

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

<p>Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs 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 Defendants</p>	<p>Civil No. 3-23CV2875 - S Affirmation of Unethical Behavior Seeking Delays</p>
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Affirmation of Unethical Behavior Seeking Delays

In an exchange of emails with Mr. Carr, Mr. Padis made false statements which violated [TXND LR](#) 83.8 (b)(3) 'Unethical Behavior' and Texas Disciplinary Rules of Professional Conduct (in in ECF 30-2) requirement of 'Truthfulness in Statements to Others' and [18 USC Section 1001](#) (falsification of government records, i.e. government emails).

It will be made clear the underlying purpose of the false statements was to seek a delay. The initial email exchange can be seen in ECF 28-1, a Redacted Email Thread 1 Mar 24 to 18 Apr 24.

Initial Email Claimed No Record of Service

On 1 Mar 2024 Mr. Padis sent an email to Mr. Carr stating:

Dear Mr. Carr:

I am the Deputy Civil Chief for the Northern District of Texas. I have been made aware of the above-captioned civil action, but **the U.S. Attorney's Office has no record of having been served in this case.**¹ See Fed. R. Civ. P. 4(i)(1)(A) (requiring that among other things a party must deliver a copy of the summons and the complaint to the United States attorney).

If you reply with a summons and a copy of the complaint, I will email you a letter confirming that I am accepting service on behalf of the U.S. Attorney. Please note that my authority to accept service is limited to the United States attorney, and I am not authorized to accept service for the Attorney General of the United States.

Truly yours,

George (Deputy Civil Chief, USAO NDTX)

Mr. Carr recognized the claim of the 'Office has no record of having been served in this case' as an obvious logical fallacy and also false as Mr. Carr had filed Proof of Service on 9 Jan 2024 with the court (see ECF 10) which included mailing the US Attorney via certified mail a copy of the summons and complaint (complying with FRCP Rule 4(i)(1)(A) which includes '... or (ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;'

Mr. Carr responded on 3 Mar 2024 with:

Thank you for contacting me about your lack of access to the Summons and Complaint in this matter (and the lack of record of service). I am sorry that your office seems to have misplaced the copies of the Summons and Complaints which were correctly served on 09 Jan 2024.

I have attached a copy of the service document as Doc10service.pdf for your

¹ Bold added by Plaintiffs

convenience which was retrieved from ECF as Doc 10. ...

Of course I find working with paper copies most tedious and so recommend you access Doc 11-1 which is an electronic copy of the Complaint. I attempted to share that document with you directly but as your email is not registered with google for google drive access, that wasn't possible. However, I shared the folder with all the ECF files to date as 'eDocket' on Google Drive and the Complaint itself is an exhibit to Doc 11, Doc 11-1 which is available on Google Drive for no fee.

I am sorry that you were brought into this so late, but I believe that as service was completed on 9 Jan 2024, you have until 11 Mar 2024 to respond. I appreciate that this is not a lot of time (only a week really). You might consider asking for an extension to answer in this matter as the Summons and Complaint seem to have been misdirected in your office, but I would oppose any extension unless some relief was provided for my wife...

Mr. Carr Asks for Assistance Getting Promised Relief from USCIS.

Mr. Carr went on to describe how USCIS had unlawfully left his wife stranded in Thailand. When she was able to return she had a joint interview and her I-751 application for a 10 year 'green card' was approved as well as her N-400 application for citizenship. She need only take the 'Oath of Allegiance' and she would get Certificate of Naturalization citing ECF 10-5 dated 31 Jan 2023 and paragraph 163 of the complaint (ECF 11-1, 18-1, and 29).

However, at this time (more than a year later) Mrs. Carr has no documentation from USCIS to prove her permanent resident status and was being deprived of her right to work and travel freely (e.g. being stranded in Thailand) which causes her a great fear of being deported without notice or due process (Texas Bill SB4 was

briefly active during this time and is still pending). She also can not vote (after her N-400 was approved) or benefit from the other rights of being a U.S. citizen such as helping her older son in Thailand find good work (Thailand is still suffering from the Covid shutdowns).

Mr. Carr offered an extension to USATXN if Mr. Padis would join in a Motion to get Mrs. Carr her approved green card (so she could work and travel freely) and her Certificate of Naturalization (so she could vote and get the other privileges of citizenship) but Mr. Padis instead promised a 'timely response'. This 'timely response' was the usual 'Motion to Dismiss' but the motion itself was of such low quality (not addressing the actual complaint but instead addressing some imaginary complaint that exists only in Mr. Padis' mind) that no progress has been made in resolving any issue after a delay of two months.

That is two months of Mrs. Carr being deprived of her right to work and travel freely as well as the rights of citizenship from the USCIS decision of 31 Jan 2023.

Mr. Padis Looked for Flaws in Service

On 4 Mar 2024 Mr. Padis wrote:

Mr. Carr,

Thank you for your response. We will get our response to your complaint on file in a timely manner. Do you know who / Was it you who handed the packet to the receptionist and observed the conversation between the receptionist and Mr. Barr?

Thanks again,

George

It is worth noting that while Mr. Padis had promised to send a letter accepting service if Mr. Carr sent him a copy of the Summons and Complaint, but when Mr. Carr sent the requested documents Mr. Padis did not send the promised letter accepting service. The purported offer of a letter was just part of Mr. Padis ruse to get some sort of delay.

Later on 4 Mar 2024 Mr. Carr wrote:

Mr. Padis,

Thanks for ensuring a timely response in this matter. To be precise, Mr. Barr, Mr. Joubert, the receptionist, and I were present at the time of service. Mr. Joubert handed the packet to Mr. Barr and Mr. Barr handed us (myself) a copy of his business card. As Mr. Joubert and I were discussing the completion of the affirmation of service, Mr. Barr walked to the receptionist window and slid the packet through the slot at the bottom (so he did not actually hand the packet to her as I misstated previously). At that time I overheard some discussion of what she should do with the packet. It is also my recollection that the receptionist was a person of color, possibly with some African heritage and a little heavy.

There almost certainly were videos of the service (given the security of the office) but I am not sure if the videos would be retained or be easily accessible. I strive to be accurate in all things but would be interested to see whether my recollection of events is accurate.

I hope you find the more complete and accurate description of service helpful. Wishing you the best,
Brian

Mr. Padis Lied In Effort to Get Delay

Later Mr. Padis admitted that USATXN had records of actual service on 9 Jan

2024 but that it indicated service was by Mr. Carr. His original claim USATXN 'has no record of having been served in this case' was a simple lie. Mr. Carr concluded that Mr. Padis purported 'helpful offer' to resolve a claimed defect was a trick to get Mr. Carr to file a 'Waiver of Service' dated in early March, thereby granting Mr. Padis an extension / delay of almost two months.

Mr. Padis Lies Again in Email Response, Pathological Liar?

On 26 Apr 2024 Mr. Padis wrote (see ECF 30-1
emailThread20240417to20240426.pdf):

... Lastly, I believe you found an email I authored to be misleading because **I indicated I believed that service was improper**² and offered to accept service on behalf of the U.S. Attorney. As discussed, I was under the impression that you had personally served a copy of the summons and the complaint in violation of FRCP 4(c)(2) (requiring service be made by someone who is "not a party"), and I later learned through our correspondence that you delivered a copy of the summons and the complaint together with a process server - presenting an interesting legal question. Ultimately, the government filed a timely response to the complaint under Rule 12(b) rather than litigate this interesting service issue.

Although my correspondence was not at all misleading, I do want to note that all of these discussions around service occurred over email and not in a pleading.

It was already clear that Mr. Padis had lied in his 1 Mar 2024 claim USATXN 'has no record of having been served in this case' (as a logical fallacy as well as factual affirmations to the contrary). However, it is shocking that on 26 Apr 2024 he

² Bold added by Mr. Carr

would claim that previously he had said 'I believed that service was improper'. This is another blatant lie as 'no record of having been served in this case' contradicts 'I believed that service was improper ... you had personally served a copy of the summons and the complaint in violation of FRCP 4(c)(2)'.

It is inconceivable how Mr. Padis would lie again with such an obvious lie in a government email / record knowing that Mr. Carr had stated his intention to seek sanctions for false and misleading statements (like the original email). It raises the question of whether Mr. Padis is a pathological liar or one of the other similar conditions. Mr. Carr is not a trained professional to make any such diagnosis, but only raises the question for the court's consideration in evaluating Mr. Padis' numerous statements which Mr. Carr describes as false or misleading statements.

Both Services on USATXN Were Completely Proper

As cited above on 26 Apr 2024 Mr. Padis stated:

I later learned through our correspondence that you delivered a copy of the summons and the complaint together with a process server - presenting an interesting legal question. Ultimately, the government filed a timely response to the complaint under Rule 12(b) rather than litigate this interesting service issue.

There is no interesting service issue (another false or misleading statement). The affirmation of Mr. Joubert in ECF 10 (service.pdf) was provided to Mr. Padis which demonstrates that Mr. Joubert is over 18 years old and not a party to this action. Any additional requirements which Mr. Padis imagines are not founded in statutes, case law, or good sense.

To explain fully, Mr. Joubert is a casual friend who Mr. Carr met in a local park when they were playing a phone game, Pokemon Go. At one point Mr. Joubert asked Mr. Carr and another Pokemon Go player (semi-retired) to meet him at a certain time and place to witness his signature on some personal real estate papers. At that time Mr. Carr became aware that Mr. Joubert was a licensed certified Notary Public and competent in his profession notarizing real estate papers at closings. Mr. Joubert offered to pay the witnesses the normal rate for such services but we each declined as our financial condition were more comfortable than his and Mr. Joubert was actively pursuing improving his financial circumstances. Friends can help friends out as appropriate.

It also happens that Mr. Joubert is a young black man and welcomes additional work. As such Mr. Carr asked Mr. Joubert to Notarize the signatures from a 501c(3) religious organization member meeting to amend the Certificate of Incorporation. At that time Mr. Carr confirmed the Mr. Joubert was thoroughly competent in his profession and quite reliable and paid Mr. Joubert the normal rate for such services.

In early January of this year when Mr. Carr needed to arrange service of the papers in this matter, Mr. Carr was quite familiar with the requirements of FRCP 4 having arranged service in previous matters, sometimes with professional process servers and sometimes with creative solutions relying on people without previous experience serving such papers (but all were over 18 years of age and not a party to the matter, of course). On that basis, Mr. Carr engaged Mr. Joubert to serve the appropriate papers in a completely legitimate and proper business transaction.

When Mr. Carr and Mr. Joubert arrived at USATXN's address / suite, they asked to speak with the U.S. Attorney. They understood that it was most unlikely that the U.S. Attorney would be available (certainly less than 1% chance, but someone wins the lottery on a regular basis). When the receptionist informed them that the U.S. Attorney was not available, they asked to be directed to the clerk's office or mailroom where such papers are accepted. At that point the receptionist contacted Mr. Barr and the remaining details of the service are available in ECF 28-1 cited above.

Mr. Padis Claims of Legal Questions Concerning Service are False

Mr. Padis' claim that Mr. Carr's presence when service was completed somehow tainted the service is completely unfounded by the statute itself and any associated case law. Indeed Miedreich v. Lauenstein, 232 U.S. 236 (1914) states:

In the absence of fraud or collusion, where the original party did all that the law required in the issue and attempt to serve process, but the sheriff made a false return to the effect that service had been made, the ... court, in the absence of direct attack upon the return, in acting thereon as though it were true and holding that the sole remedy was an action against the sheriff for a false return, did not deny the party due process of law

which clearly states that once the Plaintiff has complied with the requirements of FRCP 42 (no fraud or collusion of the part of the Plaintiff) then the court is not violating Due Process when it issues a Default Judgment based on the Proof of Service (FRCP 42). To restate, once the Plaintiff has submitted facially correct

Proof of Service it is then incumbent on the Defendant to prove any failures in adequate and timely notice.

Mr. Padis' claims that there are interesting legal questions concerning service are unfounded, misleading, and false. Indeed, it can be argued that having the affirmations of an Officer of the United States (i.e. Mr. Carr, see ECF 30-5, USCISrepG28bc.pdf) to confirm the details of service would only strengthen the courts reliance on the Proof of Service.

These claims are apparent efforts to obscure and confuse issues which are otherwise clear, e.g. that Mr. Padis was investigating options to trick the Plaintiffs into accepting an unwarranted delay of almost two months.

Mr. Padis was Seeking an Unwarranted Delay of Almost Two Months

In Mr. Padis' email of 1 Mar 2024 (cited above and in ECF) Mr. Padis stated that USATXN 'has no record of having been served in this case' but 'If you reply with a summons and a copy of the complaint, I will email you a letter confirming that I am accepting service'.

Mr. Padis is pretending that he does not already have access to the Complaint and Summons and offering to provide a waiver of service if Plaintiffs provide those documents. Of course we know that Mr. Padis already had access to those documents, so why wouldn't he say so?

Well, if Mr. Padis was trying to create a delay and he said in a government email

that he had the complaint and summons, then all service issues would be resolved. Having admitted in a government email that he had the required documents, he would have proved that the Defendants had adequate notice under Due Process (the real underlying issue). The only question would be when there was adequate notice and the 9 Jan 2024 or even 12 Jan 2024 dates are likely candidates.

However, by lying (no record of service) and pretending he didn't have a copy of the documents, he might be able to trick the Plaintiffs into submitting a 'letter confirming that I [Mr. Padis] am accepting service' dated in early March (with a huge delay in USATXN's response date).

If Mr. Padis had truly wanted to correct the error in the record (as implied that he was doing a favor for the Plaintiffs), he could have simply appeared in the matter and posted a 'waiver of service' dated 9 Jan 2024. No need to have the Plaintiffs send him documents he already had or receive and file the letter. Even simpler, Mr. Padis could have submitted a timely response making the issue of Proof of Service moot.

While Mr. Padis' attempted ruse to delay the matter failed, he wasted the Plaintiff's time through the several documents Mr. Carr retrieved and attached to the email as well as sharing all the other documents in the edocket folder (it is likely the link still works though such sharing is fragile).

Relief Sought By Plaintiffs

While the court has complete discretion in appropriate sanctions, Mr. Carr suggests

that the first email exchange and false statement be sanctioned with 2 hours of community service and one day of early filing. Mr. Carr has spent significantly greater effort responding to the lies in the second email exchange and suggests 8 hours of community service and 2 days of early filing.

The total relief sought for the email exchanges is 10 hours of community service and 3 days of early filing. In addition, this affirmation demonstrates Mr. Padis' intention to delay without any effort to resolve issues or provide relief for the Plaintiff's denied freedom to travel, work, vote, or help their son's employment prospects. This 'intent to delay' should be considered when evaluating Mr. Padis' pleadings which will be separately submitted for sanctions.

Mr. Carr hereby affirms under penalty of perjury in both the United States and Thailand that as an individual:

I have reviewed the above affirmation and believe all of the statements to be true to the best of my knowledge.

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: 8 May 2024

Location: Irving, Texas