

26-10025

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIAN CARR,

Plaintiff-Appellant

v.

**UNITED STATES OF AMERICA; UNITED STATES
DEPARTMENT OF JUSTICE; 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 AND
IMMIGRATION SERVICES; DEPARTMENT OF HOMELAND
SECURITY; SOCIAL SECURITY ADMINISTRATION; UNITED
STATES DEPARTMENT OF HOMELAND SECURITY,**

Defendants-Appellees

On Appeal from the United States District Court for
the Northern District of Texas, Dallas Division
District Court No. 3:23-CV-2875

**APPELLEE'S RESPONSE TO APPELLANT'S MOTION TO
RECONSIDER DISMISSAL, SUSPEND BRIEFING AND
EXPEDITE WITH NOTICE OF FUTURE MOTIONS FOR
SANCTIONS AND PROCEDURAL REFORMS**

Plaintiff-Appellant Brian Carr seeks to have this Court reconsider the dismissal of his appeal for failure to prosecute, suspend briefing in this appeal, and expedite consideration of these motions. (Doc. 37-1 (hereinafter “Motion”).) For the reasons set forth below, Defendants-Appellees, the United States of America and various federal agencies, oppose the motions.

Procedural History

This appeal arises from the dismissal of various tort, constitutional, statutory and immigration claims Carr attempted to bring for himself and on behalf of his wife, a U.S. permanent resident, and his sister-in-law, a citizen and resident of Thailand. The appeal was docketed on January 16, 2026. (Doc. 1.) The Clerk issued a briefing schedule on March 2, 2026, following receipt of the electronic record on appeal. (Doc. 16.) Carr’s deadline to file his initial brief was April 13, 2026. (*Id.*)

On April 12, 2026, Carr filed a motion to extend the deadline to file his initial brief, citing the possibility of obtaining counsel and his plan to file three motions related to the appeal. (Doc. 20-1 at 2-4.) Carr asked for an additional 40 days to file his brief. (*Id.*) The Clerk granted this motion in part, giving Carr an additional 30 days to file his initial brief, thus extending the deadline to or before May 13, 2026. (Doc. 24.)

On May 7, 2026, Carr filed what he styled as “Verified Consolidated

Motions” seeking to (1) amend the caption of the case to add four appellants and six defendants/appellees, (2) submit a joint appeal for all the appellants, and (3) sever consideration of his motions for sanction against two Assistant United States Attorneys, and his motions for recusal and allegations of judicial misconduct against the district judge and magistrate judge, into separate actions. (Doc. 25 (hereinafter “Consolidated Motions”).)¹

Within a section of the Consolidated Motions addressing the joint appeal and the perceived need to amend the ROA, Carr “ask[ed] that any deadlines for submission of the initial appeal briefs be tolled until all three motions are decided and that the matter be re-docketed at that time.” (*Id.* at 5.)² Carr provide no authority for such a request and did not specify how much additional time he believed was needed to file his initial brief. (*See generally, id.*) He did, however, later explain that he wanted “80 days after the amended record is available with the amended captions” to file his initial brief. (Doc. 25 at 19.)

On May 19, 2026, the Clerk issued a letter explaining that no action

¹ These motions are the same motions referenced in Carr’s motion for an extension of time to file his initial brief. (Doc. 20-1 at 2.)

² The Consolidated Motion explained that Carr anticipated filing additional motions, specifically, two motions to amend the ROA. (Doc. 25 at 5.) Carr wanted any deadlines for his initial brief set after those motions were decided. (*Id.*)

would be taken on Carr's Consolidated Motions. (Doc. 27-2.) The Clerk explained, in relevant part, that Carr's motion for an extension of time would not be granted because it did not specify how much time was needed and instead was based on unspecified date(s) this Court ruled on three separate motions, two of which had not been filed. (*Id.*)

Carr took no action to address the deadline for filing his initial brief after the Clerk's May 19, 2026. Specifically, he did not move for leave to file his brief out of time and did not file a motion to stay the briefing schedule, providing legal and factual support for such a request. Instead, on May 30, 2026, Carr filed a motion to amend the record on appeal (Doc. 32), proceeding along the course he had set out in his Consolidated Motions. (Doc. 25 at 5.) On June 2, 2026, two weeks after notifying Carr that the motion to extend deadlines embedded in his Consolidated Motions would not be acted upon, the Clerk entered an order dismissing the appeal pursuant to 5th Circuit Rule 42 for failure to file appellant's brief. (Doc. 33.)

On June 9, 2026, Carr filed the instant Motion seeking to vacate the dismissal and suspend briefing until all his complaints with the caption and ROA could be addressed. (*See generally*, Motion.) Carr explained that the instant motion was one of three motions he intended to file "to address systemic breakdowns in the administration of this appeal." (Motion at 5.)

Carr argued, without providing authority, that the appeal simply could not be dismissed while “the caption, ROA text accuracy, and security of the underlying ROA [were] actively being litigated.” (Motion at 6.) He again insists that the appeal must be stayed until those matters are addressed to his satisfaction. (Motion at 2.)

Argument

Although Courts of Appeals apply less stringent standards to parties proceeding *pro se* than to parties represented by counsel, *pro se* parties must comply with the rules of this Court. *Accord United States v. Wilkes*, 20 F.3d 651, 653 (5th Cir. 1994) (“[P]ro se litigants, like all other parties, must abide by the Federal Rules of Appellate Procedure.”)

Here, the Clerk denied Carr’s request to stay briefing in this appeal until Carr filed, and this Court rule on, sundry preliminary motions he wished to file to address what Carr believes are deficiencies in the caption and in the ROA.³

³ The purported deficiencies in the caption are that Carr’s wife, his sister-in-law, and wife’s two children are not listed as appellants in this action. (Doc. 27-1 at 3-4.) Carr, who is proceeding *pro se* and is not an attorney, submitted a notice of appeal “solely on [his] own,” but believes it should be “obvious” that his wife and other family members are part of the appeal, and thus should be added to the caption of the case. (*Id.* at 6.) Carr also wishes to add two new agencies to the appeal for alleged misconduct while the district court case was pending, and to have two Assistant United States Attorneys, and the district court judge and magistrate judge, specifically named as Defendants-Appellees for purposes of considering his motion for sanctions and misconduct complaints. (*Id.* at 4.) Carr also has various complaints regarding the ROA, to include “garbled” documents and allegedly improperly sealed or redacted documents. (Doc. 26.)

(Doc. 27-2.) Although his deadline had lapsed, the Clerk did not immediately dismiss the appeal after denying that request. Instead, the Clerk took no action for two weeks, providing Carr with the opportunity to seek additional time to file his opening brief. (Doc. 33.) Carr did not avail himself of this opportunity by moving for leave to extend the time to file his initial brief under Fed. R. App. P. 26(b). Instead, he merely moved forward with filing the series of motions he identified in his Consolidated Motions because, in his estimation, he should not be forced to file a brief when he has various concerns he believes the Court is required to address before any briefing would be appropriate.

(Motion at 6-7.)

Carr does not suggest that he was unaware that he had a deadline to file a brief in this matter. (*See generally*, Motion.) Instead, his briefing makes clear that Carr decided that his perspective regarding how this appeal should proceed carries greater weight than this Court's rules and procedures. (Motion at 6-7.) They do not. Fifth Circuit Rule 42.3.2 *requires* the Clerk to dismiss an appeal for want of prosecution when the appellant fails to file an initial brief. *See* 5th Cir. Local R. 42.3.2 (“In all other appeals when appellant fails to order the transcript, fails to file a brief, or otherwise fails to comply with the rules of the court, the clerk *must* dismiss the appeal for want of prosecution.”)

(Emphasis added). Carr did not file an initial brief. Dismissal was proper.

Conclusion

The Clerk's order should be upheld and this appeal dismissed for want of prosecution.

Respectfully submitted,

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s/ Tami C. Parker

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June 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).

s/ Tami C. Parker

Tami C. Parker
Assistant United States Attorney

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Fed. R. App. P. 32(a)(7)(B) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 1306 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Calisto MT font.

s/ Tami C. Parker

Tami C. Parker

Assistant United States Attorney