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27. Jul. 2026

Circuit Clerk
United States Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: Judicial Misconduct Complaint Nos. 05-26-90151 and 05-26-90152

To the Circuit Clerk:

I hereby petition the judicial council for review of the chief judge's order of 17 Jul 2026, dismissing the complaints of judicial misconduct in the above-referenced matters.

I. Introduction and Statement of the Chief Judge's Error

The Chief Judge's dismissal of the complaints under [28 USCS 352\(b\)\(1\)\(A\)\(ii\)](#) as "merits-related" constitutes a clear misapplication of the statutory framework. The initial complaints did not seek a merits-based reversal or reinstatement of the underlying civil action. In fact, the merits of the case are currently active on appeal under single-judge review in the regular appellate court track (Appeal 26-10025), see [5CC46-1](#) and [5CC46-2](#).

Rather, the complaints alleged a severe, non-merits breach of judicial integrity falling squarely within [28 USCS 351\(a\)](#): the subject judges' knowing and willful

introduction of false facts into successive court orders to insulate an improper dismissal from appellate review. By categorizing a documented pattern of intentional deception as a mere "correctness of a ruling" issue, the Chief Judge erred as a matter of law.

Entire Record Available on The Internet

This petition makes reference to several district court documents as well as USCA5 documents which may not be easily accessible to the Council. However, the entire record is available on the internet for the convenience of the court and any other interested parties. Specifically, there is a web page at https://governmentoflaw.info/3_23-cv-02875-S/TimeLine.html which has descriptions of each document filed in the related matters along with a link to the actual document. This petition itself has electronic links in the electronic version (not mailed version) and is available as [5CCptn](#).

II. Chief Judge Misapplied Dual Test by Ignoring Intentional Fabrications

Under [28 USCS 352\(b\)\(1\)\(A\)\(ii\)](#), a chief judge must separate standard judicial errors from independent ethical violations. An accidental misstatement of fact in an opinion is a merits-related issue. However, when a judicial officer knowingly fabricates records or introduces false details to deliberately bypass a central legal claim, that action crosses into conduct "prejudicial to the effective and expeditious administration of the business of the courts."

The record demonstrates that the subject judges did not commit an honest mistake; they engaged in a calculated succession of false entries:

1. The Initial Fabrication: In the Findings, Conclusions, and Recommendation (FCR) of 27 Feb, 2025 ([ECF61](#)), Magistrate Judge Rutherford falsely stated

that United States Citizenship and Immigration Services (USCIS) had denied the non-immigrant visa applications. The record unequivocally established that the Department of State (DoS) Bureau of Consular Affairs issued the denials.

2. Material Manipulation of the Record: This false statement was highly material. By rewriting the record to blame USCIS instead of DoS, the court systematically blocked my ability to seek judicial review based on the Doctrine of Consular Non-Reviewability (DoCNR) - a challenge fundamentally rooted in my standing as a U.S. citizen against DoS actions.
3. The Successive Fabrication: When this precise USCIS-vs.-DoS error was formally refuted and brought to the court's attention via a Motion to Rescind and Recuse ([ECF73](#)), the error was not corrected. Instead, in a subsequent FCR of 10 Nov 2025 ([ECF91](#)), the magistrate judge knowingly substituted the original error with a completely different false statement lifted from the defendants' Motion to Dismiss - a statement already proven false in prior sanctions motions ([ECF30](#)).
4. Judicial Affirmation of Falsehoods: In [ECF95](#) on 15 Dec 2025, District Judge Scholer entered an order affirmatively stating she had "confirmed the accuracy" of the statements in both FCRs, despite the clear, uncorrected, and public refutations on the docket.

III. The Complaint Meets the Conduct Threshold of Canons 1 and 2

The Chief Judge's reliance on [Liteky v. United States, 510 U.S. 540 \(1994\)](#) to dismiss the complaints under [28 USCS 352\(b\)\(1\)\(A\)\(iii\)](#) is misplaced. Liteky goes on to state:

opinions arising during the course of judicial proceedings require disqualification under [§ 455\(a\)](#) only if they "display a deep-seated favoritism or antagonism that would make fair judgment impossible."

While adverse rulings alone do not establish improper motives, the introduction of consecutive, altered falsehoods after formal notice provides the necessary circumstantial inference of a knowing intent to deceive.

While the initial complaints referenced criminal standards under [18 USCS 1001](#), the core underlying conduct constitutes a severe violation of [Canon 1](#) (Upholding Judicial Integrity) and [Canon 2](#) (Avoiding Impropriety) of the [Code of Conduct for United States Judges](#). The repetitive manipulation of facts to protect a manufactured dismissal goes directly to a lack of honesty and a breach of the public trust. The Chief Judge failed to investigate whether this successive pattern established an independent ethical violation under section 351(a).

IV. Conclusion

For the foregoing reasons, the Judicial Council should reverse the Chief Judge's dismissal order and refer this matter to a special investigative committee under Rule 11 of the [Rules for Judicial-Conduct and Judicial-Disability Proceedings](#) to restore the public integrity of the court.

Respectfully submitted,

Verification of Petition

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

1. I have reviewed the above Petition 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 in accordance with normal redaction procedures to remove sensitive personal information or other sensitive information as identified in the redaction.

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: 27. Jul. 2026
Location: Irving, Texas