

In the United States Court Of Appeals, 5th Circuit

<p>Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer we versus United States, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Appellees</p>	<p>Case No. 26-10025</p> <p>Verified¹ Motion to Re-Open the Appeal and Refer to a Three-Judge Panel and Compel Action</p> <p>Certificate of Conference – OPPOSED²</p>
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**Verified Motion to Re-Open the Appeal and
Refer to a Three-Judge Panel and**

Compel Action

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Table of Contents: Basic Abbreviations Used

The following abbreviations are utilized throughout this document to ensure concise, clear arguments and explanations:

Abbreviation: Full Name or Phrase

5CCLR: Rules and Internal Operating Procedures of the Fifth Circuit

AUSA: Assistant United States Attorney

CFR: Code of Federal Regulations

CM/ECF or ECF: Case Management/Electronic Case Files system

DoJ: Department of Justice

FRAP: Federal Rules of Appellate Procedure

FRCP: Federal Rules of Civil Procedure

LPR: Lawful Permanent Resident

MTR: Motion to Reconsider

NOA: Notice of Appeal

PACER: Public Access to Court Electronic Records

PII: Personal Identifying Information

ROA: Electronic Record on Appeal

TXND: United States District Court for the Northern District of Texas

USATXN: U.S. Attorney's Office for the Northern District of Texas

USCA5 or 5CC: United States Court of Appeals for the Fifth Circuit

USC: United States Code

USCS: United States Code Section (e.g., [18 USCS 1001](#))

USCIS: United States Citizenship and Immigration Services

Table of Contents: Hyperlink Usage

Understanding Hyperlinks Provided With Case / ROA Citations

To enhance readability and provide easy access to the cited material, our citations embed hyperlinks using the following conventions:

[ECFdktN](#)

Links to a copy of TXND ECF document for case 3:23-

cv-02875-S where [dktN](#) represents the document number.

Example: [ECF10-5](#) links to a copy of TXND ECF case 3:23-cv-02875-S document 10-5.

[5CCdktN](#)

Links to a copy of USCA5 ECF Case No. 26-10025 where [dktN](#) represents the document number.

Example: [5CC35-5](#) links to a copy of USCA5 ECF document 35-5, an exhibit attached to motion [5CC35-1](#).

[ROAdktNpgNNN](#)

A dual-link citation for documents from the Record on Appeal for Case No. 26-10025. The first portion ([ROAdktN](#)) links to the document from the TXND ECF, while the end page number ([NNN](#)) links to the document which starts at the specific page number from the USCA5 ROA file.

Example: In [ROA10-5pg177](#), [ROA10-5](#) has a link to [ECF10-5](#), the document 10-5 from the TXND ECF. [177](#) has a different link to the same document extracted from page 177 of the ROA (but none of the preceding or following documents).

Privacy Exceptions: To comply with federal privacy mandates, no hyperlinks are provided for properly sealed documents. Sealed records are referenced using the text format above, but there is no link which prevents public access to the sealed document.

Hyperlinks Included For Existing Records and Exhibits

Exhibits Not Repeated in Every Motion, Hyperlinks Offer Better Access

While it is customary in this court for every motion to have an exhibit for each referenced document, we have chosen not to clutter the court's record with multiple

copies of the same exhibits. If an exhibit is already in USCA5 ECF we instead simple cite 5CCxxx to accurately describe the document referred to and provide easy access to a copy of the document, e.g. [5CC43-2](#) has link to an important exhibit which was provided previously.

If an adjudicator, opposing counsel, or a member of the public wishes to inspect a referenced docket entry, they can click the blue hyperlink to open the file and later easily return to the text of our argument.

I. Introduction

We are requesting that a panel of judges review the decisions and orders of the clerks in this matter to reopen the appeal and resolve critical issues so that the appeal can be properly submitted.

1. Order [5CC33-1](#) Dismissing Appeal Violated [5CCLR 42.3.1.2](#)

On 2 Jun 2026 the clerk issued an order [5CC33-1](#) which dismissed this appeal in explicit violation of [5CCLR 42.3.1.2](#) as there was no notice required for ‘Appeals without Counsel’. Of course we are primarily seeking reversal of this dismissal.

2. Several Issues Had Prevented Submission of Appeal Brief

The clerks had endeavored to resolve straight forward issues but several issues simply were not resolvable by procedural decisions, they required careful and nuanced review by the court. The clerks left these matters as ‘No action taken at this time’ in three cases and simply denied without explanation in two cases.

These unresolved issues concerned corrections to the ROA, substantial adjustments to the captions, and tolling the time for brief submission until those issues could be resolved.

3. Relief Sought, Vacate Dismissal, Resolve Caption Issues

This court is asked to vacate the improper dismissal of the appeal by reviewing and overturning two clerk's orders 5CC33-1 of 2 Jun 2026 which dismissed the appeal and 5CC42 of 23 Jun 2026 which denied the MTR 5CC37-1 of 9 Jun 2026 which challenged 5CC33-1.

The MTR [5CC37-1](#) relied heavily on the critical Motion to Amend the Caption of 7 Mar 2026, [5CC25](#), which was redocketed as [5CC27-1](#), and which asked to toll the briefing schedule. Because this motion is discussed in detail we also ask that the court resolve the pending caption issues so that the brief schedule can be set and this appeal can proceed promptly.

II. Legal Authority

1. Authority to Re-Open Appeal and Refer to a Three-Judge Panel

- The Clerk of Court lacks the statutory or regulatory authority to enter a dispositive order dismissing an appeal while substantive, non-frivolous motions remain pending judicial review. Under [5CCLR 27.1](#), the Clerk's authority is strictly ministerial and confined to unopposed, routine, or non-dispositive procedural matters.
- [FRAP 27\(c\)](#) governs the power of a single judge, explicitly mandating that "a single judge may not dismiss or otherwise determine an appeal." By logical extension, the Clerk cannot exercise a power denied to a single circuit judge to enforce an administrative dismissal where a pro se party has pending motions requiring judicial intervention.
- The Clerk's administrative dismissal under [5CCLR 42.3.1.2](#) ("Appeals Without Counsel") was executed without the mandatory condition precedent

of prior warning and explicit notice. Further, because we had filed a timely motion to toll the briefing schedule, [5CC25](#) redocketed as [5CC27-1](#), an action requiring explicit judicial review under [FRAP 27](#) - no default existed to trigger an administrative dismissal for want of prosecution.

- In [5CCLR 27.2](#), any action taken by a single judge or the Clerk that disposes of or substantively eliminates a party's substantial appellate rights is subject to de novo review by a three-judge panel.

2. Authority to Compel Action on Pending Motions

- A federal court possesses inherent supervisory power to manage its own docket to ensure the fair administration of justice. The Clerk of Court cannot create an indefinite procedural bottleneck or engineer a de facto dismissal by refusing to submit fully briefed, timely motions to a judicial panel for a decision on the merits.
- Under [FRAP 45](#), the Clerk's office is bound to execute clear, non-discretionary duties. When the Clerk marks validly filed substantive motions as "No Action Taken" (such as [5CC14-1](#) and [5CC27-1](#)), they actively withhold mandatory ministerial performance, stalling the appellate process.
- The All Writs Act, [28 USCS 1651](#), provides that federal courts may issue all writs necessary or appropriate in aid of their respective jurisdictions. This Court maintains absolute authority to compel its ministerial officers to perform their duties and clear the docket by submitting all pending, unacted-upon motions to a three-judge panel.

III. Background and Chronology of Motions and Filings

There was a previous set of consolidated motions seeking this relief on 1 Jul 2026, [5CC43-1](#), which also sought to resolve the pending ROA and caption issues so that

the brief schedule could be set and this appeal could proceed promptly. However, due to the complexity of contesting the processing of five preceding motions, it exceeded the length constraints (more than 20 pages) and was denied in [5CC43-13](#) which provided ten days to resolve the defect.

This is the first of a series of motions seeking the varied relief [5CC43-1](#) sought and it is expected to be followed by one or two motions which address the other contested motions as well as other relief sought by [5CC43-1](#). All of these responsive motions will meet the length requirements of [FRAP 32\(g\)\(1\)](#) and also be submitted before 11 Jul 2026 as required by [5CC43-13](#).

Below are the descriptions of the select motions, responses, and orders in this matter.

1. Motion [5CC25](#) Seeks Tolling of Briefing Schedule

On 7 May 2026, we filed [5CC25](#) (redocketed as [5CC27-1](#)) which asked that four appellants and six appellees be added to the caption. It also suggested there were problems with the ROA and stated:

There will shortly be two motions to request these amendments to the ROA. I ask 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.³

2. Clerk Redockets [5CC25](#) as [5CC27-1](#), No Action Taken At This Time

On 19 May 2026 the clerks redocketed [5CC25](#) as [5CC27-1](#). The first of the ROA corrections had been filed as [5CC26](#) on 13 May 2026 (before [5CC25](#) was redocketed) and alluded to the more serious ROA corrections. The clerks explained that they could not toll the briefing schedule and quite reasonably noted

³ We added bold in this motion.

in the docket text that ‘No action taken at this time’.

3. Clerk Orders Dismissal Based on [5CCLR 42.3](#), Ignores Required Notice

On 2 Jun 2026 the clerk issued an order [5CC33-1](#) which dismissed this appeal in violation of [5CCLR 42.3.1.2](#) which requires a specific notice for 'Appeals without Counsel' 15 days before any dismissal can be issued.

4. MTR [5CC37-1](#) Challenges Dismissal, Dismissal Order is Pending

On 9 Jun 2026, MTR [5CC37-1](#) was filed, just 7 days after the [5CC33-1](#) Order of 2 Jun 2026, well within the 14 day guidelines suggested by [5CCLR 27.1](#) and FRAP 40(a)(1).

Central to the MTR challenge is the fact that there was no notice prior to the dismissal order as required by [5CCLR 42.3.1.2](#) for Appeals without Counsel.

5. AUSA Parker Files Response [5CC38](#) Opposing MTR [5CC37-1](#)

[5CC38](#) Opposition Based on False and Misleading Statements

There were both false and misleading statements in AUSA Parker’s opposition [5CC38](#) of 22 Jun 2026 to [5CC37-1](#) of 9 Jun 2026.

A. [5CC38](#) Attempts to Conceal ‘No Action Taken At This Time’

[5CC38](#) first admits that on 19 May 2026 in a letter from the clerk [5CC27-2](#) states:

We are taking no action on this motion.

but then goes on to explain:

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

which is an accurate but misleading summary of the clerks inability to ‘stay the briefing schedule’ (from [5CC38](#)) or toll the briefing deadlines (from [5CC25](#) redocketed [5CC27-1](#)). However, the conclusion is not that the motion to toll the briefing deadlines was denied but instead put on hold until the motion could be considered by a judge or panel (as in the docketing text for [5CC27-1](#) which states:

No action will be taken at this time

Clearly the motion [5CC27-1](#) was being deferred until a judge could be assigned to weigh the merits of the motion in a considered and nuanced review and at that time the judge could indeed ‘stay the briefing schedule’ or toll the briefing deadlines (which the clerk could not do).

B. [5CC38](#) Makes False Claim that Pending Motion [5CC27-1](#) Was Denied
AUSA Parker goes on in [5CC38](#) to falsely claim:

the Clerk denied Carr’s request to stay briefing in this appeal

This is simply false. The clerk actually listed [5CC27-1](#) as:

No action will be taken at this time

While this status is needlessly vague and ambiguous it is clearly not a denial (which would have permitted a MTR within 14 days as was done with actual denials), a more accurate restatement would be:

Administrative deferral by the clerk; no ruling on the merits has occurred

The entry 'no action taken at this time' is simply an administrative placeholder signifying that the document has been received but is not yet positioned for judicial review. Because the clerk lacks the legal authority to adjudicate motions or grant the relief sought, this entry carries no dispositive weight and cannot be construed as a denial on the merits.

Claiming [5CC27-1](#) was denied is simply false.

C. [5CC38](#) **Incorrectly Cites [5CCLR 42.3.2](#) When It Does Not Apply**
[5CC38](#) quotes from [5CCLR 42.3.2](#) with:

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 prosecution⁴

Ignoring the cited [5CCLR 42.3.1.2](#) which states:

42.3.1.2 Appeals without Counsel. **The clerk must issue a notice to appellant that 15 days from the date of the notice the appeal will be dismissed** for want of prosecution, unless the default is remedied before that date. If the default is remedied within that time, the clerk must not dismiss the appeal.⁵

Considering the [5CCLR 42.3.2](#) qualifier of ‘**In all other appeals**’ in context, it only applies to appeals which are not:

- [5CCLR 42.3.1.1](#) Appeals with Counsel
- [5CCLR 42.3.1.2](#) Appeals without Counsel

Presumably [5CCLR 42.3.2](#) only applies to appeals which are neither with or without counsel (perhaps a joint appeal where one or more parties are pro se and one or more parties are represented by counsel).

However, it is clear that all parties in this appeal are pro se and, hence, that [5CCLR 42.3.1.2](#) applies and the clerk must provide explicit notice before dismissing the appeal which the clerk did not do (as explained in [5CC37-1](#)).

4 We added the bold in this quote.

5 We added the bold in this quote.

6. 5CC42 Denies MTR 5CC37-1 of Appeal Dismissal 5CC33-1

The Clerk Cannot Deny MTR of Clerk's Dismissal Order

While the Clerk is granted limited, delegated authority to act on specific procedural motions, that authority does not extend to adjudicating or denying a timely filed MTR of its own actions. The Clerk was required to route MTR 5CC37-1 to a single circuit judge for review.

We are seeking review of this denial as well as the 5CC33-1 order dismissing the appeal.

IV. Arguments

We are requesting that a panel of judges review the clerks' orders 5CC33-1 and 5CC42 to reopen the appeal.

1. Clerk's Order 5CC42 Denied MTR 5CC37-1 Without Authority

A. 5CCLR 27.1 Mandates Judicial Review by a Single Circuit Judge 5CC42 states:

The motion for reconsideration of the clerk order dismissing the appeal, to suspend briefing, and for expedited ruling on the motion is denied.

The opposed MTR 5CC37-1 was filed on 9 Jun 2026 with an opposing response on 22 Jun 2026. This order was filed on 23 Jun 2026 making it clear that this was not an administrative or procedural denial as it was an opposed motion with a response. Clearly there were disputed points which required judicial review and consideration. However, the denial contained no justification or rationale.

Under the express terms of 5CCLR 27.1, while the Clerk is granted limited, delegated authority to act on specific procedural motions, that authority does not

extend to adjudicating or denying a timely filed MTR of its own actions. [5CCLR 27.1](#) explicitly establishes the exclusive path for reviewing a Clerk's order:

The clerk's action is subject to review by a single judge upon a motion for reconsideration

By the literal terms of the local rules, a motion for reconsideration of a clerk-entered order **must** be routed to and reviewed by a single circuit judge. The Clerk lacks any delegated power under [5CCLR 27.1.1](#) through [5CCLR 27.1.4](#) to unilaterally deny or dispose of an MTR contesting its own dismissal.

B. [FRAP 27](#)(b) Distinguishes Clerk Actions from Judicial Review

This separation of power is rooted in [FRAP 27](#)(b), which governs the disposition of procedural motions. [FRAP 27](#)(b) permits a court of appeals to authorize its clerk to act on specified types of procedural motions, but explicitly guards a litigant's right to independent review with:

A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action.

Allowing the Clerk's office to evaluate, reject, or deny a MTR of its own underlying order would create an impermissible, self-insulating loop. It would effectively strip the appellant of the absolute right to judicial oversight guaranteed by both [FRAP 27](#)(b) and [5CCLR 27.1](#).

C. Conclusion: The Purported Denial is Vacant of Legal Authority

Because our MTR was timely submitted within 7 days, the Clerk's office was procedurally obligated to submit the motion to a single circuit judge for determination on the merits. Any direct administrative denial issued by the Clerk's office itself exceeds the scope of the Clerk's delegated authority under [5CCLR 27.1](#), is procedurally improper, and must be vacated so that the motion can be

properly referred to a judicial panel or single judge as required by law.

2. Order Dismissing Appeal Violated [5CCLR 42.3.1.2](#)

On 2 Jun 2026 the clerk issued an order [5CC33-1](#) which dismissed this appeal with:

Under 5th Cir. R.42.3, the appeal is dismissed as of June 2, 2026, for want of prosecution. The appellant failed to timely file appellant's brief.

However, there was no notice as required by [5CCLR 42.3.1.2](#) for Appeals without Counsel and MTR [5CC37-1](#) was filed on 9 Jun 2026 contesting the dismissal. The Order [5CC33-1](#) must be vacated as no explicit was issued.

3. Pending Motion [5CC27-1](#) Requested Tolling of Briefing Schedule

No Default Existed to Justify Administrative Dismissal

Further, because we had filed a timely motion to toll the briefing schedule, [5CC25](#) redocketed as [5CC27-1](#), an action requiring explicit judicial review under [FRAP 27](#) - no default existed to trigger an administrative dismissal for want of prosecution.

V. Conclusion and Prayer for Relief

To ensure these procedural issues are corrected by the appropriate authority, we respectfully request that the Clerk immediately route this motion either to a single judge or directly to a three-judge motions panel as provided under the FRAP and 5CCLR. We ask that the Court exercise its authority to rectify the administrative oversights that caused the premature dismissal of our appeal.

Accordingly, we request that the Court enter an order:

- Directing the Clerk to immediately restore this appeal to the active docket.
- Vacating the prior dismissal entry so that the record accurately reflects our

compliance with the rules.

- Assigning or referring the underlying appeal to a three-judge panel for full consideration of the substantive relief we seek.
- Granting any further relief necessary to protect our right to a determination on the merits.

Respectfully Submitted,

Verification of Motion

I, the undersigned appellant, hereby affirm under penalty of perjury in both the United States and Thailand that:

1. I have reviewed the above motion and certifications below and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered to remove sensitive personal information according to normal redaction procedures.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 4. July 2026

Location: Irving, TX

Other Signatories

/s Air Carr

Rueangrong Carr
1201 Brady Dr

/s Buakhao Von Kramer

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG

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THAILAND

Date: 19 Aug 2025
Location: Irving, TX

Date: 20 Aug 2025
Location: Bangkok, Thailand

/s Rujipas Lawichai

/s Tanapon Lawichai

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Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand

Date: 20 Apr 2026
Location: Phuket, Thailand

Date: 21 Apr 2026
Location: Lopburi, Thailand

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Certificate of Counsel / Pro Se Party

The undersigned hereby certifies under penalty of perjury:

1. Certificate Of Interested Persons

The following listed persons and entities as described in [5CCLR 28.2.1](#) have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

1. Brian P. Carr, Appellant
2. Rueangrong Carr, Appellant
3. Buakhao Von Kramer, Appellant
4. Tanapon Lawichai, potential Appellant
5. Rujipas Lawichai, potential Appellant

6. United States of America, et al., App appellees
7. Tami C. Parker, Counsel for Appellees with appealed motion for Sanctions, potential Appellee
8. George Monroe Padis, previous Counsel for Appellees with appealed motion for Sanctions, potential Appellee
9. TXDN Magistrate Rebecca Ann Rutherford with misconduct complaint and motion to recuse, potential Appellee
10. TXDN Judge Karen Gren Scholer with misconduct complaint and motion to recuse, potential Appellee

2. Certificate of Contact / Conference Compliance

In compliance with [5CCLR 27.4](#), I contacted AUSA Parker via email concerning this motion and on 2 Jun 2026 AUSA Parker stated:

Defendants oppose all your other proposed motions

As such, appellees / defendants are considered to be OPPOSED to these motions.

3. [FRAP 32\(g\)\(1\)](#) Length Compliance

This motion complies with the type-volume limitation of [FRAP 27\(d\)\(2\)\(A\)](#) because, excluding the parts of the document exempted by [FRAP 32\(f\)](#), this document contains 2,547 words (which is less than the nominal 5,200 words for a single motion), as determined by LibreOffice Writer word processing software⁶.

4. [FRAP 32\(a\)\(5\)](#) Typeface Compliance

This document complies with the typeface requirement of [FRAP 32\(a\)\(5\)](#) and the type-style requirements of [FRAP 32\(a\)\(6\)](#) because this document has been prepared in a proportionally spaced typeface using LibreOffice Writer using Times New Roman (14-point).

⁶ LibreOffice Writer does not have an ability to count words in a document excluding sections but instead can count words in the entire document (not useful or correct for this purpose) or in the selected section. By selecting everything below the Table of Contents but above the first signature block I can get the word count and then manually enter the count in the certification. The certified word count was accurate on 4 Jul 2026 at 1PM.

5. Certification Of Electronic Signatures

In accordance with [5CCLR 25.2.10](#) which states:

25.2.10 Signatures... Documents which require more than one party's signature must be filed electronically by... showing the consent of the other parties on the document; or any other manner approved by the court.

I hereby certify that I did indeed receive the consent of the other parties to include their signatures on this document.

6. [FRAP 25\(b\)](#) Service

On the recorded date of this document, I electronically submitted the foregoing document with the clerk of 5th Circuit United States Court Of Appeals using the electronic case filing system (ECF) of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter are enrolled in the court's electronic case filing (and service) system.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 4. July 2026

Location: Irving, TX