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

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	Civil No. 3-23CV2875 - S Plaintiff's Reply in Support of Motion for Sanctions (ECF 30)

Reply in Support of Motion For Sanctions

Meritless Pleadings and Other Improper Antics

Have Resulted in Excessive Delays

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I Background

AUSA Padis is undoubtedly overworked with far too many cases to provide adequate attention to each (which is probably the case for virtually every AUSA and the court and virtually all federal judges). In light of an overwhelming workload, the only viable solution is to juggle cases, taking minimal time to push off the current deadline to then work on the next critical deadline, just 'fighting fires' in the common vernacular. There is nothing improper about that per se.

Lying and Tricks to Delay, Callous Disregard to Plight of Mrs. Carr

However, in this matter AUSA Padis took improper shortcuts to delay to include lying to Mr. Carr in a government email in an effort to trick Mr. Carr into granting an extension of almost 60 days.

The trick was unsuccessful but Mr. Carr did inform AUSA Padis that over a year ago USCIS had approved Mrs. Carr's 10 ten green card and citizenship but USCIS has not provided her with the promised Certificate of Naturalization and the rights and privileges of citizenship.[1] USCIS has also left Mrs. Carr in dire circumstances with no documentation of her legal status and an apparent 'undocumented alien' (a.k.a. an 'illegal').[2] She has had realistic fears of being deported at any time by ICE (she doesn't trust U.S. immigration), vigilantes (under Texas SB4), or National Guardsmen (on day one to deport millions of illegals who are poisoning the blood of our nation).

Mr. Carr understood that a week was not a lot of time for an adequate Answer to

1 Mr. Carr sent AUSA Padis a copy of ECF 10-5, the USCIS decision of 30 Jan 2023 which stated: 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.

2 All previous USCIS documents of lawful permanent resident status had expired, see ECF 24-1, 18-6, 20-2.

the serious concerns raised in the Complaint and offered to grant AUSA Padis whatever extension he needed if he could help expedite resolution of Mrs. Carr plight. AUSA Padis replied that he would provide a 'timely response' which Mr. Carr correctly understood as a shoddy Motion to Dismiss (as most AUSAs have an overwhelming case load).

False and Misleading Statements Delay Resolution

AUSA Padis did indeed file a timely response in the form of a Motion to Dismiss, but Mr. Carr was disappointed as it was particularly egregious with clearly misleading summaries of the facts, highlighting minor details but omitting critical facts.

For example AUSA Padis devotes great length to describing USCIS's later unlawful decision on 13 Oct 2023 (ECF 10-10) denying Mrs. Carr's citizenship but at no time has USATXN ever mentioned the prior approval of her citizenship over 8 months before (ECF 10-5). This sort of misleading summaries does not lead to prompt and just resolution of disputed matters (e.g. whether the second USCIS decision was unlawful), but instead just wastes the time of the court and other parties trying to sort out what is important and what is irrelevant.

When AUSA Padis is unable to create suitably misleading summaries to support his malformed challenges, he goes on to add false restatements such as claiming:

- Plaintiffs want their 'money back' when they actually conscientiously ask for credits for future service.
- Plaintiff's seek 'ordering federal law enforcement to investigate alleged crimes' when they actually require OIG's to report crimes to DoJ and DoJ to refer matters as necessary (if not already referred by OIG) and monitor the results to insure

future compliance.

- Plaintiff's 'infer conspiracy and false documents from administrative delays' which on later discussions with USATXN does not apply to anything in the Complaint causing the entire 'frivolous' Argument E to be dropped in the 2nd Motion to Dismiss.

Prompt and just resolution of complex issues requires careful analysis of the facts and law. Such misleading and false summaries only create confusion.

II. Legal Standards

A. FRCP Rule 11

FRCP Rule 11 is one of the authorities for sanctions in this matter as well as the criteria for whether sanctions are applicable. FRCP Rule 11(b) provides the standards under which sanctions can be applied and FRCP Rule 11(c)(3) provides the only meaningful authority, i.e. on the court's own initiative it may issue an Order to Show Cause for why the sanctions should not be ordered.

B. 28 USC § 1927

Under 28 USC § 1927,[3] a court may sanction an attorney personally who multiplies the proceedings in a case unreasonably and vexatiously. It is not strictly applicable in this matter due to relief sought but demonstrates that Congress felt that attorneys can be held personally responsible for their actions. Of course, the court already had the authority to hold individuals responsible for their behavior

C. Local Rules

This court may sanction an attorney under Local Rule 83.8(b)(3) for unethical behavior which is defined as conduct that violates the Texas Disciplinary Rules of Professional Conduct, which includes 4.01 prohibiting a lawyer from knowingly

3 AUSA Owen has a typographical error of citing 28 USC § 1972 in numerous locations throughout her Brief but she quotes the correct statute of 28 USC § 1927 though it is not listed in citations.

making a false statement of material fact or law to a third person.

D. 18 USC § 1001

This is a criminal statute of falsification of government records which can not be directly enforced by this court in this context, but violations are serious concerns (not casual conversations or unverified pleadings). It should also be noted that Mr. Carr was aware the AUSA Padis was a government agent and hence bound to be truthful in these government emails and that Mr. Carr was himself equally bound to be truthful. This was not a casual conversation in a bar.

E. 18 USC § 1621

This is the criminal statute for perjury. It is relevant as each of Mr. Carr's later pleadings after the original complaint have been verified / affirmed under penalty of perjury indicating that Mr. Carr strives to be truthful and accurate in all matters related to this suit.

III. Argument and Authorities

A. AUSA Padis Made False Statements to Mr. Carr

1 AUSA Padis Knew the Difference Between Improper Service and No Service

In an email on 1 Mar 2024 (in ECF 28-1) AUSA Padis stated this 'Office has no record of having been served in this case.' which he knew was not true.

AUSA Owen claims 'the statements of which Plaintiffs complain were true. In reality, Plaintiffs have misunderstood legally significant terms and decided the use of those terms must therefore be false.'

According to Black's Law Dictionary, 2nd Ed, 'service is the term for the delivery

of a summons, writ or subpoena to the opposing party in a law suit.'[4]

On 26 Apr 2024 AUSA Padis later 'restated' that claim with 'I indicated I believed that service was improper and offered to accept service'.

It is apparent AUSA Padis knew that 'service' is the delivery of the complaint and summons to an appropriate person (the opposing party) and so described delivery by a party to the suit as improper service.

Clearly, AUSA Padis believed that there were two kinds of service, proper and improper. This is in contrast to Miedreich v. Lauenstein, 232 U.S. 236 (1914) cited previously where there was no service as the sheriff did not deliver the papers but swore that he had. No service is different from improper service.

Claiming no service is distinctly different from claiming improper service and this was not a simple typographical error.

The actual text which AUSA Padis sent on 1 Mar 2024 (ECF 28-1) stated:

> 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. 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.

4 The Wex dictionary by the Cornell Legal Information Institute states:
Service is the formal delivery of litigation documents to give the opposing litigant notice of the suit against them. The concept requiring proper service before individuals may be brought to court is also often referred to as service of process. In addition to federal statutes and rules, the Fifth Amendment of the Constitution requires procedural due process protections in the form of adequate service.

An alternative in line with AUSA Padis' claim 'I indicated I believed that service was improper and offered to accept service' would be:

> I have been assigned to the above-captioned civil action, but our records indicate that service was improper. See Fed. R. Civ. P. 4(c)(2) ... 'Any person who is at least 18 years old and not a party may serve a summons and complaint.'
>
> 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.

It is clear that AUSA Padis was attempting to deceive Mr. Carr that there were no records of service (i.e. 'no service' and that AUSA Padis did not already have a copy of the complaint and summons) rather than improper service (by a party to the suit).[5]

Further, on 17 Apr 2024 AUSA Padis in an email (see ECF 30-1) claimed 'I indicated I believed that service was improper and offered to accept service' is also a false statement as 'improper service' is different from 'no service'. This is another false statement.

2 False Statements Justify Sanctions

It is clear that AUSA Padis sent the email on 1 Mar 2023 in order to delay (presumably juggling an overwhelming caseload) and hoped to get an almost 60 day extension by delaying the date of service from 9 Jan 2024 to 1 Mar 2024 or later.

5 The restriction of FRCP Rule 4(c)(2) has a long history based on the court requiring 'proof of service' to demonstrate timely and adequate notice for personal jurisdiction under Due Process. It has long been held that a party to the suit or someone under 18 are not reliable enough for adequate **proof** of service.

However, there were side effects of tricking Mr. Carr to send documents which AUSA Padis did not need (sumnmons and complaint) which wasted Mr. Carr's time preparing his response. In that response Mr. Carr notified AUSA Padis of Mrs. Carr's dire circumstances and the critical decision of USCIS in ECF 10-5 which AUSA Padis ignored in all future filings.

While AUSA Padis did not cause apparent delays through this trick, sanctions are warranted for wasting Mr. Carr's time and undermining trust in government records (making falsification of government records the norm rather than the exception). It also indicates AUSA Padis propensity to improper delaying tactics when evaluating the later Motion to Dismiss which did led to substantial delays.

3 Challenges to Service Cause Delays, Almost Never Resolution of Issues

It is important to note that challenges to service almost always lead to delays and almost never lead to the resolution of any issue. In order for a defendant to contest proper service (and the implicit lack of personal jurisdiction through adequate notice) the defendant has to appear in the matter (now trivially easy via ECF) and once they appear adequate notice is presumed (how can they claim they didn't know about a suit which they have appeared in).

In extremely rare cases this delay can be sufficient to block aspects of the suit due to statute of limitations for the relief sought, but this is rare and generally not a just resolution.

I personally was surprised by AUSA Owen's statement:

> a plaintiff must either "deliver a copy of the summons and of the complaint to the United States attorney ... or send a copy... to the civil-process clerk at

> the United States attorney's office." Fed. R. Civ. P. 4(i)(1)(A). ... The attempt to achieve service by mail was ineffective because it was not directed to the correct individual. The summons and complaint were mailed to the United States Attorney for the Northern District of Texas, not to the civil-process clerk as required. (Doc. 10).... Therefore, service was not effectuated by that mailing. See Jackson v. Ray, 4:21-cv-00811-O 2021 WL 4848898, at *3 (N.D. Tex. Sept 23, 2021)

On reviewing Jackson it was apparent that AUSA Stoltz caused significant delays by filing a 'Notice Regarding Lack Of Service Of Process' (ECF JR 11 on 7 Sep 2021) rather than the normal 'Motion to Dismiss' (MTD which was filed as ECF JR 20 on 26 Sep 2021 with a delay of 19 days, a hardly significant advantage for USATXN). I personally question the magistrates' decision to deny the Motion for Default Judgment (MDJ, ECF JR 15) based on improper service. The result was extended litigation finally resolved on 2 Dec 2021 with ECF JR 51 after several motions for sanctions. Very messy indeed.

It is clear that had AUSA Stolz simply filed the MTD to start with, several, if not most, of the numerous later filings could have been avoided. However, once that inflection point had passed, I personally would have recommended that the magistrate promptly deny the MDJ based on default judgments being an anathema to Due Process and that the courts' personal jurisdiction was not yet clear.

The magistrate could then also issue Orders to Show Cause for sanctions against both Jackson and AUSA Stolz. Jackson would have to justify why the proper address was not used for USATXN as improper service unnecessarily burdened the court with demonstrating timely and adequate notice in order for the court to have personal jurisdiction. AUSA Stolz would have to demonstrate how the clerical

error of sending the summons and complaint directly to the US Attorney caused any delay in timely and adequate notice as required by Due Process.

An Order to Show Cause provides sufficient Due Process safeguards to support quasi-criminal sanctions and so imprisonment and disbarment would be possible sanctions, but clearly excessive.[6] However, minor sanctions such as community service and early filings would likely have had the effect of discouraging future inappropriate filings. Optimistically the matter could have been dismissed with a docket of 30 records on 1 Nov 2021 with the added benefit that all parties would be more careful about future filings.

Of course this is all speculative. The point is that USATXN's focus on and claims of improper service show a propensity to delay rather than prompt and just results.

As noted previously, had AUSA Padis been truly interested in prompt and just resolution of the matters at hand, he could have just filed the MTD as a timely response without all the wasted time concerning service. There was clearly timely and adequate notice so why waste the time of all parties. Filing the timely MTD made all questions of notice and personal jurisdiction moot.

The evaluation of the first MTD in this matter should consider this propensity to delay.

B. Defendants' Motion to Dismiss was Without Merit

1. FRCP Rule 11(c)(2) and 28 USC § 1927 sanctions are unavailable.

AUSA Owen correctly notes that FRCP Rule 11(c)(2) does not apply to this matter

6 This is similar to incarcerating 40,000 USPS drivers in its absurdity.

because the required prior notice has not been provided and the relief sought falls outside the scope of FRCP Rule 11(c)(2). However, FRCP Rule 11(c)(3) does support appropriate sanctions on the initiative of the court through an Order to Show Cause.

This is particularly important as the proposed sanctions include community service which infringes on the freedom of AUSA Padis. As such, community service sanctions require quasi-criminal proceedings with Due Process protections for AUSA Padis. Here the Order to Show Cause is essential as AUSA Owen has responded to this Motion rather than AUSA Padis while the sanctions are directed against AUSA Padis. The Order to Show Cause would be directed to AUSA Padis and would provide him with his Due Process right present his case.

As such there was an error in the title of this motion as it actually needs to be a Motion for an Order to Show Cause, Why the Court Should Not Impose the Proposed Sanctions. Of course FRCP Rule 11(c)(3) sanctions are exclusively within judicial discretion (on the court's initiative), but that is generally true of all sanctions (so this could be viewed as a harmless error). If this motion is granted with an Order to Show Cause, AUSA Padis will have an opportunity to argue against the particular sanctions chosen by the court,

The court certainly has the authority to make the requested sanctions as stated in Ex Parte Robinson, 86 U.S. (19 Wall.) 505, 510 (1874):

> The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of

> the United States were called into existence and invested with jurisdiction over any subject, they became possessed of this power.

Of course in Ex Parte Robinson it was accepted as a given that for what has come to be known as quasi criminal sanctions, the sanctioned party must be given the ability to respond, the essence of the Order to Show Cause.

2a. Citations to 'not precedent' Cases Not Appropriate

When a court clearly states that a case is not precedent, citing the case outside the limited domain specified indicates a disregard for the orders of the court as stated in their Local Rule 47.5.4.[7] It is important to note that in Dec 2006 the Fifth Circuit Court altered Local Rule 47.5.4 to remove the persuasive clause (highlighted in Bold) from:

> ...or the like). **An unpublished opinion may, however, be persuasive.** An unpublished opinion...[8]

The explicit removal by Fifth Circuit Court of the sentence makes it clear that that court does not want such cases cited in normal legal arguments even for 'persuasive arguments'. While it is certainly true that a party can cite such cases, it is incumbent on the party to note that the case is 'not precedent' and demonstrate that it is relevant to the matter at hand for reasons other than precedent. No court is bound by a 'not precedent' case.

While AUSA Owen cites a 2021 case in which the Fifth Circuit cited a 2016 not

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7 Fifth Circuit Court Local Rules 47.5.4 states:
Unpublished opinions issued on or after January 1, 1996, are not precedent, except under the doctrine of res judicata, collateral estoppel or law of the case (or similarly to show double jeopardy, notice, sanctionable conduct, entitlement to attorney's fees, or the like). An unpublished opinion may be cited pursuant to FED. R. APP. P. 32.1(a)....

8 See ECF 39-1 5thCirIOPchng20061201.pdf which is an email exchange where the Fifth Circuit Court Webmaster documented the removel of the 'persuasive' sentence.

precedent case, relying on an early 2006 decision,[9] that was an apparent error as the entire Fifth Circuit Court had decided after the cited 2006 decision that in the future 'not precedent' cases should not be cited for their persuasive value.

Presumably judges of the Fifth Circuit Court can rely on 'not precedent' cases as they choose (thereby creating new precedence which borrows from portions of the 'not precedent' cases), but that hardly authorizes normal litigants to violate the rules of circuit court concerning relying on 'not precedent' cases in normal legal arguments.

2b Starrett Based Argument E False and Misleading

In Argument E AUSA Padis not only cited Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018) a 'not precedent' case in violation of Fifth Circuit Local Rules, there was no effort to explain why it was of relevance to the court. This was clearly misleading.

Further, Starrett is an allegation based decision with excerpted allegations in the decision of:

> defendants conspired to use him for mind experiments, targeted him with "Remote Neural Monitoring," harassed him using "Voice to Skull" technology, and otherwise remotely monitored and controlled his thoughts, movements, sleep, and bodily functions.

but AUSA Padis' only references to the complaint allegations was that the Plaintiffs ”**infer conspiracy and false documents from administrative delays**”.

9 Bailey v. Fisher 647 F. App'x 472 (5th Cir. 2016), a 'not precedent' case, was cited in Butler v. Porter 999 F.3d 287 (5th Cir. 2021) which relied on the sentence 'An unpublished opinion may, however, be persuasive.' from Ballard v. Burton 444 F.3d 391 (5th Cir. 2006) from March when 'An unpublished opinion may, however, be persuasive.' was permissible, the Local Rules had not been changed as yet.

While the Starrett allegations certainly seem to support the descriptions of fantastical and delusional, the terms do not seem justified by the eight words presented by AUSA Padis. It is plausible that a rationale plaintiff could infer conspiracy and false documents from administrative delays under extreme circumstances (such as an over 4 year delay in providing a statutory mandated green card) so clearly Starrett does not apply to those specific allegations (even if Starrett was a case with precedence).

The more serious problem with AUSA Padis' Argument E is that there are no allegations in the entire Complaint (with over 250 specific allegations) which 'infer conspiracy and false documents from administrative delays'.

There are extraordinary allegations of falsified government records (a crime) in the form of 1.9 falsified USPS delivery times but this is not inferred from delays, but rather a reference to the 1.9 million improper 'stop the clock' scans where packages were scanned as delivered while still at the Post Office (not delivery address) from the USPS OIG 2017 audit which is included in the record, DR-AR-18-001, ECF 18-7.

It is also inferred that illegal orders are likely the reason USPS IG refused to report such crimes to DoJ (as mandated in the 5a USC IG Act of 1978) but this inference is not of any conspiracy or based on administrative delays, but rather a claim by USPS OIG that they can decide what crimes should not be prosecuted (see ECF 10-1).

After lengthy discussions with AUSA Padis, he admitted that there were no

allegations which mentioned conspiracy and no allegations of false documents from administrative delays. However, even though AUSA Padis knew that the entire one page Argument was based on those eight words (with lengthy references to relief sought which were irrelevant for an allegation based argument) and citing a 'not precedent case' (which has no merit as case law), he did not withdraw the argument as requested.

There is an extensive refutation of this argument in ECF 18, (Plaintiffs' Response opposing the Defendants' Motion to Dismiss ECF 15) pages 41 to 50. It is rather lengthy but it is hard to defend against a vague and non-specific challenge which doesn't actually refer to the Complaint at all.

2c AUSA Owen's Attempt to Restate the False Claim Fails

AUSA Owen attempts to defend the claim of 'infer conspiracy and false documents from administrative delays' by, for the first time, focusing on the USCIS cause of action and then states:

> Plaintiffs allege Mrs. Carr's N-400 interview was delayed and ultimately denied based on "falsified records" leading to her interview being missed. Id. at 3 paragraph 6-8. They go on to allege these events were a result of "'whistleblower' retaliation for [Mr. Carr's] previous reports of federal crime and malfeasance by USCIS." Id. at paragraph 8. Defendants fairly characterized such allegations as inferring conspiracy based on agency delay.

This restatement is false as we never claimed that any N-400 interview was delayed. We actually complained the original N-400 interview was earlier than publicized guidance (ECF 11-1 para 148 and 154). The second N-400 interview was scheduled after the N-400 application was already approved. Our complaint

concerning the later interview was lack of jurisdiction (ECF 11-1 para 210-214) as well as falsified records, but not delay.

It is a factual allegation that we complained to the DHS OIG about possible 'whistleblower' retaliation, but that was secondary to the complaints of falsifying records and denying an N-400 application which had already been approved. There had been prior complaints to DHS OIG about USCIS unlawfully leaving my wife stranded in Thailand (ECF 11-1 para 151-153) and falsifying records (claiming the original interview was canceled and never took place, ECF 11-1 para 190-193) so retaliation was a plausible allegation to DHS OIG, but retaliation is not an issue before this court. There is no aspect of this USCIS complaint which could be described as conspiracy.

The actual allegations cited by AUSA Owen from ECF 11-1 are:

> 6. On 31 Jan 2023 as a result of a joint interview held on 30 Jan 2023 for a permanent green card (I-751) and for citizenship (N-400), the United States Citizenship and Immigration Service (USCIS) approved Mrs. Carr's I-751 application for a permanent green card while not actually providing the green card as her N-400 citizenship application was also approved.
> 7. However, instead promptly providing Mrs. Carr with a Certificate of Naturalization, on 01 Sep 2023, USCIS updated her N-400 record to note that the interview of 30 Jan 2023 was canceled due to unforeseen circumstances.
> 8. Mr. Carr complained to USCIS, the Department of Homeland Security (DHS) OIG and DoJ of falsified records (the interview had been completed and the N-400 had been approved). Even so, USCIS scheduled a 'second' N-400 interview for 11 Oct 2023, a date when USCIS had been informed that Mrs. Carr would be out of the country. Mr. and Mrs. Carr made numerous efforts to reschedule the interview which were refused. USCIS denied Mrs. Carr's N-400 application on 14 Oct 2023 for 'failure to appear'. Mr. Carr has

> since complained to DHS OIG of 'whistleblower' retaliation for his previous reports of federal crimes and other malfeasance by USCIS.[10]

AUSA Owen's claim that the complaints to DHS OIG of possible retaliation are 'conspiracy based on administrative delays' is simply false.

There is nothing in the allegations in this matter which rise to the level of Starrett's allegation that Defendants 'remotely monitored and controlled his thoughts, movements, sleep, and bodily functions.' Even so, Starrett is a not precedent case and is not case law applicable to this court.

It is clear that AUSA Padis's specious and spurious Argument E served no purposes other than to mislead the court with false and misleading claims and to delay the prompt and just resolution of this matter.

2d Aguilera Based Visa Claim of Executive Discretion Fails

In AUSA Padis' Argument D he makes a challenge of failure to state a claim for visa denials but only describes executive discretion citing cases about 'adjustment of status' which has no relevance to any of the claims. Executive discretion is dependent on the specific statutes and none of cases AUSA Padis cited had anything to do with issuing visas, providing 'green cards', or taking the 'Oath of Allegiance' after approval of N-400 citizenship applications (see ECF 10-5 which AUSA has ignored in his pleadings in an effort to mislead the court).

AUSA Padis concludes with:

> "[T]he failure to receive discretionary relief," such as a non-immigrant tourist visa, "amount to a constitutionally protected deprivation of a property

10 The full text of DHS OIG complaint referred to is in ECF 30-1.

> or liberty interest." Aguilera v. Holder, 354 F. App'x 882, 884 (5th Cir. 2009) (per curiam). Plaintiffs' constitutional claim cannot prevail.

Aguilera specifically states that it is not precedent and so AUSA Padis is again ignoring the orders of Fifth Circuit in citing it as precedence in an effort to mislead the court that it has any relevance at all. Further, Aguilera is completely irrelevant as it deals with a deportation tribunal's discretion granting an exceptional hardship exemption in a deportation matter with a specific denial of judicial review.[11] The deportation statute, INA 240A(b)(1), has no bearing on visa issuance. Further, the denial of judical review in Aguilera cited specific restrictions on judicial review of the deportation discretionary findings, but specifically allows consitutional claims to be reviewed by the courts (contrary to AUSA Padis' claim above).

AUSA Padis can quote from any source such as Shakespeare's Hamlet, but to cite a 'no precedent' case which has no more relevance than Hamlet without idenitfying the required 'no precedent' status is to mislead the court through false conclusions as well as create needless delay and hinder prompt and just resolution of the matter at hand.

AUSA Padis went on to cite Kleindienst v. Mandel, 408 U.S. 753, 766 (1972) in introducing the offensive (to us) Doctrine of Consular Non Reviewability (DoCNR) but actually Kleindienst is based on the fact that visa acceptance and denial are mandated by statute, not executive discretionary. This issue is discussed

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11 INA 240A(b)(1) is 8 USC § 1229(b) which gives wide discretion to the tribunal to determine 'exceptional and extremely unusual hardship'. Further, INA 242 is 8 USC §1252(a)(2)(B) which states:
Denials of discretionary relief ... no court shall have jurisdiction to review-- (i) any judgment regarding the granting of relief under section ... 1229b … of this title
but (B) is restricted by:
(D) ... Nothing in subparagraph (B) ... which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or questions of law

in depth in our Response ECF 18 pages 12 to 13.

AUSA Padis was again using a 'not precedent' case and false and misleading statements to mislead the court and delay the proceedings.

3. Padis AUSA Made Numerous False and Misleading Statements

In AUSA Padis' Background / Summary he wasted space and court's attention by citing irrelevant minor details while carefully omitting the critical elements of the three main causes of action.

Specifically he concealed the 'guaranteed delivery' nature of the label I purchased and exaggerated the delay ('a day late' which is obviously false according to the complaint) while claiming I was seeking 'money back' (which has serious legal challenges of Sovereign Immunity) while I was instead seeking a credit for future services which is supported by the APA. Two false statements in addition to the distortions of omitting important facts to create the illusion that the USPS claim was not valid.

For DoS visa denials AUSA Padis omits the fees for the visa applications and the important needs for the visas. He omits the defects in the visa denials. He also completely omits the most important visa applications of my wife to visit my mom before her death and later when she was stranded in Thailand by USCIS. My wife's visa denial is particularly important as she is a citizen's spouse and, hence, exempted from the DoCNR according to recent decisions.[12] Again omitting critical details while including irrelevant details is indicative of intentional misleading the court to avoid prompt and just resolution of the issues.

12 See which is discussed in detail in our Response ECF 18 pages 13 to 23.Sandra Munoz v. State Department (9th Cir. 2022, 21-55365)

For USCIS, AUSA Padis completely omits the over four years where USCIS unlawfully did not provide my wife with her ten year 'green card', leaving her stranded in Thailand and finally an apparent 'undocumented alien' (a.k.a. an illegal to be deported on day one as they are poisoning the blood of our nation). He also omits the critical decision on 31 Jan 2023 (ECF 10-5, over one year ago) where USCIS approved her ten year green card and citizenship. He talks about all the unlawful actions of USCIS after that approval but never mentions the prior decision which undermines any later actions.

This is most egregious reframing of the actual situation with the clear intention of deceiving the court into leaving my wife as an apparent undocumented alien without the privileges of citizenship contrary to the decision in ECF 10-5. This callous disregard for the fundamental rights of plaintiffs in general should be considered when evaluating the appropriateness of creative sanctions.

I have included a separate affirmation which describes the misleading 'Background' provided by AUSA Padis in full detail in PadisMisleadingSummary.pdf (ECF 39-2).

Conclusion

While is no doubt that AUSA Padis has an overwhelming case load (in common with most other AUSA's and most courts) and must juggle cases, this does not justify false statements to third parties in government emails or false and misleading pleadings both of which waste the time of other parties and cause needless delays in the just and proper resolution of issues.

It is also true that costs are not really applicable in this matter and imprisonment and disbarment are wildly excessive for such common and minor transgressions. As such the court is asked to consider creative sanctions such as community service and early filings.

Of course as community service infringes on AUSA Padis' free time, the court is asked to issue an 'Order to Show Cause' for why the requested sanctions should not be ordered for AUSA Padis.

Respectfully submitted,

Verification of Reply

The Plaintiff hereby affirms under penalty of perjury in both the United States and Thailand that as an individual:

1. I have reviewed the above motion and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered to remove sensitive personal information or other redactable information (as cited in the redaction) according to normal redaction procedures.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

/s *Brian P. Carr*
Brian P. Carr
1201 Brady Dr
Irving, TX 75061
Date: 7. Jun. 2024
Location: Irving, Texas

CERTIFICATE OF SERVICE

On the recorded date of submission, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter were enrolled in the court's electronic case filing (and service) system.

/s *Brian P. Carr*
Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Case, Statute, and Other Index