



Brian Carr &lt;carrbp@gmail.com&gt;

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**Notice of Intention to Contest Denial of N-400, Fwd: URGENT: Report of Federal Crime in USCIS,, DHS OIG Complaint HLCN1694292030038, Re: CIS Ombudsman Request Number 2022056241**

1 message

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Brian Carr <carrbp@gmail.com>

Tue, Nov 7, 2023 at 2:57 PM

To: criminal.division@usdoj.gov, Joseph Cuffari &lt;joseph.cuffari@oig.dhs.gov&gt;, "Kristen Fredricks, DHS OIG Chief of Staff" &lt;kristen.fredricks@oig.dhs.gov&gt;, Director USCIS Jaddou &lt;Ur.M.Jaddou@uscis.dhs.gov&gt;

Cc: cisombudsman &lt;cisombudsman@hq.dhs.gov&gt;, "Ward, Jennifer" &lt;Jennifer.Ward@mail.house.gov&gt;

Dear Sir / Madam:

I must apologize for the lack care with which this notice was prepared. At this time my wife and I are on a 26 day bus tour visiting 14 countries in Europe. It is most inconvenient to carefully prepare a proper response. However, it is also important that my notice be timely.

My wife's N-400 application for citizenship was denied on 14 October 2023 for failure to appear at an interview. This is a most unjust and egregious violation of due process for the following reasons: there was no evidence of timely notice of the interview and there is compelling evidence that, in fact, the notice was not delivered in a timely fashion. Further, the denial makes no discussion of the several attempts which we made to reschedule the interview because of the substantial financial impact for my wife's attendance at a 11 October 2023 appointment with a ten week international trip with departure previously scheduled for 10 October 2023.

This notice is formally addressed to the attorney general, but it is seeking assistance in promptly correcting this injustice. This notice is also being sent to the director of USCIS as well as the DHS IG. If they are able to assist in this matter it would be greatly appreciated.

It is hard for me to imagine that any DoJ attorney or other parties would want to defend this egregious injustice in court. As such, it is in the best interest of all parties to work for a prompt resolution outside of court.

Sincerely,

Brian P Carr

**Overview**

This is Notice of Intention to contest the denial of the N-400 application for naturalization of Mrs. Rueangrong Carr (Mrs. Carr) on 13 Oct 2023 for failure to appear at a scheduled interview. The decision itself is seriously flawed in numerous ways and I will elaborate on the failings of United States Citizen and Immigration Services (USCIS) in this matter. However, the primary failings are: The tribunal in this matter did not have jurisdiction to deny the N-400 application. The final finding of facts, decision, and order of USCIS on 31 Jan 2023 for the I-751 application for removal of conditions on permanent resident status (a.k.a. permanent green card) stated the N-400 was approved and only required the administrative 'Oath of Allegiance' for her to receive her Certificate of Naturalization. As there was a prior final decision approving the N-400 application, USCIS can not reopen the matter except by filing with federal district courts.

There was not the required 30 days of notice of the interview.

The tribunal completely ignored the timely and persistent efforts Mrs. Carr had made to reschedule the interview due to the significant financial, personal, and professional impact attendance would entail.

The decision itself relies on several false documents by USCIS (federal crimes of falsification of records) and itself contains criminal violations of 18 U.S. Code Section 1001 (cited below).

**The Decision**

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The Decision from USCIS dated 13 October 2023 attached as USCISdeny20231013.pdf states: On July 11, 2022, you filed a Form N-400, Application for Naturalization, with U.S. Citizenship and Immigration Services (USCIS) under section 319 of the Immigration and Nationality Act (INA). After a thorough review of the information provided in your application for naturalization, the documents supporting your application, and your testimony during your naturalization interview, USCIS has determined that you are not eligible for naturalization. Accordingly, USCIS must deny your application for naturalization. ...

On November 13, 2018, you obtained conditional permanent resident status through your spouse and your conditions were removed on January 30, 2023. USCIS received your Form N-400 on July 11, 2022, and on January 30, 2023, you appeared for an interview to determine your eligibility for naturalization.

At the beginning of your naturalization interview, an Immigration Services Officer placed you under oath and then administered the naturalization test. At that time you were unable to write a sentence in ordinary usage of the English language, and answer 6 of 10 U.S. Government and history (civics) questions correctly. Since you did not achieve a passing score on the English or civics portions of the naturalization test, on October 11, 2023, you were scheduled for a second interview to retake these portions of the naturalization test. On October 11, 2023, you did not appear as requested. Further, you have not provided USCIS with a good reason for your absence. Your failure to appear at the second interview means you have not passed the English or civics testing requirements for naturalization. As a result, you are ineligible for naturalization since you have not demonstrated your ability to pass the English or civics requirements for naturalization. Therefore, USCIS must deny your application for naturalization. See INA 312 and Title 8, Code of Federal Regulations (8 CFR) section 312.5(a) and (b).

If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.

### **Requirements of due process**

USCIS borrows heavily from judicial terminology in describing their processes and procedures creating the semblance of 'due process', the reality is USCIS does not provide any of the elements of due process.

There is an excellent overview of 'due process' in

[https://www.law.cornell.edu/wex/procedural\\_due\\_process](https://www.law.cornell.edu/wex/procedural_due_process)

It lists the ten key elements required for due process as:

1. An unbiased tribunal.
2. Notice of the proposed action and the grounds asserted for it.
3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The right to know opposing evidence.
6. The right to cross-examine adverse witnesses.
7. A decision based exclusively on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. Requirement that the tribunal prepare written findings of fact and reasons for its decision

These elements are derived from Judge Henry Friendly's article titled "Some Kind of Hearing" which can be found at: [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5317&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5317&context=penn_law_review)

A careful review of the case history and decision calls into question whether USCIS policies and procedures support any of the elements of due process. The essence of Due Process is that there must be a fair hearing before decisions are reached and nothing about USCIS hearings are fair, providing applicants with an opportunity to be heard.

### **Case History**

On 04 Aug 2020, USCIS received Mrs. Carr's I-751 application for a permanent green card (remove two year conditions) with receipt MSC2091582908. However, there was no interview with Mrs. Carr receiving an 18 month extension letter and later a 24 month extension letter (thus extending the original expiration of her 'green card' from 13 Nov 2020 to 13 Nov 2022).

On July 11, 2022, Mrs. Carr submitted her N-400 application for naturalization as USCIS timetables suggested her I-751 interview was imminent and there was a 9 month delay for N-400 interviews. This would allow her to complete

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her I-751 interview and get her permanent green card about six months before her N-400 interview. This would allow time for her to study for the English and civics exams without concerns about having an expired green card.

#### Mrs. Carr's emphatic desire for a permanent green card before citizenship

It is important to understand that Mrs. Carr was absolutely terrified of USCIS. As an older immigrant from a poor family with extremely limited education, only 4 years of schooling, and no formal exposure to English in her childhood, Mrs. Carr feared arbitrary, capricious and unjust actions by USCIS such as deporting her without cause or notice if she failed her citizenship test or leaving her stranded overseas, not able to return to the U.S..

Mr. Carr also came from a poor family, but he was born in the U.S. and was very fortunate. Mr. Carr graduated from West Point and later received a graduate degree from M.I.T.. Mr. Carr could not believe that USCIS would take unlawful and illegal actions such as leaving Mrs. Carr stranded overseas unable to return to the U.S..

It turns out in retrospect that Mrs. Carr was more correct than Mr. Carr.

#### Unlawful Restrictions on Travel by USCIS, Stranded in Thailand

In September of 2022, Mrs. Carr returned to Thailand on an emergency basis as her mother's health was failing. Sadly Mrs. Carr arrived just after her mother's death but was able to participate in the funeral ceremonies which extended until December of 2022 as Thai traditions has the ashes from the cremation waiting 100 days before being taken back by the family.

Her green card and extensions expired on 13 Nov 2023 while Mrs. Carr was in Thailand on an emergency basis. Even though 8 CFR Section 216.4 states ... 'Upon receipt of a properly filed Form I-751, the alien's conditional permanent resident status shall be extended automatically, if necessary, until such time as the director [of USCIS] has adjudicated the petition.', USCIS refused to provide Mrs. Carr with any documentation to allow her return to the United States. This is contrary to the above statute.

USCIS suggestion for how Mrs. Carr was to return to the US via an I-131A (for travelers who have 'lost' their documents to get a one time document allowing their return for a \$575 fee). Instead Mrs. Carr got a \$160 multiple entry B1 / B2, business / tourist visa and was able to return to the USA in late Dec 2022.

#### Rescheduling Original Interview

Further, Mrs. Carr original N-400 interview was scheduled for 14 Dec 2022. Mr. Brian P Carr (Mr. Carr) explained to USCIS that Mrs. Carr would be unable to attend as she was out of country and could not return due to USCIS's refusal to provide her with proof of valid permanent resident status. On 21 Nov 2022 USCIS cancelled the 14 Dec 2022 interview and later scheduled her joint interview for I-751 and N-400 for 30 Jan 2023.

#### A-551 Passport Stamp Instead of Green Card

Mrs. Carr was also able to come into a USCIS office on 3 Jan 2023 to get an A-551 stamp in her passport which was valid for one year but does not provide the full ability to travel and work freely of a traditional green card.

#### Improper Application of English Requirement to Older and Poor, Discriminates Against Buddhist and Islamic Cultures

Prior to the interview on 30 January 2032, Mr Carr initiated a complaint with the IG that the English requirements for naturalization were discriminatory based on religion, income, age and culture.

It is well established that the appropriate time to learn the sounds of English is soon after birth. Further the appropriate time to learn to recognize the shapes of English characters is before adolescence.

For example, in Thai language there is no 'th' sound. In contrast, the pair of plosive sounds d and t are not in the Thai language. The Thai language includes only the consonant that is between d and t. As an adult Mr Carr cannot hear the sound that is between d and t nor can he pronounce it. Similarly, because Mrs. Carr was not exposed to English at an early age, she is unable to hear or pronounce the 'th' sound.

Similarly, the time to learn to recognize the characters of the English alphabet is before adolescence. While it is possible to learn to recognize a foreign alphabet at later years, the recognition will never be as quick, accurate or comfortable as if it was learned before adolescence.

The actual effect of the English requirement for citizenship is to discriminate against older individuals from poor families from Buddhist and Islamic countries.

#### Joint I-751 and N-400 Interview of 30 Jan 2023

There was a joint I-751 and N-400 application on 30 Jan 2023. The informal results were that Mrs. Carr failed the English and civics tests. The interviewer also cancelled the 'final' portion of the I-751 interview which was an undocumented and possibly unlawful review of the 'criminal background' questions from some previous forms (not part of the I-751 application itself) as Mrs. Carr did not understand English and so could not personally answer those questions.

The results of the interview were given verbally and informally at the time of the interview. There was also a poorly written and ambiguous form letter with check boxes concerning the N-400 results.

However, the next day (31 Jan 2023) USCIS entered a formal written decision for the I-751 application which is attached as I797forMSC2091582908-ioe9752855294.pdf. For your convenience, the text of the response is:

We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship. If you have questions regarding this process, please contact the USCIS contact center at 800-375-5283.

Mr. and Mrs. Carr were elated at this change in fortune as it was a complete reversal of the informal verbal results. They relied on the formal written decision as a final findings of facts, decision, and order (to borrow from judicial terminology which is appropriate for a serious due process matter concerning the ability to vote and work and travel freely).

#### USCIS Denies I-751 Through False Statements

Within a couple of weeks they inquired at the specified contact number as to when the Oath of Allegiance would be scheduled and were told that the normal processing time for such matters was 4 or 5 months and that they should call back after that.

Mr. and Mrs. Carr would later learn that her I-751 was actually denied (no green card would ever be issued on that application based on the statement that Mrs. Carr's N-400 was approved). As more than thirty days have passed since this effective denial based on statements which USCIS believed to be false, there are no avenues within USCIS to actually get the permanent green card.

#### USCIS Unlawful Policies Justified as 'Enforcement'

The US government has had a long history of discriminating against foreign nationals with USCIS and it's counterpart for visas in the Department of State each contributing through an unlawful disregard for due process.

However, during the Trump era with the appointment of Director Francis Cissna, confirmed 5 Oct 2017, USCIS went to new heights of illegally mistreating foreign nationals.

Specifically, the option of waiving the interview for an I-751 application was eliminated (previously about 90% had been waived) thus creating an untenable burden for USCIS which already had a 1-year backlog of applications. Further, the interviewer was now required to verbally confirm the prior criminal background questions.

As most I-751 applicants do not speak English and most USCIS interviewers speak only English, USCIS effectively stopped conducting interviews for I-751 applications.

Instead USCIS simply waited until the applicant later filed an N-400 application for citizenship, though not all applicants later filed N-400 applications. Then the interviews were combined with the verbal review of the criminal background questions conducted in English, assuming the applicant was able to pass the English test. Further, the criminal background questions were already part of the N-400 interview in any case.

However, if the applicant was unable to pass the English test, then USCIS was in a bind for the I-751 and had to find a

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creative solution to process this case.

It appears that USCIS chose to effectively deny the I-751 application by claiming it was approved along with the N-400 so that no permanent resident card was provided. However, USCIS would then refuse to provide either a permanent resident card or certificate of naturalization by later claiming in future filings that the N-400 application had not been approved.

This meets the criteria of a federal crime because the effective denial of the I-751 application was based on a claim that USCIS believed was false. For future reference, this will be called 'effective denial based on false premises'.

#### USCIS Provides Incomplete or False Estimates of Interview Dates

When USCIS effectively ceased providing separate I-751 interviews, they did not provide notice to applicants nor did they provide accurate estimates for the dates when interviews would be scheduled.

This caused great uncertainty and fear for those applicants who were poorly educated with limited English ability and poor understanding of US government procedures such as Mrs. Carr.

The phone number provided by USCIS for questions and concerns was answered by an automated phone system which was distinctly unresponsive and would routinely hang up on applicants if they were not able to correctly formulate a request or question which the automated could respond to. Through most of the time when the I-751 application was pending scheduling an interview, there were no requests or questions which the automated system could respond to so that the applicant was sure to be hung up on by the automated system after about five minutes of struggling to find a way to speak to an actual person where they could explain their concern. This phone number was the only point of contact for applicants attempting to get information about the status of their application.

#### Criminal Background Questions Unlawful

Just after the interview of 30 January 2023, Mr Carr also initiated an IG complaint concerning the criminal background questions which were routinely included as part of the USCIS application policy.

In particular, there are no exceptions provided about classified information which cannot be released to the interviewer or records sealed by a lawful court order.

Further it is overly broad to not restrict the questions to actual convictions for serious crimes. As stated the questions would include every minor traffic or even parking violation in the state of Texas where such violations are considered crimes. The truth is, no one remembers all the situations where they may have gone over the speed limit or parked a few inches too close or too far from the curb.

In truth, the only acceptable answer to any of the criminal background questions is 'yes' with an explanation of 'I can neither affirm nor deny the existence information relating to this question.'

#### USCIS Informed of Upcoming Travel Plans

In August Mr. and Mrs. Carr contacted USCIS about scheduling a new A-551 stamp for Mrs. Carr's passport to preserve her limited to ability to work and travel based on their travel plans to be out of the country from 10 Oct 2023 to 25 Dec 2023. They were told that they could not get a replacement A-551 stamp as they can only be issued within 30 days of expiration and the applicant must be in the US to get the stamp.

In August Mr. Carr also contacted his congressman, Representative Veasey, seeking assistance in getting the Oath of Allegiance scheduled as no action had been taken in the matter.

#### N-400 Interview of 30 Jan 2023 Cancelled

However, on 01 Sep 2023 USCIS sent notice attached as USCIScancel20230901-20230130.pdf which states that the interview of 30 Jan 2023 was cancelled due to 'unforeseen' circumstances (sent under the N-400 receipt). Of course this is a completely false document (and hence a federal crime) as the N-400 interview was completed and this document contradicts several previous documents and verbal statements as well as the final decision in the I-751 case.

On 5 Sep 2023 Mr. Carr and Mrs. Carr called USCIS at the proscribed number and spoke with Destiny, ID G010590



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They asked that Destiny send an email to the appropriate party to promptly schedule Mrs. Carr's Oath of Allegiance as stated in the cited I-751 approval notice and, in the alternative, if an N-400 was not actually approved, that Mrs. Carr be sent a new 10 year Permanent Resident Card.

Destiny explained that it is not uncommon for additional interviews to be required even after the I-751 and N-400 are approved and that Mrs. Carr could not be sent the approved Permanent Resident card. Implicitly her statement indicates that such formal approvals were actually effective denials based on false premises.

At that time Mr. Carr asked that Destiny take notes for details to include in the email she would send on their behalf.

Mr. Carr cited 18 U.S. Code Section 1001 which is one of many criminal codes for falsification of government records and states in part:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact; ... or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years

(3) prohibits taking any action based on a false document with the implicit exceptions that actions may be taken to: correct the false document or, if the individual is not authorized to correct the false document, to report the false document to their supervisor and / or the relevant OIG explaining that it there is an existing false document and a possible federal crime when the document was created.

**N-400 Interview Scheduled for 11 Oct 2023, Insufficient Notice**

On 06 Sep 2023 an interview was scheduled for 11 Oct 2023 as shown in [Uscisl797intrvw20231011.pdf](#), but the actual notice was not received until 15 Sep 2023 when it was too late to respond until the next week as Mrs. Carr works Tuesday to Sunday and is not able to respond while she is working.

The arrival date of this notice is a critical issue as there must have been timely notice of the interview in order to justify the denial of the N-400 application for failure to appear. Attached as [USCISuspsMailArrivals20230915.pdf](#) is an email from USPS which shows the mail which arrived at their address on 15 Sep 2023. The notice of 06 Sep 2023 seems to have been mailed on 12 Sep 2023 according to the postmark shown in the USPS email. As 30 days notice is required for such interviews, the notice on 15 Sep 2023 was not timely for an 11 Oct 2023 interview and the denial of the N-400 application for failure to appear must be overturned due to lack of notice.

In the contested decision there is no claim of any notice at all and it appears that USCIS routinely delays mailing critical documents a few days after the date of the 'notice'. In cases of mailed documents they adjust the 30 days to 33 days to allow for time in the mail, but there is no adjustment for delay in printing and actually mailing the notice. Given that this document took 9 days to arrive, a more realistic adjustment for mailing would be 44 days if mailed without the normal proof of mailing.

**Complaint of Falsified Records, 01 Sep 2023 Cancellation**

On 10 Sep 2023, Mr. Carr contacted the USCIS director and DHS IG reporting the contradictory records (was the interview held on 30 Jan 2023 and approving the I-751 and N-400 or was it cancelled with no results). With contradictory records, one or more of them must be false, the foundation of the federal crime of falsification of government records. Mr. Carr also asked for acknowledgment of the report within 7 days. No such acknowledgment has been received to date. On 07 Oct 2023, Mr. Carr asked that DoJ assist in correcting these serious defects in USCIS and DHS IG. (Note: Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2023 on 06 Sep 2023 when he first reported the crime). The reports of the crime and request for assistance are forwarded at the end of this mail.

On 12 Sep 2023 Mr. and Mrs. Carr called USCIS at the proscribed number and spoke with Umika, ID G20028112.

They complained of the of 1 Sep 2023 I-797 Notice of the cancelling of the 30 Jan 2023 N-400 interview due to unforeseen circumstances (described and attached above). They explained that the interview was held on that date and the 01 Sep 2023 document is a false record (and federal crime) which also contradicts the I-751 final decision of 31 Jan 2023 which stated that the N-400 application was approved

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at that interview. They advised Umika that she must either correct the false record or, if she did not have the authority to correct the record, she must contact either her supervisor or the IG or both to report the crime. Failure to do so on her part would itself be a crime under 18 U.S. Code Section 1001, part 3, which Mr. Carr read to her after asking her to take notes.

Mr. and Mrs. Carr also asked that Mrs. Carr immediately be sent the new 48 month extension letter which was publicly authorized by USCIS on 23 Jan 2023, one week before the interview (so USCIS was required to have mailed her a copy of the extension letter before the interview). The USCIS announcement was also about two months after they had complained to USCIS and the DHS OIG that USCIS had unlawfully left Mrs. Carr stranded in Thailand due to the absence of such a 48 month extension letter.

They also asked that USCIS send Mrs. Carr a permanent green card as soon as possible as there was now a record in the N-400 case indicating that her N-400 application had not been approved and so there was no basis for withholding the approved green card.

They also asked that local representative contact the USCIS director in order to get copies of the emails which properly explained their complaints to date as that was the only method of sending written documents to USCIS for their consideration.

They also asked that the local representative call them back on Monday 18 Sep 2023 at 9AM as Mrs. Carr would be working during normal business hours on Tuesday through Sunday and unable to take calls. No such call back was made. (Note: At this time, Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2021 on 06 Sep 2023 and did not receive notice until 15 Sep 2023.)

**First Request to Reschedule Interview**

On 19 Sep 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and spoke with David, ID G009845. (Note: this request was timely as Mr. Carr only learned of the scheduled interview date on 15 Sep 2023)

They requested that the interview scheduled for 11 Oct 2023 be rescheduled as they had prior plans to be out of the country from 10 Oct 2023 to 25 Dec 2023. Mrs. Carr asked if the interview could be scheduled for only a day or two earlier but they were told that it could not be scheduled earlier.

Their request to reschedule the interview was assigned ID T1B2622391513DAL.

Upon a lengthy description of the purpose of the ten week trip, David incorrectly summarized the reason for the trip as 'leisure' which raised concerns for Mr. Carr that their trip was not being given appropriate gravity. They asked that David request that USCIS reschedule for after the completion of their trip on 25 Dec 2023. It turned out that David was restricted to 80 characters in his request and so described the reason for rescheduling as Mrs. Carr being out of country from 10 Oct 2023 to 25 Dec 2023 to increase the likelihood that the individual who responded would be aware of the duration of their trip.

They also asked that Mrs. Carr be provided with a 12 month extension letter as her A-551 stamp would expire on 03 Jan 2023 and if there were health or other problems which delayed their return, she would no longer have proof that she was authorized to work and travel freely. David assigned sn 30214416 to a request that a local USCIS representative call Mrs. Carr from 2028382104 to discuss the extension letter.

**Unsuccessful Call Back on 21 Sep 2023**

The call back by the local USCIS representative was made on 21 Sep 2023 in the morning. Mrs. Carr was not home (as she was working) but it was rescheduled for later that evening at 7:30PM when Mrs. Carr was likely to be home. Mr. Carr called Mrs. Carr and she came home a little early and was home by 7PM but the USCIS representative did not return the call as agreed upon.

**Request that Mr. Carr be Mrs. Carr's Authorized Representative**

Due to the confusion of not being able to get any response from USCIS, on 25 Sep 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and spoke with Martha, ID G029811.

They asked about how to submit a G-28 appointment of Mr. Carr as the representative in this matter. They were told to mail the application to:

ATTN: N-400, G28 submission  
850 NW Chipman Rd, Suite 5000  
Lees Summit, MO 64063

An online G-28 request had been submitted on 24 Sep 2023 and the hard copy request was mailed on 26 Sep 2023. Martha also explained how to submit a document directly to USCIS on their web site and an electronic copy of the G-28 was submitted on 28 Sep 2023. Martha also explained that USCIS responds to G-28 requests within 30 days. No response has been received to date on this G-28 request.

#### Denial of Reschedule Request, Not Sent to Authorized Email

While speaking with Martha on 25 Sep 2023, Mr. and Mrs. Carr also learned that on 19 Sep 2023, USCIS had denied their request to reschedule the interview and sent an email to [airpk1961@gmail.com](mailto:airpk1961@gmail.com), an email address that is rarely monitored.

This was not proper. Before they were married Mrs. Carr had used that email and Mr. Carr had used [carrbp@gmail.com](mailto:carrbp@gmail.com). However, since their marriage they have shared their emails with both parties having full access to both email addresses. As they have a legal union, they are not required to maintain separate personal email addresses and now reference all emails to [carrbp@gmail.com](mailto:carrbp@gmail.com) which is regularly monitored. In rare cases when businesses insist on separate email addresses for separate persons, they provide Mrs. Carr's old email address, but that address is not regularly monitored. At no time have they agreed that USCIS should direct email notices to Mrs. Carr's old email address and none of the submissions to USCIS have authorized the use of that email address. The actual email from USCIS is attached as USCISnotReschedule20230919.pdf.

#### New request to Reschedule Interview

Due to the delay in their receipt of the denial of their request to reschedule the interview (sent on 19 Sep 2023, found on 25 Sep 2023), Mr. Carr uploaded a timely explanation of the reasons for rescheduling the interview on 27 Sep 2023 which is attached as PostponeInterviewUntilAfter25Dec2023.pdf along with copies of the flight tickets, date restricted European visas, hotel reservations, required medical insurance coverage and European bus tour tickets, all of which are non-refundable. The document explains that the purpose of the trip is religious obligations, family obligations, business promotion, business training and education, and leisure. Planning for the trip was started in Feb 2023 and the leisure portion of the trip was to celebrate the approval of Mrs. Carr's N-400 application for naturalization as USCIS stated in I797forMSC2091582908-ioe9752855294.pdf on 31 Jan 2023.

On 2 Oct 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and spoke with Crystal, ID G027432.

Mr. and Mrs. Carr asked that Crystal submit a new request to reschedule the interview based on the documents submitted on 27 Sep 2023. Crystal explained that they could not make a new request to reschedule of the interview until 15 days after the previous denial on 19 Sep 2023, i.e. 04 Oct 2023 (after the start of Mrs. Carr work week).

They noted that they had provided additional justification for rescheduling the interview which has been uploaded for USCIS to consider.

They asked that USCIS review uploaded G-28, separately filed online and sent via mail and submitted electronically 28 Sep 2023. Crystal explained that USCIS has 30 days to act on G-28 requests.

On 10 Oct 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and spoke with Antoinette, ID G0023588.

Mr. and Mrs. Carr asked that Antoinette submit a new request to reschedule the interview explaining that it was more than 15 days after the previous denial of the request to reschedule and explained that they had submitted additional documentation.

Antoinette contradicted the previous representative, Crystal, and stated that new requests to reschedule can only be made more than 30 days after a previous denial. As interviews are scheduled with the nominal 30 days notice (33 days if notice is by mailing), this would insure that USCIS never reconsiders any denial of rescheduling no matter what the extenuating circumstances. As this claim also contradicts the previous representative it is likely that Antoinette's and possibly Crystal's claims are false and, hence, federal crimes.

#### Access to Case Records Unlawfully Denied



On 01 Sep 2023, Mr. Carr submitted a request for the entire record in the I-751 and N-400 cases via an online submission of a G-639 FOIA request. Mr. Carr asked for every email, message, or other records which reference the two receipts in this matter (MSC2091582908 and IOE9752855294) including both audio and video recordings. The request was assigned request ID NRC2023277190 and the response was made on 05 Oct 2023. However, the response was only 32 pages and was only the original I-751 and N-400 applications. On 31 Oct 2023 a new FOIA request was submitted via email a copy of which is attached as USCISfoiRqst.pdf. Note that this is a violation of the applicant's due process right to have access to the evidence against the applicant. Mr. Carr had requested access to every record which the tribunal relied on to deny the N-400 application, but was denied access to all such records. It is also possible that the claim that there were only two responsive documents was a federal crime of falsifying government records as it is clear that more records were requested and there was no justification for withholding the other documents.

### USCIS Refuses to Provide New Green Card

On 19 Oct 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and requested that Mrs. Carr be sent a new Green Card as her I-751 was approved on 31 Jan 2023 but the Green Card was withheld as her N-400 was also approved and her Certificate of Naturalization was imminent. However, the purported Decision of 14 Oct 2023 clearly indicates that USCIS does not intend to provide Mrs. Carr with promised Certificate of Naturalization in the foreseeable future.

This request resulted in a referral of T1B2922301353MSC which concerned 'Non Delivery of Permanent Resident Card'. It was answered on 27 Oct 2023 with the document USCISnoGreenCard20231027.pdf which listed 'Type of service requested: -- Non-Delivery of Permanent Resident Card' but answered with:

You ... contacted U.S. Citizenship and Immigration Services (USCIS) because you have not received your denial, termination or revocation notice. We have enclosed a copy of the notice for your reference. Please note that we are not able to extend the period for you to file an appeal from this decision. Therefore, follow the instructions on your notice carefully and submit accordingly.

There was no notice attached and the text does not make sense with respect to the request for a green card from an approved application. It appears to be the standard form letter message for a denial of a request.

The form letter does mention the requirement to contest an unfavorable decision within 30 days and, of course, pay the \$700 fee first. However, as this decision referred to was an approval which was illegally contorted by false pretenses to be an effective denial, the text of the response is not responsive to actual request.

It appears that when USCIS attempts to effectively deny an application by claiming approval based on false pretenses, there is no way to appeal or correct the error other than the federal district courts.

### Legal Arguments

#### Lack of Jurisdiction

Of primary importance is the lack of jurisdiction for USCIS to revise or ignore a prior final decision.

It is well understood that in the interest of justice to all parties in an action, there must be some final closure of arguments and litigation. Final decisions are intended to provide that relief to all parties with the caveat that each party has 30 days to notify all other parties of any pending disagreements. This is normally done through a notice of appeal requirement, generally within 30 days after proof of service of the decision by the prevailing party.

If USCIS had any complaints or concerns with the findings of facts in the I-751 decision of 31 Jan 2023, they should have raised the concerns within 30 days of publication of the decision.

As there is no avenue for USCIS to submit a motion for reconsideration of a matter which was decided by USCIS, the only forum where USCIS can seek redress is a new action in the federal district courts.

To provide otherwise is to deny all applicants to USCIS from the justice of having any final decision.

#### Lack of Notice to Support Failure to Appear

Another fundamental principle of due process is that all participants must be given adequate and sufficient notice of

any action. It is clearly a travesty of justice to deny an application because of failure to appear when there is no evidence of notice.

In particular, in this case there is compelling evidence showing that Mr. Carr did not receive notice of the upcoming interview until less than 30 days before the interview, i.e. 15 Sep 2023 for a hearing on 11 Oct 2023.

As such, the improper denial must be overturned.

### **Lack of an Independent and Impartial Tribunal**

One of the fundamental premises of due process is to have matters decided by an independent and impartial tribunal. It is important to recognize that Mr. Carr had filed numerous complaints with the DHS OIG concerning malfeasance and other unlawful activities by USCIS. His final complaints were for the federal crimes of falsifying government records by several employees who reported directly or indirectly to the director who made the final decision.

It is absurd to even consider that the Field Office Director, Ms. Montgomery, could be unbiased in resolving a matter in which several of her employees were accused of federal crimes which would surely reflect poorly on her own performance and future career opportunities.

### **Additional Federal Crimes by Ms Montgomery**

One of the foundations of any government of law is to have accurate written records of all proceedings. That is almost certainly why Congress has decided to make it a serious federal crime to falsify any government record.

When Director Montgomery cited the approval of the I-751 application without mentioning the finding of an approval of the N-400 application, she falsified the record.

When Director Montgomery stated 'Further, you have not provided USCIS with a good reason for your absence.' without mentioning the original request to reschedule she committed the crime of falsifying the record by failing to include required facts. Further, Director Montgomery does not mention the extensive documentation of substantial financial and personal impact required to change long standing plans in order to attend the interview. This evidence was provided to USCIS, and she falsified the record by omitting critical facts. The entirety of her decision is based on timely notice and lack of response but she fails to discuss any of the factors which are critical elements of her decision.

### **Right of Appeal Prohibitive / Denied**

The contested decision continues with the following text:

If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.

An initial reading of this paragraph suggests that there are administrative procedures for appealing such bad decisions. However, while USCIS borrows heavily from judicial terminology in describing their processes and procedures creating the semblance of 'due process', the reality is USCIS does not provide any of the elements of due process.

In particular, the required fee to file N-336, request for a hearing, is a hefty \$700 while the fee for filing a new N-400 is only \$625. Similarly, the filing fee for a motion to reconsider is also \$700 as is the fee for filing a 'Notice of Appeal'. For a budget minded applicant, the filing fees with federal district courts are a much more affordable \$300 (admittedly heavily subsidized) so that applicants with limited assets may only be able to afford to file with the district courts rather than pursue the absurdly expensive administrative alternatives.

### **Automated Phone System Prevents Applicants from Being Heard**

It is a violation of due process for USCIS to restrict applicants to an automated phone system for all questions, concerns, requests, and evidence.

First of all, USCIS can not require all applicants to have phone access. They must provide a physical address where applicants and their representative or interpreter can ask questions and present concerns, requests, issues, and

evidence. Appointments can not be required though substantial waits may be required without an appointment.

This in person access is required as each applicant must be permitted to be heard whether they have access to a phone or are technically savvy.

Further, it is a violation of due process when the automated phone system hangs up on applicants who are not able to correctly state their needs. The system must instead pass the request on to a human representative to hear the issues of the applicant.

While providing this human access can be a significant expense, it is required for the due process opportunity to be heard.

If USCIS chooses it can also provide online secure messaging to applicants and their representatives as a cost effective way of providing a reliable and less expensive method raising concerns and getting responses.

### Easy Appointment of Spouse as Representative

It is a violation of the due process for USCIS to restrict the ability of I-751 applicant's spouse to represent the applicant.

Due process requires the right to representation though not necessarily by an attorney. As the spouse is an American citizen, they almost certainly have better English and U.S. government skills. As such they are an ideal representatives for their immigrant spouses.

In fact it is completely legal and proper for a spouse to represent the other party as needed in a real legal union (a.k.a. marriage). In truth, one of the signs of a fake marriage would be the absence of the citizen spouse to represent the immigrant spouse.

### Inclusive Assumptions for Freedom of Information Act Requests

As due process requires that the applicant have full access to all of the evidence presented against him or her, the FOIA default must be to provide all records including audio and video recordings which the tribunal has access to.

### Relief Sought

#### Right to work and travel freely as well as right to vote

The primary relief sought is for Mrs. Carr to receive her Certificate of Naturalization as soon as possible. In particular,

1. Mrs Carr should receive her 48 month extension letter as soon as possible, specifically within one week of the date of resolution of this dispute.
2. Mrs Carr should receive her 10-year Permanent Resident Card as soon as possible. Specifically within one month of the resolution of this matter.
3. Mrs. Carr should have her Oath of Allegiance ceremony scheduled and completed within 1 month and her Certificate of Naturalization issued within 2 months.

### Credit for Delay in Granting Citizenship

In addition to the comparatively minor relief of credits for future services with USCIS sought with the original IG complaints, Mrs. Carr is seeking additional credits for the deprivation of the rights of citizenship to include the rights for close family members to seek immigration authorizations as well as the right to vote and such. As it is not possible retroactively grant Mrs. Carr the right to vote and others rights of being a U.S. citizen (such as the right to visit Europe without a European visa) the family members should be credited with twice the delay in her citizenship, i.e. their position in the queue for immigration visas should be adjusted as if their application was received earlier. The doubling of their credit in queue position corrects not only the delay in their application but also they get their citizenship rights (e.g. voting) earlier in compensation for the deprivation of Mrs. Carr's citizenship rights (e.g. voting).

### Review of Other I-751 and N-400 Records

The USCIS databases should be queried for all I-751 records processed since 1 Jan 2017 to determine how many

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other records were similarly falsified. In particular, now many I-751 applications by quarter were approved but with no permanent resident card issued within 90 days while there was a pending N-400 application as well.

These records should be further categorized according to whether there was a corresponding N-400 interview which was canceled or where an additional N-400 interview was scheduled within 2 years of the approval of the I-751 application.

All such applicants should be similarly credited for future services with USCIS for their use, their families use, or their friends use. In addition, any relatives who apply for immigration visas based on their citizenship status should be credited with double the time of the original applicant's delay.

**Falsified Records Must Be Corrected**

Further, all falsified records should be deleted (actually hidden to avoid potential database corruption) with new records of a falsified record being inserted at the same date and time of the deleted/hidden record. There should be an additional corresponding record at the current date and time which includes the content of the falsified record for later review.

All reports to congress and other entities which relied on these falsified records must be revised to note the number of records which were previously recorded as processed, but were actually pending correction of the false resolution. The corrected resolutions should be added to current reports as approvals from previously denied falsified records.

**Adjustments for Language / Cultural Differences**

Just as USCIS has added exemptions for people with medical impairments, as well as exemptions based on age, these exemptions should be extended to consider the education opportunities presented to a particular individual before they were 21. They should also be extended to consider the difficulty in mastering English based on the nation of birth.

For example, there could be an annual review by country of the rate of application for citizenship as well as the rate of granting citizenship. Exemptions should be granted to individuals from countries like Thailand where mastering English is extremely difficult for those who are older and poorly educated. The exemptions should be granted based on age less years of formal training in English sufficient to correct the rate of citizenship approvals to match those of countries such as Canada or the United Kingdom where the rate of granting citizenship is, presumably, highest.

For countries such as Thailand and other Buddhist / Moslem countries, this would likely mean eliminating the English and civics test for all N-400 applicants until the rate of granting citizenship matches that of Canada or the United Kingdom. This would be a valuable measure to eliminate the unlawful discrimination against certain groups based on religion, race, culture, and age.

**Credit for Visa Fees when Stranded Overseas**

Mrs. Carr should be granted an additional credit for services with USCIS for \$80 for the business / tourist visa which was required in order for Mrs. Carr to return to the U.S. when she was stranded in Thailand in 2022. The fee was \$160, but it is expected that the Department of State will be asked to provide another \$80 credit for their unlawful denial of such a visa to Mrs. Carr in 2017.

**USCIS Must Correct Time For Legal Notice**

USCIS must cease using improper notices of actions. If USCIS wishes to update it's notice process to record and publish accurate records of the actual date of mailing of notices, 7 Days could be added to the actual date of mailing for notices. Three days for first class mail is insufficient to be confident of prompt receipt. As it generally takes USCIS 6 days to print a notice and prepare it for mailing, this would normally be 43 days after the date of the decision itself.

In the alternative, 45 days could be added to the date of notice to allow time for normal processing of notices and normal mail times. Of course, all such denials based on assumed notice without an accurate record of delivery (signature required mailing or process server), would be conditional and must be easily contestable in the event that there was not actual timely delivery. The applicant must be able to contest the denial without any additional fees by explaining any extenuating circumstances which prevented timely notice or appearance (e.g. applicant was in the hospital and did not receive the notice or was not able to appear or answer while hospitalized).

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For all cases where USCIS denied an application for failure to appear and there was not 45 days notice nor any record of the actual date of mailing, all such actions since 1 Jan 2017 must be remanded to USCIS for proper processing overturning all denials where there was not proof of timely notice.

The applicant must be given a credit for the filing fees for the original application as well as having the application opened again for proper consideration. All denial records must be updated to note the denial was overturned due to lack of notice. All reports to Congress and others which were based on the improper denial (showing an application was processed) must be corrected to show that the application was incorrectly denied and has been returned to an active status.

#### Adjustment of USCIS Fees for Appeal, Reconsideration

USCIS fees for N-336 requests to review, motions to reconsider, notice of appeal, and actual appeal filing must be reduced so that they are not prohibitive. It is suggested that no motion to argue or motion to reconsider should cost more than 5% of the federal district court filing fee (now \$300, hence no more than \$15). Actual appeal filing fees should not exceed half the district court filing fees, e.g. \$150. There must be no fee for N-336 and other motions to reconsider when the applicant is contesting presumptive / conditional denials for failure to appear as the applicant must be provided the opportunity to explain failures in actual notice or extenuating circumstances which prevented appearance or answering (e.g. hospitalization).

The justification for this is to encourage applicants to seek redress with the USCIS rather than going directly to the district courts. It also furthers due process by making the proceedings fair and providing opportunities for applicants to be heard / argue their cases as necessary.

#### USCIS Must Restore Interview Waivers and Cease Criminal Background Reviews for I-751 Applications

The administrative policies implemented by prior USCIS director in the 2018 time frame must be rescinded. They do not provide any improvement in enforcement and greatly harm applicants' rights in these matters.

Mrs. Carr is requesting that interview waivers be resumed at an accelerated rate so that at least 2 months of backlog are eliminated each month. Realistically that means that three months of applications must be granted their permanent resident card without further delay.

If there are concerns about applicants not understanding the criminal background questions in English, USCIS can provide written copies of the criminal background questions translated into all the appropriate languages. However, these questions should only be applied to new applicants for visas, not approved permanent residents.

USCIS should immediately begin with interview waivers for the oldest applications, but if USCIS wishes, it can send out new forms to potential waiver recipients asking for authorization to access all of their social media, mobile and credit rating records for both spouses. Failure to provide authorization or the appropriate accounts and addresses would result in a delay of any interview waivers.

Over time, USCIS could develop AI programs which very accurately identify fake marriages based on the contents or lack of social media and other records. Given the vast amount of information available through phone records (e.g. Google's time line which could show the location of each spouse for every day and night of their purported marriage), social media and credit histories, the interview itself appears highly ineffective and very expensive method of identifying fake marriages. A well trained AI program could identify fake marriages with substantially greater accuracy at a fraction of the cost of interviews.

#### Required Access Provided to Applicants

USCIS must immediately disable hang ups by the automated phone system and instead fail over to a human representative. Further, USCIS must send notices to all active applicants of the address where they can go without any appointment to ask questions and raise concerns. USCIS must respond to in person questions and requests.

Secure messaging systems are no relatively routine technology at this time and should be offered as an addition to the MyUSCIS web page to provide a more reliable and cost effective alternative for those applicants who choose to use this option.

#### USCIS Must Guarantee Applicants' Right to Representation



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USCIS must grant immediate approval to any spouse who files to become an applicant's representative. Further, the application form itself must be adjusted to allow that option on the application itself.

Pending I-751 applicants must be notified immediately of their ability to add their spouse as a representative via a simple phone call.

### More Expansive FOIA Responses

USCIS must change its defaults for FOIA requests to provide access to every record including audio and video recordings which reference the requested receipt number.

### Conclusion

Mr. and Mrs. Carr ask for the assistance from all recipients in order to provide a speedy resolution of the issues raised above and the relief sought above.

Your attention to this matter is greatly appreciated.

Brian P. Carr and Rueangrong Carr

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----- Forwarded Message -----

**Subject:**Fwd: URGENT: Report of Federal Crime in USCIS,, DHS OIG Complaint HLCN1694292030038, Re: CIS Ombudsman Request Number 2022056241

**Date:**Fri, 6 Oct 2023 19:17:31 -0500

**From:**Brian Carr <carrbp@gmail.com>

**To:**criminal.division@usdoj.gov

**CC:**Joseph Cuffari <joseph.cuffari@oig.dhs.gov>, Kristen Fredricks, DHS OIG Chief of Staff <kristen.fredricks@oig.dhs.gov>, Director USCIS Jaddou <Ur.M.Jaddou@uscis.dhs.gov>, cisombudsman <cisombudsman@hq.dhs.gov>, Ward, Jennifer <Jennifer.Ward@mail.house.gov>

Dear Sir / Madam:

I am writing to request your assistance in correcting malfeasance and unlawful policies and procedures in the United States Citizenship and Immigration Services (USCIS) and Department of Homeland Security (DHS) Office of the Inspector General (OIG). While these violations have resulted in federal crimes of falsification of government records and, potentially, other federal crimes, I am not seeking prosecutions (which are at the sole discretion of DoJ) but rather assistance in getting the agencies to comply with lawful statutes and constitutional rights and to provide relief as appropriate to damaged parties.

The enforcement of lawful statutes and constitutional rights is at the discretion of the Department of Justice (DoJ) based on available resources, but this discretion is secondary to the federal courts and their ability to provide relief to injured parties. However, I believe that the best resolution can be reached by DoJ working directly with the agencies. If federal courts are brought into this matter, it is almost certain the DoJ will be called on to assist but the time table and direction of the corrections will be set by the courts for better or worse.

I ask that you route this request to the appropriate department for the requested assistance and provide me contact information to get the status of the request. As stated above, there are no requirements that you provide the requested assistance, but it is my hope that these issues can be resolved without involving the courts. Needless to say, if the DoJ chooses not to address my concerns, my only avenue for relief will be through the courts.

I am forwarding the most recent email concerning these issues which was sent to the USCIS Director and DHS IG as well as other individuals. It provides the details of unlawful policies and procedures as well as federal crimes. It also

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includes the damages and the specific relief sought. I am also copying the other recipients the previous emails.

Your attention to this matter is appreciated.

Brian Carr

----- Forwarded Message -----

**Subject:**URGENT: Report of Federal Crime in USCIS., DHS OIG Complaint HLCN1694292030038, Re: CIS  
Ombudsman Request Number 2022056241

**Date:**Sun, 10 Sep 2023 10:39:33 -0500

**From:**Brian Carr <carrbp@gmail.com>

**To:**Joseph Cuffari <joseph.cuffari@oig.dhs.gov>

**CC:**Director USCIS Jaddou <Ur.M.Jaddou@uscis.dhs.gov>, cisombudsman <cisombudsman@hq.dhs.gov>,  
Ward, Jennifer <Jennifer.Ward@mail.house.gov>, criminal.division@usdoj.gov

Brian Carr  
1201 Brady Drive  
Irving, TX 75061  
carrbp@gmail.com  
518-227-0129

The Honorable Joseph Cuffari  
Department of Homeland Security Inspector General  
245 Murray Dr.; Building 410;  
Washington, DC 20528  
(202) 981-6000

Dear Honorable Cuffari,

#### Overview

I am writing to report a federal crime of falsification of government records (and possibly many others) by the staff in United States Citizenship and Immigration Services (USCIS). I ask that you investigate the complaint and, on confirmation that there are reasonable grounds to support the allegation, direct USCIS to take corrective action and refer the matter to the Department of Justice.

In the event that this email is first screened by a person other the Honorable Cuffari, I ask that this matter promptly be called to his attention as it contains a report of federal crimes within USCIS (his purview). Further, if this report is not forwarded to him for his review, it could be construed as another federal crime of Obstruction of Justice (which is clearly within the purview of the Department of Justice (DoJ), also copied on this email).

As this email contains a notice of a plausible federal crime, I ask the Honorable Cuffari acknowledge receipt of this email within seven days (preferably via email to [carrbp@gmail.com](mailto:carrbp@gmail.com)) as well as provide an initial response within thirty days as to intended actions.

#### Details of the Crime

The essence of the crime is documents provided by USCIS with contradictory facts, clearly one or both is false. The first document is the official notice that my wife's I-751 petition (for permanent Green Card) and N-400 petition (for citizenship) were approved (see I797forMSC2091582908-ioe9752855294.pdf) in Jan 2023 but the promised Oath of Allegiance was not scheduled. After numerous requests to have it scheduled no action was taken by USCIS until Sep 2023 with T1E2412301031DAL where her petitions were put back in the queue for a second interview (a redo of the original interview where her petitions were purportedly approved) indicating that her petitions were not approved but are still pending.

There are several federal criminal statutes concerning falsification of government records one of which is 18 U.S. Code Section 1001 (cited below) which is broadly applicable and paragraphs 1) and 3) both seem to apply to this matter.

Given the plausible federal crime being alleged, the Department of Homeland Security (DHS) Office of the Inspector General (OIG) is required to investigate the allegation and report all likely federal crimes, e.g. INSPECTOR GENERAL ACT OF 1978 which states in part that the 'Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law'. A cursory review of the documents in this case should verify that there are contradictory facts in the record and that any competent employee would identify the contradictions.

You are requested to promptly (i.e. expeditiously) report this matter to the DoJ so that they can make the decisions as whether these matters should be further investigated and prosecuted.

### Serious Deprivation of Constitutional Rights

Further, the apparent widespread nature of these crimes (discussed below) raises interesting questions of Due Process as guaranteed to all persons (including foreign nationals) in the Fifth Amendment. There were many updates to the procedures for foreign nationals in the Trump era and it is possible that some of these updates were not legal and in accordance with the Fifth Amendment requirements of Due Process.

In order to comply with the Fifth Amendment as defined by the the Supreme Court, all persons must be provided with 'due process' even in administrative proceedings. There is an excellent overview of 'due process' in

[https://www.law.cornell.edu/wex/procedural\\_due\\_process](https://www.law.cornell.edu/wex/procedural_due_process)

citing

[https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5317&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5317&context=penn_law_review)

in Judge Henry Friendly's article titled "Some Kind of Hearing"

"procedures that due process requires....

...

7. A decision based exclusively on the evidence presented.

8. Opportunity to be represented by counsel.

9. Requirement that the tribunal prepare a record of the evidence presented.

10. Requirement that the tribunal prepare written findings of fact and reasons for its decision.

As discussed in the article, the Supreme Court has interpreted the Fifth Amendment due process requirement to cover virtually all administrative procedures which impact a person's life, but with less prohibitive requirements for less significant matters. The right to work and travel freely are most significant and the rights of citizenship (e.g. voting) are even more significant so that the requirements of Due Process are equally significant for USCIS and its concerns.

This particular situation is problematic as USCIS seems to provide final official 'orders' and 'findings of facts' from their tribunal (borrowing from judicial terminology) and then ignore these results with later interlocutory actions (e.g. email putting the petitions into the queue for a second interview). USCIS seems to simply ignore final decisions without any notice or justification.

I would argue that once a final decision is issued, USCIS can not do anything but follow through with the final decision and then turn to the courts if there are any problems which would warrant revoking the citizenship. Of course this is a complex issue and the DoJ should be consulted as there are certainly contrary arguments about USCIS's options after approving petitions.

The actual relief that I am seeking is similarly complex and is listed below in the preceding emails copied below.

Your prompt attention to this matter is appreciated along with acknowledgment of receipt of this email (7 days) and status of the various requests (30 days).

Brian P. Carr

----- Forwarded Message -----

**Subject:**URGENT: Report of Federal Crime in USCIS, Re: CIS Ombudsman Request Number 2022056241

**Date:**Fri, 8 Sep 2023 11:52:25 -0500

**From:**Brian Carr <[carrbp@gmail.com](mailto:carrbp@gmail.com)>

**To:**Director USCIS Jaddou <[Ur.M.Jaddou@uscis.dhs.gov](mailto:Ur.M.Jaddou@uscis.dhs.gov)>

**CC:**cisombudsman <[cisombudsman@hq.dhs.gov](mailto:cisombudsman@hq.dhs.gov)>, Ward, Jennifer <[Jennifer.Ward@mail.house.gov](mailto:Jennifer.Ward@mail.house.gov)>, [criminal.division@usdoj.gov](mailto:criminal.division@usdoj.gov)

Dear Honorable Jaddou,

### Overview

I am seeking assistance in scheduling the Oath of Allegiance for my wife's Naturalization. I am also seeking damages for the unwarranted delays in processing her I-751, Petition to Remove Conditions on Residence, and N-400 Petition for Citizenship. Finally I am asking that USCIS cease its illegal denial of 'due process' rights to foreign nationals as well as federal crimes such as falsification of government records.

In the event that this email is first screened by a person other the Honorable Jaddou, I ask that this matter promptly be called to her attention as it contains a report of federal crimes within USCIS (her purview). Further, if this report is not forwarded to her for her review, it could be construed as another federal crime of Obstruction of Justice (which is clearly within the purview of the Department of Justice (DoJ), also copied on this email).

As this email contains a notice of a plausible federal crime, I ask the Honorable Jaddou acknowledge receipt of this email within seven days (preferably via email to [carrbp@gmail.com](mailto:carrbp@gmail.com)) as well as provide an initial response within thirty days as to intended actions.

As I have added a new cc recipient (DoJ), I have attached the previous attachments for their convenience.

### Federal Crimes, Falsification of Government Records

In response to the notice that USCIS was scheduling new interviews for my wife (email from USCIS dated 1 Sep 2023 shown below in blue) rather than scheduling the Oath of Allegiance as required in the official formal approval of her two outstanding matters (see attached files and email from myself dated 25 Aug 2023 shown at the end of this email), I called USCIS to correct the matter.

On 5 Sep 2023 I called 800-375-5283 and spoke with Destiny, ID G010590, and asked that she send an email to the appropriate party to promptly schedule my wife's Oath of Allegiance as stated in the cited approval notice and, in the alternative, if an N-400 was not actually approved, that my wife be sent a new 10 year Permanent Resident Card.

Destiny, ID G010590, explained that it is not uncommon for additional interviews to be required even after the I-751 and N-400 are approved and that I could not be sent the approved Permanent Resident card (this is my recollection of what she said, though in future FOIA requests we should be able to determine the precise wording of her statement from the audio recordings). Implicitly her statement indicates that such formal approvals are not really approvals but instead delaying tactics used by USCIS to create confusion and delays.

At that time I asked that Destiny, ID G010590, take notes for details to include in the email she would send on my behalf.

I cited 18 U.S. Code Section 1001 which is one of many criminal codes for falsification of government records and states in part:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact; ... or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years

(3) prohibits taking any action based on a false document with the implicit exceptions that actions may be taken to: correct the false document or, if the individual is not authorized to correct the false document, to report the false document to their supervisor and / or the relevant OIG explaining that it there is an existing false document and a possible federal crime when the document was created.

Whoever entered the final approval apparently knew that neither request was actually approved and entered the false approval with the intent of serious deprivation of due process rights (unwarranted delays and confusion) as well as criminal falsification of government records under 18 U.S. Code Section 1001. I ask that the Honorable Jaddou also refer this report of federal crimes to the Department of Homeland Security (DHS) OIG (Office of the Inspector General) as well as the DoJ if she feels that is appropriate. I will shortly be filing an additional complaint with the DHS OIG as well and will copy the recipients of this email as well.

I am asking that the outstanding I-751 and N-400 requests be immediately fulfilled and my wife promptly receive her 10 year Permanent Resident Card as well as her Certificate of Naturalization. Further I request that all similar applicants with falsified approvals (approval with no Oath of Allegiance scheduled from the approval) be promptly sent

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their 10 year Permanent Resident Card as well as their Certificate of Naturalization. If there are pending problems with the new citizens, they should be addressed through the courts as is USCIS's option with any citizen who was not properly eligible for citizenship. Further I am asking for credits for future services with USCIS as well as doubled compensatory time for delays in providing the benefits of U.S. citizenship.

**Fraudulent Delays in Removing Remove Conditions on Residence**

Since 2017 the delay in processing I-751 requests to remove conditions on permanent residents has increased dramatically because of administrative rule changes on waivers of interviews and increased requirements on the interview itself. The effect of these changes is that delays in actually issuing Permanent Resident cards (without conditions) have increased to four years and almost no Permanent Resident cards are issued. There are virtually no interviews scheduled for I-751 requests (even though applicants pay \$680 (proposed to be \$1,195) for such an interview) and instead the interviews are only scheduled in conjunction with the N-400 citizenship applications which have a separate \$725 fee (proposed to be \$750).

As there was never any separate biometrics or interview for the I-751, we should receive a credit for future USCIS services for the \$680 we were charged. Further, all I-751 applicants since 1 Jan 2017 (the beginning of the Trump era restrictions on foreign nationals) who did not receive any separate biometrics or interview (not shared with a corresponding N-400 request) should receive a similar credit.

**Corrected A-551 Validity Dates and Restrictions on Replacement for Old A-551**

8 CFR Section 216.4 states ... 'Upon receipt of a properly filed Form I-751, the alien's conditional permanent resident status shall be extended automatically, if necessary, until such time as the director [of USCIS] has adjudicated the petition.'

The extension letter fails in this regard as it places a unwarranted demands on the resident, travel providers, and employers. It is a lengthy document which does not clearly state the revised expiration date. Even CBP officers (at the airport) were not clear whether the 24 (now 48) months started from the receipt date (too early) or date of notice (too late). It must declare the precise date of expiration so that all parties will know the precise duration of the extension.

However, even beyond the confusing date of expiration, the letter itself puts an undue burden on the resident, travel providers and employers. The resident must carry the rather bulky letter as well as the green card and all travel providers and employers have to spend the time to try to understand the confusing terms including the misdirections about applying for stay outside the U.S. for longer than a year and 'lost document' applications.

The A-551 stamp in the passport is even worse as it requires the resident carry their passport and is only issued on request (not automatic). As such stamps are uncommon and simple, they also invite fraud as the stamp can be trivially duplicated. Further the expiration dates directly restrict the residents ability to travel freely. Permanent residents can leave the United States for up to a year and return without hindrance. However, the A-551 is only valid for 12 months and can not be extended until 60 days before expiration. As such A-551 residents can only leave the United States for 60 days on the 61st day before expiration, a significant restriction on the residents ability to travel freely. As such the expiration date on the A-551 stamp must be a minimum of 13 months with the ability to get a new stamp whenever there is less than a full 13 months remaining. Realistically it would be better to have a 24 or 48 month expiration date with the ability to request a new stamp whenever there is less than 13 months remaining.

I request that a new 48 month extension letter be sent to my wife immediately. Further, as she has received proper notice of approval of her I-751 application, she must be sent a 10 year permanent resident card ('green card') to allow her to work and travel freely as required by law as soon as possible. There is no legislation which prevents permanent residents from having a 'green card' even after they are citizens and it is, in fact, and expensive, arduous, and lengthy process to get a passport for new citizens.

**Additional Relief Sought**

In addition to the comparatively minor relief of credits for future services with USCIS sought with the original IG complaints, I am seeking additional credits for the deprivation of the rights of citizenship to include the rights for close family members to seek immigration authorizations as well as the right to vote and such. As it is not possible retroactively grant my wife the right to vote and others rights of being a U.S. citizen (such as the right to visit Europe without a European visa) the family members should be credited with twice the delay in her citizenship, i.e. their position in the queue for immigration visas should be adjusted as if their application was received earlier. The doubling of their credit in queue position corrects not only the delay in their application but also they get their citizenship rights (e.g. voting) earlier in compensation for the deprivation of my wife's citizenship rights (e.g. voting).



Conclusion

I ask that my wife be granted the rights of U.S. citizenship as soon as practicable as well as twice the current delay credited for the immigration applications of close relatives. Further, this specific correction should be applied to other N-400 applicants whose citizenship has been similarly delayed.

As there appear to be a significant number of N-400 applications which have been similarly delayed in approval by the false approvals, all such applicants should be similarly credited with twice the delay time for their relatives as well. If these queue disruptions have a significant impact to current queue members, USCIS should apply to Congress for relief of additional slots in each category of delayed immigrants.

The criminal falsification of government records through formal approval notices which are not treated as proper approvals must be investigated and stopped. The collection of fees for services which are never provided (interviews and biometrics) must also be investigated and stopped. Credits for future services must be provided for those who were fraudulently charged for the services which were not provided. In addition the individuals who were deprived of the rights of citizenship through illegal delays and interviews after their formal approval must be credited with twice the period of delay for any relatives who later apply (or applied) for immigration.

Your prompt attention to this matter is appreciated along with acknowledgment of receipt of this email (7 days) and status of the various requests (30 days).

Brian P. Carr

On Fri, Sep 1, 2023 at 10:33 AM USCIS <[USCIS-CaseStatus@dhs.gov](mailto:USCIS-CaseStatus@dhs.gov)> wrote:  
U.S. Department of Homeland Security  
USCIS  
6500 Campus Circle Drive East  
Irving, TX 75063

U.S. Citizenship and Immigration Services  
Friday, September 1, 2023

Emailed to [carrbp@gmail.com](mailto:carrbp@gmail.com)

Dear Rueangrong Carr:

On 08/29/2023, you or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

...

Case type:  
-- N400

Filing date:  
-- 07/11/2022

Receipt #:  
-- IOE-97-528-55294

Referral ID:  
T1E2412301031DAL

...

Type of service requested:  
-- Outside Normal Processing Times

The status of this service request is:

Thank you for contacting USCIS concerning the above-referenced application. Below is a summary of what we have found.

Case 3:23-cv-02875-S-BT Document 30-8 Filed 05/08/24 Page 20 of 21 PageID 850

We have placed your application back in queue for a second interview to be scheduled at a USCIS field office. Once an appointment is available, your interview will be rescheduled, and an appointment notice will be mailed to your current address of record on file with USCIS. If you have not received a new interview notice in 60-days, please feel free to submit a new request to the USCIS contact center.

We hope this information is helpful to you.

...

On 8/25/2023 3:23 PM, Brian Carr wrote:

Dear Ombudsman, Honorable Jaddou,

On 6 Dec 2022 I asked for assistance with my wife's I-751, Petition to Remove Conditions on Residence, from the Honorable Jaddou and, in the same time frame, from the USCIS Ombudsman.

On 29 Jan 2023 my wife and I had a combined interview for the I-751 and N-400 (petition for citizenship). In early February we received the results which are attached as I797forMSC2091582908-ioe9752855294.pdf. For your convenience, the text of the response is:

We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the *Oath of Allegiance*, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship. If you have questions regarding this process, please contact the USCIS contact center at 800-375-5283.

However, when I check the status of our petitions it appears that we are still pending our dual interview or awaiting a decision from the interview (see attached file USCISstatusRC20230825.pdf). When we call the 800 number above we are unable to schedule the Oath of Allegiance or get a Permanent Resident Card even though we are well past the 5 month expected delay to schedule the Oath of Allegiance (most petitioners are able to complete that step in a few days).

Can you please schedule the Oath of Allegiance as my wife is being denied many rights of citizenship by these unreasonable delays? I am copying Ms. Ward on the staff of my U.S. representative, Congressman Veasey, as she may also be asked to expedite the scheduling of the Oath of Allegiance.

Thanks for your prompt attention to this matter.

Brian P Carr



Virus-free. [www.avast.com](https://www.avast.com)

On Mon, Jan 23, 2023 at 7:40 AM cisombudsman <[cisombudsman@hq.dhs.gov](mailto:cisombudsman@hq.dhs.gov)> wrote:

Dear Rueangrong Carr,

The CIS Ombudsman's Office has determined that U.S. Citizenship and Immigration Services (USCIS) has reviewed your case and scheduled you for an interview.

You should receive your interview notice by mail at the address USCIS has on file. If you do not receive your notice within 15 days, please contact USCIS at 1-800-375-5283 or through one of the customer service options offered by the agency. Please visit [USCIS Tools and Resources](#) | [USCIS](#) to obtain additional information and explore the agency's

Customer Service Tools and Resources.

Because USCIS has acted, our office will be closing this matter.

Thank you for giving the CIS Ombudsman's Office the opportunity to assist you.

Please take our [customer satisfaction survey](#). Your feedback is important to us.

Sincerely,

Office of the Citizenship and Immigration Services Ombudsman  
U.S. Department of Homeland Security  
Washington, D.C.

[www.dhs.gov/cisombudsman](http://www.dhs.gov/cisombudsman)

/dl

*The Office of the Citizenship and Immigration Services Ombudsman is an **independent, impartial, and confidential** resource. We advocate for a **fair and efficient** immigration process.*

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**10 attachments**



**USCISdenyN400-20231013.pdf**  
197K



**I797forMSC2091582908-ioe9752855294.pdf**  
237K



**USCIScancel20230901-20230130.pdf**  
20K



**UscisI797intrvw20231011.pdf**  
696K



**USCISuspsMailArrivals20230915.pdf**  
568K



**USCISnotReschedule20230919.pdf**  
571K



**PostponeInterviewUntilAfter25Dec2023.pdf**  
23K



**USCISfoiRqst.pdf**  
548K



**USCISstatusRC20230825.pdf**  
122K



**USCISnoGreenCard20231027.pdf**  
567K