

**In the United States Court Of Appeals
for the Fifth Circuit**

26-10025

Brian P. Carr,
Rueangrong Carr, and
Buakhao Von Kramer

Appellants

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

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

Appellant's Opening Brief
(Provisional Single-Issue Filing)

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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

Abbreviation: Full Name or Phrase

CFR: Code of Federal Regulations

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

DoJ: Department of Justice

FCR: Findings, Conclusions, and Recommendations

FRAP: Federal Rules of Appellate Procedure

FRCP: Federal Rules of Civil Procedure

LPR: Lawful Permanent Resident

MTD: Motion to Dismiss

MSJ: Motion for Summary Judgment

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

USPS: United States Postal Service

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.

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Table of Cases

Dolan v. U.S. Postal Serv., 546 U.S. 481 (2006).....7 ff.
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I. Preliminary Statement and Reservation of Right to Supplement

I submit this Appellant's Opening Brief in direct compliance with the clerk's administrative instruction under [5CCLR 27.1.4](#) to cure a procedural default while my motion to reopen ([5CC44](#)) is pending. Because the Clerk of the Court has marked my previous substantive motions to correct illegible, garbled text layers within Volume 4 of the electronic Record on Appeal as "No Action Taken"

([5CC26](#), [5CC36-2](#)), and because the core case caption remains uncorrected pending judicial review of [5CC27-1](#), I am compiling these arguments under protest using uncorrected, fluid record citations.

To preserve my constitutional right to due process and a fair hearing, I explicitly reserve the right to amend, rewrite, and supplement this brief to provide corrected page numbers, expand upon outstanding immigration and sanctions issues preserved in my Notice of Appeal, and fully align the text once this Court enters final orders resolving the underlying ROA and caption defects.

II. Statement of Jurisdiction

The District Court possessed subject-matter jurisdiction over the underlying civil action under [28 USCS 1331](#), as the claims arose under the Constitution and the laws of the United States.

This Court possesses appellate jurisdiction under [28 USCS 1291](#) to review the final decisions of the District Court. I filed a timely NOA on 12 Jan 2026 ([5CC1](#)) challenging the following final orders rendered by the District Court:

1. The Order [ECF62](#) on 21 Mar 2025 accepting FCR [ECF61](#) of 27 Feb 2025
2. The Final Judgment [ECF63](#) on 21 Mar 2025 dismissing the civil action
3. The Order [ECF95](#) on 15 Dec 2025 accepting the second FCR [ECF91](#) of 10 Nov 2025 and denying all timely post-judgment motions for relief.

III. Statement of the Issues Presented for Review

1. Whether the District Court committed reversible error by adopting a FCR ([ECF61](#)) that dismissed my claims against USPS based on sovereign immunity, when Congress has explicitly waived the agency's immunity under [39 USCS 401](#),

and when the Supreme Court in [Dolan v. U.S. Postal Serv., 546 U.S. 481 \(2006\)](#) affirmed that sovereign immunity does not shield the Postal Service from reimbursing fees associated with its pre-approved special guaranteed delivery services.

IV. Statement of the Case

This appeal arises from a civil action brought to remedy a series of failures by federal agencies, including the USPS. I purchased a "Guaranteed Delivery" special service from the Postal Service, as documented in the record at [ECF18-3](#). The Postal Service failed to meet its binding delivery guarantee.

Following a formal administrative appeal through proper internal agency channels, USPS explicitly verified the default and officially approved an administrative refund of \$26.35, marking the transaction as "Dispute Paid" ([ECF18-8](#)). Despite this formal agency adjudication, the Postal Service failed to execute delivery of the approved funds or credit my account, retaining the money without a lawful basis.

The defendants filed a MTD, arguing that federal sovereign immunity completely barred the action. On 27 Feb 2025, the Magistrate issued an FCR ([ECF61](#)) recommending total dismissal, relying on [Hale v. USA, No. 22-20426 \(5th Cir. 2023\)](#) to assert that the Postal Service enjoys absolute immunity absent an explicit waiver. The District Court adopted this report in full on 21 Mar 2025 ([ECF62](#)) and entered Final Judgment ([ECF63](#)). I filed a series of post-judgment motions seeking to correct these legal misapplications, which the District Court summarily denied on 15 DEC 2025 ([ECF95](#)). This timely appeal followed.

V. Summary of the Argument

The District Court committed reversible error by granting the MTD based on a total misapplication of federal sovereign immunity. The Postal Reorganization Act contains an explicit "sue-and-be-sued" clause under [39 USCS 401\(1\)](#), which creates a broad presumption that the Postal Service's immunity is waived. While the Federal Tort Claims Act preserves immunity for standard clerical negligence or "loss, miscarriage, or transmission of letters," the United States Supreme Court explicitly ruled in [Dolan](#) that this exception does not extend to separate, distinct financial transactions where the agency has agreed to special guaranteed delivery services.

Furthermore, because the Postal Service had already administratively approved the refund and declared the dispute paid, my claim is not an action challenging a delayed delivery, but rather an equitable enforcement action to recover an adjudicated sum certain due. The lower court completely ignored these settled statutory facts, resulting in a denial of due process.

VI. Argument

1. The District Court Reversibly Erred by Granting the MTD Ignored Controlling Statutory Refund Authority and Pre-Approved Administrative Realities Under [39 USCS 401](#)

The lower court's adoption of the FCR ([ECF61](#)) rests on a fundamental legal error of treating my claim as if it were a tort suit for generic postal transit delays.

Congress has explicitly provided that the Postal Service has the power "to

sue and be sued in its official name" under [39 USCS 401\(1\)](#).

Further, while the court quoted from [Dolan](#), and the restriction of the [FTCA, 28 USC Chapter 171](#) (not providing for general losses from late delivery of mail or damaged mail by USPS), [Dolan](#) went on to state:

losses of the type for which immunity is retained under section 2680(b) are at least to some degree avoidable or compensable through postal registration and insurance.'...

(allowing indemnity claims for loss or damage of "insured, collect on delivery (COD), registered with postal insurance, or Express Mail"); [39 CFR section 111.1 \(2005\)](#) (incorporating by reference the Domestic Mail Manual). The same was true when Congress enacted the [FTCA](#) in 1946. See 39 USC section 245 (1940 ed. and Supp. V) (setting rates and conditions for mail insurance); 39 USC section 381 (1946 ed.) ("For the greater security of valuable mail matter the Postmaster General may establish a uniform system of registration, and as a part of such system he may provide rules under which the senders or owners of any registered matter shall be indemnified for loss, rifling, or damage thereof in the mails ..."). As Kosak explains, one purpose of the FTCA exceptions was to avoid "extending the coverage of the Act to suits for which adequate remedies were already available," 465 US 858 - an objective consistent with retaining immunity as to claims of mail damage or delay covered by postal registration and insurance.

Here the Supreme Court is saying that the [FTCA](#) did not extend to USPS delivery problems (delays or damage) beyond that which was already in place citing 39 USCS 381 (1946 ed.) where Congress authorized the Postmaster General to create special services like Guaranteed Delivery where the customer paid extra for limited indemnification such as refund of purchase price in the case Guaranteed Delivery. The Supreme Court explained that those special services would continue unchanged.

In summary, if a customer has a problem with late delivery or damaged mail they can not seek payments for their damages under the FTCA (as always) but if they paid extra for special services (like Guaranteed Delivery) they can get a refund as promised when they purchased the service (in this case a refund of \$26.53)

This statutory language establishes that the Postal Service operates much like a private commercial enterprise and is generally subject to ordinary legal processes.

The crucial point that the District Court failed to address is that my claims do not ask the court to sit as an initial reviewer of a postal mishap. As demonstrated by the record at [ECF18-8](#), the administrative process is already complete: the Postal Service reviewed the transaction, admitted its failure, and formally approved the monetary refund. By withholding payment after declaring the dispute paid, the agency is violating its own governing statutes.

Because the cash was never delivered, I am seeking an alternative, equitable commercial remedy: a credit for future postal services. This remedy falls directly within the broad powers of an appellate court under [28 USCS 2106](#) to modify or vacate orders to achieve justice. The District Court's total failure to analyze these distinct statutory boundaries and factual admissions requires reversal.

VII. Conclusion and Prayer for Relief

For the reasons set forth above, I respectfully request that this Court:

1. Vacate the District Court's orders at [ECF62](#), [ECF63](#), and [ECF95](#) to the extent they dismiss my claims against the United States Postal Service.
2. Remand this matter to the District Court with instructions to reinstate the USPS

claims.

3. Order that I be granted explicit leave to file a full, comprehensive Supplemental Opening Brief within thirty (30) days of a final order resolving my pending motions regarding case caption corrections ([5CC27-1](#)) and record legibility ([5CC26](#)).

Verification of Appeal Brief

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: 7. July 2026

Location: Irving, TX

Other Signatories

/s Air Carr

Rueangrong Carr
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/s Buakhao Von Kramer

Buakhao Von Kramer
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Date: 19 Aug 2025
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/s Rujipas Lawichai

Rujipas Lawichai
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Date: 20 Apr 2026
Location: Phuket, Thailand

Date: 20 Aug 2025
Location: Bangkok, Thailand

/s Tanapon Lawichai

Tanapon Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand

Date: 21 Apr 2026
Location: Lopburi, Thailand

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 1,412 words (which is less than the nominal 13,000 words for an appellant brief), as determined by LibreOffice Writer word processing software¹.

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).

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.

¹ LibreOffice Writer counted words in the selected section which was everything after the table of rules to the signature block. The certified word count was accurate on 7 Jul 2026 at 8PM.

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: 7. July 2026

Location: Irving, TX