

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

Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs 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 Motion for Leave to File Notice of Supplemental Authority (included with this document) UNOPPOSED
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**Motion for Leave to File
Notice of Supplemental Authority**

USCIS Agrees to Provide Due Process and Timely EAD

Plaintiffs respectfully request the Court's permission under Local Civil Rule 56.7 to file the attached Notice of Supplemental Authority. After Plaintiffs filed their Response (ECF 45, 07 Jul 2024) in opposition to Defendants Motion of Supplemental Authority (ECF 44, 01 Jul 2024), USCIS and DoJ agreed that USCIS is not above the law and must follow clear and specific statutes (Title 8, INA chapters) as well as relevant CFR requirements for due process and timely: Employment Authorization Documents (EAD cards) in the cited agreement as well as (it is argued) Oath of Allegiance and Certificates of Naturalization, Green Cards, etc.

Timely Oath of Allegiance Previously Requested is Warranted

If the court orders USCIS to administer the Oath of Allegiance by October 7, 2024 to my wife, Mrs. Carr, then my wife will be able to vote in the November election.

The court has before it Plaintiffs' Motion to Reconsider, ECF 32, filed 14 May 2024, which includes Plaintiffs' Motion for Partial Summary Judgment, ECF 18, filed 28 Mar 2024 where it is requested that the court order USCIS to promptly administer the Oath of Allegiance and provide Mrs. Carr with her Certificate of Naturalization.

The USCIS decision of 31 Jan 2023 (over 18 months ago) is in the record as ECF 10-5 and states:

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.

Quoting from the pending Motion to Reconsider (ECF 32):

Even though USCIS informed Mrs. Carr on 31 Jan 2023 (over a year ago) that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5) and she only needed to take the Oath of Allegiance to become a citizen, the reality is that at this time she has not been permitted to take the Oath of Allegiance to become a citizen and is an apparent 'undocumented alien' (a.k.a. 'illegal').

For the last few years I have been a Dallas County Volunteer Deputy Registrar (VDR) working with the League of Women of Voters and other organizations to

register new voters in local High Schools and Colleges and other venues. This year there has been a phenomenal excitement and determination among newly eligible potential voters, especially among young women of color, a group which has traditionally been poorly represented in actual voters. This year will almost certainly be historic in the participation of young people, women, and people of color.

As one of the presidential candidates has vowed to suspend the constitution and become a dictator on day one deporting millions of 'illegals', it is not surprising that there would be great engagement of the voters. There is no evidence that there are actually millions of 'illegals' to deport (most of the recent immigrants of greatest concern are actually Asylum Applicants whose legal rights to work are guaranteed in the cited settlement agreement) so the suspension of the constitution is essential to be able to deport millions of immigrants who at this time are living and working here legally with constitutional rights. Of course this suspension of the constitution also puts permanent residents and naturalized citizens at risk of deportation

As my wife has been left by USCIS as an apparent illegal, she especially wants to vote in this historic election to, among other things, prevent unconstitutional deportation of huge numbers of Asians and Hispanics (the apparent target groups for deportation).

The court is asked to consider an Order concerning only citizenship for my wife so that she can vote in the upcoming election.

Notice of Supplemental Authority

In the web page '[USCIS Class Action, Settlement Notices and Agreements](#)' it states:

[Class Notice in Garcia Perez v. USCIS](#) (PDF, 179.27 KB)

August 05, 2024

This Class Notice intends to inform you that on July 30, 2024, the United States District Court for the Western District of Washington, granted preliminary approval of the parties' proposed settlement in Garcia Perez v. U.S. Citizenship and Immigration Services, No. 2:22-cv-00806-JHC (W.D. Wash.). Garcia-Perez is a class action lawsuit involving the federal government's practices with respect to Employment Authorization Documents ("EADs") for applicants for asylum or withholding of removal. Under the terms of the proposed settlement, class members are entitled to new procedures relating to the crediting of time toward eligibility for employment authorization. You may access the Class Notice in the English and Spanish language above. A copy of the proposed Settlement Agreement is also linked. You are hereby notified that a hearing ("Fairness Hearing") has been scheduled for September 26, 2024, at 9:00 am Pacific Time before the Honorable John H. Chun of the United States District Court for the Western District of Washington, in Seattle, Washington for consideration of a proposed settlement of the claims that have been brought on your behalf in this lawsuit.

The proposed [Settlement Agreement](#) from the USCIS link and as described above is submitted as ECF 48-1.

Statutory and Federal Rules Basis of Agreement

In Defendant's Motion to Dismiss (ECF 31) there are vague assertions of 'Sovereign Immunity' and executive discretion which do not address any of the actual counts in the Complaint (ECF 29) citing cases in deportation hearings where

INA section 240A(b)(1), [8 USC section 1229b\(b\)\(1\)](#) gives the tribunal broad discretion concerning granting an exceptional hardship exemption (with the exceptional hardship being undefined and under tribunal discretion).

However, in the settlement agreement the statute of '[8 USC 1158](#): Asylum' states:

(d) Asylum procedure

(1) Applications ...

(2) Employment

An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum. ...

The relevant federal rules are in '[8 CFR 274a.12](#) Classes of aliens authorized to accept employment.' which states:

...

(c) Aliens who must apply for employment authorization. ...

(8) An alien who has filed a complete application for asylum or withholding of deportation or removal pursuant to 8 CFR part 208, whose application:

(i) Has not been decided, and who is eligible to apply for employment authorization under section 208.7 of this chapter because the 150-day period set forth in that section has expired. Employment authorization may be granted according to the provisions of section [208.7](#) of this chapter in increments to be determined by the Commissioner and shall expire on a specified date; or

(ii) Has been recommended for approval, but who has not yet received a grant of asylum or withholding or deportation or removal;

and '[8 CFR 208.7](#) Employment authorization.' which states:

... the application shall be submitted no earlier than 150 days after the date on which a complete asylum application submitted in accordance with subsection

208.3 and 208.4 has been received. ... the Service shall have 30 days from the date of filing of the request employment authorization to grant or deny that application...

The settlement agreement makes it clear that USCIS must provide an applicant an EAD card within 180 days according to the statutes and rules and any delays must be under the auspices of due process (proper notice of when the 'clock' is stopped and started).

Statutory and Federal Rules For Oath of Allegiance

The timeliness of the Oath of Allegiance is much simpler with INA 337 which is [8 USC 1448](#) which states:

(d) Rules and regulations

The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.

The relevant CFR is even more clear with:

[8 CFR 337.2](#) Oath administered by USCIS ...

(a) Public ceremony. An applicant for naturalization ... must appear in person in a public ceremony.... Naturalization ceremonies will be conducted at regular intervals as frequently as necessary to ensure timely naturalization, but in all events at least once monthly where it is required to minimize unreasonable delays.

Clearly the delay of over 18 months after the N-400 application approval on 31 Jan 2023 is excessive and the court is asked to order USCIS to promptly complete the Oath of Allegiance for my wife by 7 Oct 2024.

Respectfully submitted,

Verification of Motion

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: 19. Sep. 2024

Location: Irving, Texas

Certificate of Conference

The foregoing Motion is UNOPPOSED

In accordance with [Local Civil Rule LR 7.1](#), I conferred with AUSA Owens via email concerning this motion and on 19 Sep 2024 she responded that this motion is UNOPPOSED.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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