

**Judicial Council of the Fifth Circuit (JD5C)**  
**Misconduct Complaint Against Magistrate Rebecca Ann Rutherford TXND**  
**Statement of Facts**

**Introduction**

This is a complaint against U.S. District Magistrate Rebecca Ann Rutherford concerning her misconduct in a case which was assigned to her in the United States District Court, Northern District Of Texas (TXND), 3:23-cv-02875-S. Magistrate Rutherford made numerous demonstrably false and misleading statements in the decisions she filed in ECF. These are federal crimes under [18 USC § 1001](#).

**Only One False Statement Refuted in Detail**

**Not Accidental Mistakes As No Correction Made After Errors Called Out**  
Only one of the most obvious false statements is called out in this Statement of Facts though there are numerous other false and misleading statements in the record. It is also clear in the record that these are not simple mistakes which would not be crimes as [18 USC § 1001](#) requires ‘knowingly and willfully’. Magistrate Rutherford was given the opportunity to correct the original false statement in FCR [ECF61](#) based on the refutation in the Motion to Rescind and Recuse [ECF73](#). However, in FCR [ECF91](#), she instead replaced it with another false statement quoting from defendants’ Motion to Dismiss (MTD) [ECF15](#) which was previously shown to be false in the original Motion For Sanctions [ECF30](#). No correction was made.

**Entire Record Available on The Internet**

It appears that the full record in this matter is not yet available to this judicial council<sup>1</sup>, but the entire record is available on the internet for the convenience of the

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<sup>1</sup> While the Notice of Appeal (ECF96) was filed on 12 Jan 2026, the 5<sup>th</sup> Circuit Court case number 26-10025 was not assigned until 26 Jan 2026 and the record (ROA) is not expected until 10 Feb 2026

court and any other interested parties. Specifically, there is a web page at [https://governmentoflaw.info/3\\_23-cv-02875-S/TimeLine.html](https://governmentoflaw.info/3_23-cv-02875-S/TimeLine.html) which has descriptions of each document filed in the preceding matter along with a link to the actual document. It has also has descriptions and links to the separate four complaints submitted to the Texas Bar Association and the original complaints submitted to this judicial council on 30 Dec 2025 as well as this document itself ([5CCrSR](#)). This electronic version is recommended to the council as it makes access to the different documents referred to much less tedious.

### **Defense Attorneys Apparently Colluded with Court to Conceal Violations**

It is a little surprising that government attorneys would make false statements violating [FRCP Rule 11](#) to conceal violations by the agencies they were tasked to defend. It is more surprising that the court would apparently collude to conceal these same violations through criminal violations of [18 USC § 1001](#) but that is what the facts show.

### **Magistrate Rutherford Falsely States That USCIS Denied Visas**

There were numerous false and misleading statements in the FCR and the more important of these criminal violations of [18 USC § 1001](#) are described in the Motion to Rescind and Recuse, [ECF73](#). The most egregious is the court's claim that USCIS denied non immigrant visa applications which is actually a function of Department of State (DoS) Bureau of Consular Affairs (BCA). Specifically in FCR [ECF61](#) in a footnote the court states:

Rueangrong and Buakhao allege that United States Citizenship and Immigration Services (USCIS) violated their due process rights by initially denying their visa applications before approving them.

However, a review of the Complaint [ECF29](#) and the DoS Counts 3 and 4, on pages 12 to 21 and paragraphs 59 to 123 reveals that it is DoS BCA who processes these

non immigrant visa applications. Just reviewing the section headers in [ECF29](#) demonstrates that non immigration visas are the purview of DoS. The claim that USCIS denied visas and then approved them is simply false.

### **False Statement Highly Material, Precludes Appeal Based on DoCNR**

In the proposed 2<sup>nd</sup> Amended Complaint ([ECF76-1](#)) there is an extensive discussion of the Doctrine of Consular Non Reviewability (DoCNR) and raising the question of can Department of State (DoS) Bureau of Consular Affairs (BCA) deny a non immigrant visa to the wife of U.S. citizen<sup>2</sup>:

- without providing either the U.S. citizen or foreign national wife any element due process,
- in direct violation of clear and specific statutes INA 214(b) <sup>3</sup>, and
- based on falsified government records ([18 USC § 1001](#)).

However, none of these issues can easily be raised on appeal, as, according to the trial court, it was USCIS (a different defendant with different claims) who denied the visas.

### **Conclusion**

The Judicial Council of the Fifth Circuit is asked to promptly consider the violations of Magistrate Rutherford and impose sanctions appropriate for the violations of the [18 USC § 1001](#) and the damages which resulted. Referral to appropriate authorities is also an option.

As the violations and complaints for Magistrate Rutherford and Judge Scholer are

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2 This challenge to DoCNR was suggested in [Kleindienst v. Mandel, 408 U.S. 753 \(1972\)](#) concerning non immigrant visas and was considered more recently in [Department of State v. Munoz \(S. Ct. 2024\)](#) with respect to immigrant visas.

3 This failure of DoS was mentioned tangentially in [Department of State v. Munoz \(S. Ct. 2024\)](#) citing DoS OIG investigations and reports.

closely related to each other it is suggested that they should be considered together along with the anticipated separate appeals of the denied motions for sanctions for Mr. Padis (ECF79) and AUSA Parker (ECF83)<sup>4</sup> as the apparent collusion seriously undermines the credibility of U.S. courts to provide fair and just decisions.

### **Request for Prompt Resolution of Violations**

It is also requested that these violations be promptly resolved rather than waiting for the related appeal to be resolved. The trial court has prevented any reasonable appeal of the actual issues by concealing the valid legal questions via false and misleading statements. The normal appeals process could well take several years and during that time the questions of truthfulness and fairness of Magistrate Rutherford and Judge Scholer can be challenged as their obvious false statements are now public record (and available to all on the internet). Rather than having every pro se party and every government adversary party challenging Magistrate Rutherford and Judge Scholer for bias and dishonesty for the years of delay, it would be better to promptly resolve these questions so that the court can put this unpleasant situation behind it and proceed with restoring public trust.

The Judicial Council of the Fifth Circuit is also asked to provide such other and further relief as it deems appropriate.

Respectfully submitted,

### **Verification of Statement of Facts**

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

1. I have reviewed the above Statement of Facts and believe all of the

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<sup>4</sup> See Notice of Appeal, [ECF96](#), with explicit complaints of denial of Motions for Sanctions.

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*

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Brian P. Carr  
1201 Brady Dr  
Irving, TX 75061

Date: 27. Jan. 2026

Location: Irving, Texas