistrate judge explained that the evidence of record reflected that Mr. Carr, who is not a licensed attorney, was acting as an attorney for the other Appellants. ROA.1425-1427. For example, Carr indicated that he drafted the complaint based upon *his* careful review of the records, translated his creation into Thai as Mrs. Carr and Von Kramer do not understand English well, and assuaged concerns that Von Kramer had regarding accuracy. ROA.1426-1427. The magistrate judge carefully and accurately explained that this Court's precedence, as well as 18 U.S.C. § 1654, did not permit him to represent his family members. ROA.1425-1426. As such, the magistrate judge recommended that claims brought on behalf of Mrs. Carr and Von Kramer be dismissed. ROA.1427.

With respect to the claims Mr. Carr could bring on his behalf, the FCR also recommended dismissal. The FCR explained that Mr. Carr failed to establish a waiver of the United States's sovereign immunity for claims regarding the loss, miscarriage, or negligent transmission of letters or postal matters. ROA.1430. Further, Mr. Carr failed to demonstrate an applicable sovereign immunity for his claims that various agencies were required to investigate his claims of misconduct in the immigration proceedings and in the

untimely delivery of his package. ROA.1431-32.

On the signature page of the FCR, Appellants were specifically advised that "[a]ny party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy," and that the failure to do so would "bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error." ROA.1432 (citing *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc)). None of the Appellants filed objections to the FCR within the 14 days provided by 28 U.S.C. § 636(b)(1). A week after the deadline to file objections lapsed, the district court reviewed the FCR for plain error and, finding none, accepted the recommendations and dismissed the complaint. ROA.1433. Judgment was entered that same day. ROA.1434.

One week after judgment was entered, on March 28, 2025, Mrs. Carr filed a letter to the court. ROA.1435. Therein, Mrs. Carr explained that she had agreed to allow her husband to electronically sign the amended complaint and confirmed that she wanted the relief sought in the complaint. ROA.1435, 1501-02. That said, Mrs. Carr acknowledged that she had received the relief she sought in this litigation, namely, her "Certificate of Citizenship". ROA.1507. Nevertheless, she outlined other relief not included in the

amended complaint that she wished to pursue regarding a visa for her oldest son and asked for leave to file an amended complaint. That proposed amended complaint was submitted on April 7, 2025. ROA.1509. The proposed amended complaint raised essentially the same claims as the amended complaint dismissed by the district court. *See generally*, ROA.1509. The same day, Von Kramer submitted her own letter to the court outlining the relief she wished to obtain through litigation, to include a visa. ROA.1569.

The same day Appellants submitted the proposed amended complaint, they filed what they styled as a "FRCP Rule 60 Motion[] for LR. 7.1, LR 7.2, and LR 11.1 Relief." ROA.1574. Appellants acknowledged that they missed the deadline to file objections to the FCR but asked the district court to rescind the judgment in this case and instead allow them to file "two Amended Complaints and other Motions as well as relaxing the page limit restrictions of LR 7.2 [] for any motion which broadly [dealt] with more than two counts[.]" ROA.1577. Appellants also asked for additional time to respond in the ligation because one party was overseas, guidance from the Court on how they could electronically file documents together, and for the magistrate judge to be recused because she "appear[ed] to have collaborated with Defendants to defer the matter until they could ameliorate their constitutional and criminal violations." ROA.1577-78. In addition to the above, Appellants asked for

review of the magistrate judge's failure to issue an order to show cause on their motion sanctions. ROA.1578.

Appellants' initial Fed. R. Civ. P. 60 motion explained that they intended to file four subsequent motions for relief and sought leave to do so. ROA.1581. However, without awaiting a response, Appellants filed a second Rule 60 motion two weeks after their first motion on April 18, 2025. ROA.1700. Two weeks thereafter, on May 5, 2025, they filed another motion. ROA.1712. Just over a month later, on June 10, 2025, a fourth Rule 60 motion was filed, ROA.1775, and on June 21, 2025, a fifth motion was filed. ROA.1833.

On November 10, 2025, the magistrate judge issued a second FCR recommending that Appellants' post-judgment motions be denied. ROA.2521. Appellants filed timely objections. The district court denied post-judgment relief after conducting de novo review for the challenged portions of the FCR. ROA.2624. Appellants filed their notice of appeal on January 12, 2026.

STANDARDS OF REVIEW

This Court typically reviews a district court's ruling on a Rule 12 motion *de novo. See Guerra v. Castillo*, 82 F.4th 278, 284 (5th Cir. 2023); *see also Crane v. City of Arlington,* 50 F.4th 453, 461 (5th Cir. 2022). However, when, as occurred here, the party against whom judgment was rendered was warned

about the need to object to the magistrate judge's recommendation but failed to do so and the district court only reviewed for plain error, review in this Court is likewise for plain error only. *Wallace v. Mississippi*, 43 F.4th 482, 494-95 (5th Cir. 2022) (citing *Douglass*, 79 F.3d at 1428, and *Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017)).

Denials of post-judgment motions are reviewed for an abuse of discretion. Review of this type of motion is narrow. *See Trinity Carton Co., Inc. v. Falstaff Brewing Corp.*, 816 F.2d 1066, 1070 (5th Cir. 1987) (per curiam) ("We may set aside a denial of relief only for abuse of discretion and '[i]t is not enough that the granting of relief might have been permissible, or ever warranted—denial must have been so *unwarranted* as to constitute an abuse of discretion.'") (quoting *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981) (emphasis in original)). Under this standard, the district court's decision need only be reasonable. *Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 353 (5th Cir. 1993).

This Court reviews a district court's denial of leave to amend for abuse of discretion. *Scott v. U.S. Bank Nat'l Ass'n*, 16 F.4th 1204, 1208 (5th Cir. 2021) (per curiam).

A district court's denial of a motion for recusal is reviewed for abuse of discretion. *Matter of Assadi*, No. 22-50452, 2022 WL 17819599, at *1 (5th Cir.

Dec. 20, 2022) (citing *United States v. Anderson*, 160 F.3d 231, 233 (5th Cir. 1998)).

This Court can "affirm the district court's dismissal on any ground the record supports." *King v. U.S. Dep't of Veterans Affs.*, 728 F.3d 410, 413 (5th Cir. 2013). Further, "[a]lthough this court liberally construes *pro se* briefs, this court requires arguments to be briefed in order to be preserved." *Montgomery v. Office C/O Pearce*, 79 F.3d 1143 (5th Cir. 1996), (internal citations omitted). Claims not adequately argued in the body of the brief are deemed abandoned on appeal. *Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir.1993).

SUMMARY OF THE ARGUMENT

Appellants fail to establish that the district court committed plain error in concluding that Mr. Carr was improperly representing his family members and by granting the Appellees' motion to dismiss based on the inability to establish a waiver of sovereign immunity with respect to the claims against the Postal Service. Moreover, even if Appellants could show plain error—which Appellees deny—any such error could not have affected their substantial rights, nor did it seriously affect the fairness, integrity, or public reputation of judicial proceedings. That is because dismissal was appropriate based on the numerous additional grounds advanced by the Appellees, which demonstrated that Appellants could not demonstrate a valid waiver of sovereign immunity

for any of the claims in the complaint, even those improperly raised by Mrs. Carr and Von Kramer.

Similarly, Appellants fail to demonstrate an abuse of discretion in the decision denying sanctions in this case and denying their motion for leave to file a second amended complaint. The sanctions motion, ROA.677, assailed the very motion to dismiss that the court found meritorious, and did not, in fact, set forth any sanctionable conduct. (ROA.1418-20.) And leave to file yet another amended complaint would have been futile because Appellants remained unable to identify a waiver of sovereign immunity.

Last, in addition to arguing that all the various federal agencies failed to discharge their duties in the manner Mr. Carr believes was required, Appellants spent considerable effort below making ad hominem attacks on counsel for Appellees, the lower court, and the clerk's office. As seen throughout his pleadings, Mr. Carr is firm in his belief that those who do not agree or conform with his understanding of how things are or should be done are presumably guilty of malfeasance (dishonesty, collusion, etc.) or even criminal conduct. The district court did not abuse its discretion in rejecting those charges.

ARGUMENT AND AUTHORITIES

A. Appellants cannot establish plain error.

To establish plain error, Appellants must show that "(1) there is an error, (2) the error is clear or obvious, and (3) the error affects his substantial rights." *United States v. Coil*, 442 F.3d 912, 916 (5th Cir. 2006). Even then, this Court exercises its discretion to correct plain errors only "if the error 'seriously affect[s] the fairness, integrity or public reputation of judicial proceedings.'" *United States v. Olano*, 507 U.S. 725, 736 (1996) (citation omitted).

1. Mr. Carr did not establish a waiver of sovereign immunity for the claims regarding mail.

Mr. Carr asserts that he utilized the Postal Services' administrative process to seek reimbursement for a package that was timely delivered. ROA.620. As a result of his claim, the Postal Service agreed to reimburse him and their records show the same. ROA.930, ROA.933. Mr. Carr represents that he can find no evidence that his credit card was reimbursed, and thus sues the Postal Service for a "credit" of the delivery fee. ROA.930-31.

As the party invoking federal subject-matter jurisdiction, Mr. Carr bore "the burden of showing Congress's unequivocal waiver of sovereign immunity." *Freeman v. United States*, 556 F.3d 326, 334 (5th Cir. 2009). He identified no such waiver for his claims for what he deems "non-monetary relief" in the form of a "credit" because a refund purportedly did not reach

credit card account. Thus, the district court properly dismissed Appellant Carr's claim against the Postal Service for lack of sovereign immunity. ROA.1430-31. This was not error, much less plain error.

Although Congress through the Postal Reorganization Act waives sovereign immunity for certain categories of claims, "the statute also provides that the [Federal Tort Claims Act or the] FTCA 'shall apply to tort claims arising out of activities of the Postal Service.'" *Dolan v. U.S. Postal Serv.*, 546 U.S. 481, 484 (2006). Indeed, this Court has long recognized that the Postal Service's sue-and-be-sued clause set forth in 39 U.S.C. § 401(1) does not waive the government's sovereign immunity for claims covered by the Federal Tort Claims Act (FTCA). *See*, *e.g.*, *Ins. Co. of N. Am. v. U.S. Postal Serv.*, 675 F.2d 756, 757–59 (5th Cir. 1982) (per curiam) (noting that section 401(1)'s "waiver is not complete; it is explicitly conditioned by § 409(c), in which Congress has stated that in actions sounding in tort, the remedies and restrictions of the FTCA shall apply"); *see also U.S. Postal Serv. v. Konan*, 607 U.S. 391, 394 (2026) (recognizing that the Postal Service retains it sovereign immunity for all claims covered by the FTCA and its exceptions); *Houston v. U.S. Postal Serv.*, 823 F.2d 896, 898 n.1 (5th Cir. 1987) (noting that "[a]ny tort claim against the [Postal Service] must be cognizable under the FTCA such that when the FTCA applies, it is the exclusive means to overcome sovereign immunity).

The FTCA in turn limits the federal government's waiver of sovereign immunity with certain exceptions. Under the FTCA's postal exception, the United States does not waive its sovereign immunity for "any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter." 28 U.S.C. § 2680(b). The Supreme Court "has interpreted the postal exception to apply when the plaintiff is harmed 'because mail either fails to arrive at all or arrives late, in damaged condition, or at the wrong address.'" *Konan*, 607 U.S. at 395 (quoting *Dolan*, 546 U.S., at 489). Just this year, the Supreme Court noted the postal exception's broad scope reflects:

> Congress's judgment that redresses for "harms" of "the sort primarily identified with the Postal Service's function of transporting mail throughout the United States" should not come from tort suits. Given the frequency of postal workers' interactions with citizens, those suits would arise so often that they would create a significant burden for the Government and the courts. And their cost to taxpayers would depend on the value and importance of the mail's contents, over which the Government typically has no control.

Konan, 607 U.S. at 398 (quoting *Dolan*, 546 U.S. at 489).

Although Appellants insist their claims are not about delayed delivery, the substance of their claims is what matters. *Gaudet v. United States*, 517 F.2d 1034, 1035 (5th Cir. 1975) ("It is the substance of the claim and not the language used in stating it which controls.") And here, their dispute arises from the Postal Service's failure to timely deliver a package—which 28 U.S.C. § 2680(b) unambiguously bars—regardless of how Appellants characterize

their claims. *See Brown v. U.S. Postal Servs. Domestic Claims*, No. CV 23-2554, 2024 WL 1052897, at *2 (E.D. Pa. Mar. 11, 2024) (applying postal exception to allegations involving late delivery of mail noting the exception can apply regardless of the form of claim if "the ultimate claim of liability remains misdelivery"); *Mann v. United States*, No. 3:21-CV-01326-E-BT, 2022 WL 789698, at *3 (N.D. Tex. Feb. 24, 2022), *report and recommendation adopted,* No. 3:21-CV-01326-E-BT, 2022 WL 785316 (N.D. Tex. Mar. 15, 2022) ("[A]ny claim for lost mail, even if characterized as a breach of contract, falls squarely under the FTCA's postal matter exception."); *see also LeMay v. U.S. Postal Serv.*, 450 F.3d 797, 801 (8th Cir. 2006) ("The words echo contract, but the issues are classic questions of postal rates and services. Were we to decide otherwise, every missed mail delivery could engender a contract dispute.").

Here, because Appellants' claims sound in tort, the FTCA is their exclusive remedy. But because their claims concern an allegedly late-delivered package, and arises out of the allegedly "negligent transmission of letters or postal matter," the postal exception applies. ROA.1430-31. Therefore, Appellants' claims concerning the alleged one-day delayed delivery of Mr. Carr's package are barred under the doctrine of sovereign immunity. As the magistrate judge found, and the district court accepted, that Mr. Carr "allegedly seeks 'a credit for future services' rather than money damages does

not change this result." ROA.1431.

2. The district court did not commit plain error in concluding that Mr. Carr could not represent his family members.

28 U.S.C. § 1654 provides as follows: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein." Similarly, Fed. R. Civ. P. 11(a) provides, in pertinent part: "(a) Signature. Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented." Thus, traditionally, the general rule in federal court is that, while *parties* have the right to represent themselves under 28 U.S.C. § 1654, a person, who is not an attorney, cannot represent another individual.

In this case, Mr. Carr filed the original complaint containing his wet signature and that of Mrs. Carr, ROA.81, along with a declaration from Von Kramer stating that she wished to "join the complaints as an additional Plaintiff" and wished to have Mr. Carr "represent [her] interest in this matter to the degree that this is permitted by law." ROA.82. Mr. Carr then obtained a PACER account and began filing all subsequent pleadings through that electronic account, using electronic signatures for all three Appellants. That was improper. Both PACER and the Northern District of Texas's NextGen

CM/ECF system require individual accounts for every unique filer.[3] Because a *pro se* individual can only represent themselves, each Appellant was required to sign their own documents and submit them through their own unique, verified, electronic account. They failed to do so, and dismissing the claims of the Appellants who were not signed up for PACER was not plain error.

Although Appellants refer to the dismissal of Mrs. Carr's and Von Kramer's claims as a sanction, that contention is inaccurate. The dismissal of those claims was without prejudice, thus Appellants were welcome to re-file those matters on their own behalf.

3. Because the record supports dismissal of Appellants' substantive claims on the merits, to the extent this Court finds plain error, Appellants cannot show that any such error seriously affected the fairness, integrity or public reputation of judicial proceedings.

Finally, to the extent this Court concludes that dismissing Mrs. Carr and Von Kramer from the case was plain error, Appellants fail to demonstrate that this error seriously affected the fairness, integrity or public reputation of judicial proceedings. The conclusion that Mr. Carr was in fact representing his family members, who he acknowledges do not speak English and were uncertain about elements in the complaint, was a fair conclusion. ROA.1426-27.

[3] *See* https://www.txnd.uscourts.gov/what-difference-between-pacer-and-cmecf

Moreover, had they remained in the case, their claims would have nonetheless been subject to dismissal for the reasons set forth in Appellees' motion to dismiss, ROA.875, and this Court may affirm dismissal on any grounds supported by the record and presented the court below. *King*, 728 F.3d at 413. There, the Appellees explained that Appellants' amended complaint should be dismissed because they failed to identify any waiver of the federal government's sovereign immunity for the injunctive relief sought, which was essentially for the various agencies to grant their requests for immigration benefits and to adopt processes and procedures that comported with Mr. Carr's understanding and interpretation of the law. As the Appellees explained:

- Appellants failed to show that the federal government waived sovereign immunity for claims seeking to require federal law enforcement or inspectors general to take specific action on complaints. ROA.879.

- Appellants' naturalization-related claims were barred under any federal statute other than the naturalization statute, 8 U.S.C. 1447(b), under which Appellants had not sought relief. ROA.880-81.

- Appellants' visa-related claims failed to state a claim because Appellants could not identify a protected liberty interest in adjustment of status, and because such claims are barred by the doctrine of consular nonreviewability. ROA.881-82.

Thus, reversal of the decision to Appellants Mrs. Carr and Von Kramer from

the litigation does not change the ultimate outcome in this matter.

B. Appellants cannot demonstrate that the lower court abused its discretion in any manner.

1. The district court did not abuse its discretion in denying Appellants' motion for reconsideration.

Appellants' first "Rule 60" motion was filed on April 7, 2025, which was 17 days after judgment was entered. ROA.1574. This Court construes a motion for reconsideration filed within 28 days of final judgment as a Federal Rule of Civil Procedure 59(e) motion to alter or amend the district court's judgment. *Mason v. Fremont Inv. & Loan*, 671 F. App'x 880, 884 (5th Cir. 2016); *see also Williams v. Thaler*, 602 F.3d 291, 303 & n.7 (5th Cir. 2010). "A motion to alter or amend the judgment under Rule 59(e) must clearly establish either a manifest error of law or fact or must present newly discovered evidence and cannot be used to raise arguments which could, and should, have been made before the judgment issued." *Schiller v. Physicians Res. Grp. Inc.*, 342 F.3d 563, 567 (5th Cir. 2003) (internal quotation marks omitted) (quoting *Rosenzweig v. Azurix Corp.*, 332 F.3d 854, 863–64 (5th Cir. 2003)).

Here, as the magistrate judge explained, Appellants' Rule 59(e) motion failed to point to point to any intervening change in the controlling law, failed to present any newly discovered evidence that was previously unavailable, and failed to show that there was any manifest error of law. ROA.2526. Equally

important, they failed to point to any arguments they could not have made before judgment was entered in this case. For that reason, denying the motion for reconsideration was not an abuse of discretion, and should be upheld.

2. Appellants fail to demonstrate that the denial of their motions for sanctions was an abuse of discretion.

On May 8, 2025, Appellants filed their first motion for sanctions, arguing that Appellees' brief mischaracterized their claims, contains inaccuracies, and filed solely for purposes of delay. ROA.677. By Order dated February 26, 2025, the magistrate judge denied Appellant's motion for sanctions, explaining that she found no sanctionable conduct. ROA.1418. On appeal, Appellants complain that the order was "devoid of factual analysis or legal scaffolding." Brief at 26-37.

This Court reviews a district court's ruling on a motion for sanctions for abuse of discretion. *Haase v. Countrywide Home Loans, Inc.*, 748 F.3d 624, 630 (5th Cir. 2014). "It is well-settled that, to conduct [the] review, [this Court] must be able to understand the district court's disposition of the sanctions motion." *Copeland v. Wasserstein, Perella & Co.*, 278 F.3d 472, 484 (5th Cir. 2002).

Here, Appellants assert that the district court's denial of their motion for sanctions lacked sufficient justification because it did not set forth the specific facts and law applied to the motion. Brief at 36-37. That is incorrect. Having

set forth the basis of Appellants' motion, namely that the motion allegedly contained inaccuracies and was filed for purposes of delay, the magistrate judge concluded that the motion did not set forth any sanctionable behavior. Indeed, the magistrate judge recommended that the very motion to dismiss assailed by the Appellants as filed solely for purposes of delay be granted. ROA.1425. That fact alone is sufficient to allow this Court to understand the basis of the denial: the motion to dismiss was well-grounded in the law and the facts of the case.

3. The denial of Appellants' motion for leave to file a second amended complaint was not an abuse of discretion.

Finally, Appellants were not entitled to leave to amend, and the district court did not err in denying such leave. The Fifth Circuit has held that "[g]ranting leave to amend is not required . . . if the plaintiff has already pleaded his best case." *Brewster v. Dretke*, 587 F.3d 764, 768 (5th Cir. 2009). Here, Appellants filed their original Complaint in December 2023, spanning 253 paragraphs over 48 pages and alleging eight causes of action. ROA.28-70. Fifty-six reliefs were demanded. ROA.70-81

After Appellees filed their Motions to Dismiss, Appellants amended their Complaint as a matter of right under Fed. R. Civ. P. 15(a)(1)(B), filing a 253-paragraph, 58-page Amended Complaint that attempted to remedy the

deficiencies identified by Appellees. ROA.619-674. Appellants' response in opposition to Appellees' renewed motion to dismiss was, with subparts and attachments, more than 80 pages. ROA.901-982. Appellants have thus already had one full opportunity to cure their pleading deficiencies, were on notice of the legal standards they needed to meet and failed to do so and instead seek to bring the same claims along with new ones by new plaintiffs and against new defendants.

Appellants' pro-se status did not entitle them to unlimited opportunities to amend. While the Fifth Circuit affords pro se litigants some latitude, that latitude does not extend to permitting futile amendments or excusing fundamental deficiencies in claims. *See Bazrowx v. Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998). Appellants amended their complaint once as a matter of right. The district court did not err by denying them the right to file another amended complaint.

4. The denial of Appellants' motion to recuse was not an abuse of discretion.

Disappointed with the magistrate judge's recommendation that their claims be dismissed, Appellants reacted as they have with each of the Appellees in this case: they accused the magistrate judge of bias, of failing to comply with the rules as Appellants understand them, and of engaging in

deceptive and dishonest conduct to include "criminally falsifi[ng] findings to justify dismissal." Brief at 38-39, *see also* ROA.1581-82, 1874-1877.

The requirements of 28 U.S.C. § 455 apply to "any justice, judge, or magistrate judge of the United States . . .." This statute provides that a judge should recuse herself in any proceeding in which there is *reasonable* question to her impartiality. 28 U.S.C. § 455(a) (emphasis added). If a judge has a personal bias or prejudice concerning a party, the judge should qualify herself. *See* 28 U.S.C. § 144(b)(1). If a party moves to recuse a judge on the grounds of bias and prejudice, the bias or prejudice should stem from extrajudicial sources. *Andrade v. Chojnacki*, 338 F.3d 448, 455 (5th Cir. 2003). When considering a judge's impartiality under 28 U.S.C. 455(a), the court must consider whether a reasonable and objective person, rather than the hypersensitive, cynical, and suspicious person, knowing all the facts, would have doubts concerning the judge's impartiality. *Raborn v. Inpatient Mgmt. Partners Inc.*, 352 F. App'x. 881, 883 (5th Cir. 2009).

Here, Appellants' bias argument is based solely on rulings made by the magistrate judge and what Appellants deem suspicious timing. But as the Supreme Court observed:

> [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion. In and of themselves (i.e., apart from surrounding comments or

> accompanying opinion), they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required when no extrajudicial source is involved."

Liteky v. United States, 510 U.S. 540, 555 (1994). An opinion is not extrajudicial if it was "formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings." *Tejero v. Portfolio Recovery Associates, L.L.C.*, 955 F.3d 453, 463 (5th Cir. 2020) (quoting *Liteky*, 510 U.S. at 555). Non-extrajudicial facts "do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky*, 510 U.S. at 555.

Appellants dislike the magistrate judge's conclusions, but that is not evidence of bias. The magistrate judge did not abuse her discretion by denying Appellants' motion to recuse, nor did the district court in upholding that decision.

CONCLUSION

For the reasons stated above, this Court should affirm the district court's judgment dismissing Appellants' case.

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of October 2026, a true and correct copy of the foregoing was electronically filed with the Court's CM/ECF system, and I served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

I further certify that (1) any required privacy redactions have been made; (2) the electronic submission is an exact copy of the paper document; and (3) the document has been scanned for viruses with the most recent version of a commercial virus scanning program and is free of viruses.

s/ *Tami C. Parker*
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Assistant United States Attorney

CERTIFICATE OF COMPLIANCE

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