

**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

Affirmation Challenging  
Sovereign Immunity  
and  
Executive Discretionary Function

**Unfounded Claim of Sovereign Immunity**

The U.S. Attorney for the Northern District of Texas (hereafter USATXN) mischaracterizes the basis for the complaint to 'seek money back' in order to support an improper claim of 'sovereign immunity' which is unfounded and malformed.

Within the United States and original forming colonies, 'sovereign immunity' referred to the historic immunity of the king / sovereign from any form of litigation. Needless to say, it has always been controversial and the courts have not been consistent in their occasional support for the disputed immunity.

The contested cases in which 'sovereign immunity' was upheld have uniformly been attempts to extend civil tort and contract law to apply to the U.S. government. These expansions were contested through 'sovereign immunity'.

The unsuccessful attempted extensions of civil tort law always used the guise of suing the agent of the United States for tort or contract violations and then sought to hold the U.S. accountable for the actions of the agents. The classical example would be the demand for monetary relief for the negligence of the federal agent and asking the court to order the disbursement of treasury funds for that purpose.

This is in direct contrast to the legitimate (and consistently upheld) demands that the agents of the U.S. must abide by the constitution (and the civil rights included therein) and lawful statutes. It would be absurd to claim that U.S. agents can commit any crime and violate any civil rights and then deny the courts the opportunity to intervene under the doctrine of 'sovereign immunity'. This right to hold U.S. agents accountable was made clear very early in [Marbury v. Madison \(1803\)](#) which stated:

mandamus could issue against a high federal executive officer, reasoning that the importance of the office was no barrier to relief where the head of a department "commits any illegal act, under colour of his office, by which an individual sustains an injury"; ...

The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury ....

Certainly, 'sovereign immunity' does not permit any agent of the U.S. to order Seal Team Six to assassinate a U.S. political opponent, an unruly judge, a contentious U.S. attorney, or pestering plaintiffs without being subject to judicial review. Indeed, Mr. Carr trusts that any military service officer (MSO) would recognize the direct order to assassinate is an illegal order and would not permit the assassination. Of course, any military officer who refuses to obey an illegal order

must be able to rely on a strong judiciary to protect the officer from the consequences of refusing a direct order (in spite of: the strong bias to the commander within UCMJ, 'sovereign immunity' and executive discretion).

The critical difference is that legitimate court review asks the court to order an agency (through its head) to perform acts already authorized through lawful statutes or the U.S. constitution. In contrast, the prototypical demand 'seeking money' where 'sovereign immunity' is usually upheld, asks the court to order an agency to perform acts based solely on the court's discretion bypassing any legislative approval, in particular, Congressional budgeting of 'money'.

It is important to note that in this case the Plaintiffs have not asked for any direct payments but instead are seeking credits for future services. This may seem like a superficial ruse to avoid the classical 'sovereign immunity' exclusion, but in fact it is a conscientious effort to seek only congressionally authorized relief.

The three applicable agencies, USPS, DoS, and USCIS provide services and are each substantially funded by fees for services. If the court finds that the different agencies have not provided the services in a lawfully prescribed manner, then it is quite reasonable for the court to order the agency to provide the paid for services or equivalent services without further fees.

#### Sovereign Immunity Precluded By [5 USC § 702](#)

Further, the Defendants' claim of 'Sovereign Immunity' is specifically precluded under [5 USC § 702](#) which states:

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: Provided, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance.

The Plaintiffs have conscientiously specified the federal officer by title who is the head of the specific agency in every case outside of USATXN who is only tasked to represent the United States.

#### Federal Crimes and Constitution not Discretionary

The USATXN also attempts to apply the discretionary function exception to the to cover the actions of the Defendants.

Agencies have numerous conflicting and ambiguous statutes that they must follow and obey as best they are able, but this requires good judgment and discretion. As a result, the courts are naturally hesitant to interfere in the detailed management of

agencies. The courts do not want to and are not able to micro manage the executive agencies.

For example, there might be a statute which requires an agency to file quarterly reports to congress and the public at large. However, if a reduced budget does not support full detailed reports on inspections quarterly, the agency might reasonably decide to provide full detailed accurate reports on an annual basis rather than eliminating or severely curtailing inspections. Such decisions about how to most effectively manage the resources available to the agency should be left to the management of the agency and the courts have consistently so held.

Of course this executive discretion is not unbounded. The constitution and clearly stated statutes take precedence over ambiguous statutes. All federal agents must obey the constitution and the clearly stated intention of Congress. Federal crimes are often mentioned in these pleadings, but that is because any action which Congress has lawfully deemed to be a crime are strictly prohibited.

Beyond the primary agencies of USPS, DoS, USCIS, and SSA all the other defendant agencies have supervisory / enforcement responsibilities for the primary agencies. In that regard, the supervisory / enforcement agencies should be permitted executive discretion but they can never permit any monitored agency to ignore the constitution or commit federal crimes. This court is asked to order the supervisory agencies to fulfill their non discretionary obligations to correct breeches of constitutional requirements and criminal acts by the monitored agencies.

The Plaintiffs hope that the courts will conclude that federal crimes and violations of Fifth Amendment rights to due process are never protected by 'discretionary function exception'. The 'discretionary function exception' should never be a shield for any form of unlawful behavior from falsified government records to assassinations.

### **Conclusion**

The claims against USPS, USPS OIG, and USPS BoG are well founded and the court is asked to direct DoJ, USPS OIG, USPS, and USPS BoG to coordinate the corrections to these widespread and long term problems. I should also be given a credit for future services as requested though, admittedly, I am actually more interested in good governance than in the \$26.35.

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

1. I have reviewed the above affirmation 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

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Brian P. Carr  
1201 Brady Dr

Irving, TX 75061

Date: 5. Apr. 2025

Location: Irving, Texas