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

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| Brian P. Carr,<br>Rueangrong Carr, and<br>Buakhao Von Kramer<br>Plaintiffs<br>versus<br><br>United States,<br>US Department of Justice,<br>USPS, USPS OIG, USPS BoG,<br>US CIGIE, Department of State,<br>Department of State OIG,<br>USCIS, DHS OIG, and SSA<br>Defendants | Civil No. 3-23CV2875 - S<br><br>Verified[1] Brief of Mr. Carr<br>Due Process Facets to Include<br>Pro Se Representation |

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## Due Process Facets to Include Pro Se Representation

### Introduction

This court relied on an incomplete quote from Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011) to reach the opposite conclusion of that court which did not add the wife to that matter because she did not consent. This court claimed that I can not represent my wife (even with her consent) and thereby

1 The Verification of this document is at the end of this document.

removed consenting and active plaintiffs contrary to established court precedents and the law.

In reality 'pro se' or representing one's self is one of many facets of the constitutionally guaranteed right to due process, but pro se is not explicitly mentioned in the constitution.

Due process is a complex and multi-faceted right. The framers of the constitution had a clear understanding of what due process meant and guaranteed it in the Fifth Amendment without elaborating on the various elements which it guaranteed such as the ability to represent one's self.

This court indirectly cited Iannaccone v. Law, 142 F.3d 553, 558 (2nd Cir. 1998) while trying to support its erroneous conclusions. Iannaccone is actually an important precedent for understanding the history and different facets of both pro se representation as well as the underlying due process.

While Iannaccone greatly clarifies pro se as an absolute and inalienable right to represent one self, it does not properly justify any restrictions on a person seeking representation from another non attorney party (being represented with consent).

There will be separate elaborations in other briefs about the right of individuals to seek representation by immediate family members (e.g. husband representing his wife with consent and an unmarried widow seeking assistance from the oldest male family member, i.e. her father or eldest brother if her father has passed).

A review of the history of due process in Iannaccone will demonstrate that the fundamental element of due process is that the government can not penalize any person for failing to do that which was impossible (or the reverse of permitting the inevitable to happen). Notice, representation (pro se and with assistance), and a fair hearing all serve that purpose.

**This Court Erred, Contradicted Monroe's Actual Text**

It is odd that this Court in the Findings of the court (ECF 61) would cite Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011) with:

> "Because Plaintiff is not an attorney, he cannot represent his wife's interests in this action").

from an unpublished and relatively obscure decision by an unrelated court.

First, the facts and circumstances in Monroe do not support this court's decision but rather refute the conclusions of the court.

Specifically, in Monroe both spouses were in prison at the time and separated in accordance with prison policy. Indeed, Monroe was seeking the ability to correspond with (send and receive letters) his wife. It appears that his wife never attempted to join the matter as:

> She had the chance to file to join this action, (D.E. 6, 11, 15), but has never availed herself of this opportunity

The conclusion from Monroe is not that a husband can not represent his wife under any circumstances, but rather that a husband can only represent his wife with her consent.

It is important to note that the original Complaint (ECF 3) was submitted to the clerk with proper original signatures for all Plaintiffs. The Amended Complaint was first submitted as ECF 18-1 as a proposed Amended Complaint on 28 Mar 2024 submitted with ECF 18 which included a Motion for Leave to Amend the Complaint to correct typographical and clerical errors as well as to conform to the evidence. It was submitted by myself with my signature block and had the signature blocks for my wife and Buakhao, the other two plaintiffs along with my verification of their signatures. Rather than declining to join the suit (as in Monroe), they had consistently actively participated in this action.

**Quote is Just a Paraphrase of Martin which Quoted Iannaccone**

Monroe justifies the conclusion that a husband can not represent his wife without her consent by citing:

"[B]ecause pro se means to appear for one's self, a person may not appear on another person's behalf in the other's cause." Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006) (per curiam)(unpublished)

Martin is a relatively obscure decision which is not widely available in public databases. However, it can be retrieved from ECF as case 05-31006 Doc 41-2 (07/19/2006).

Just as it is likely that this court never actually read the decision in Monroe, it is likely that the Monroe court never actually read Martin. The Monroe court erred in its citation because Martin explicitly also contains the standard Fifth Circuit 'not precedent' clause with:

> Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited

circumstances set forth in 5TH CIR. R. 47.5.4.[2]

As such that particular citation has no more precedent value than Shakespeare's Hamlet. While federal law guarantees the right of parties to quote from 'not precedent' cases (just as they can quote from Shakespeare's Hamlet)[3] it is misleading and a violation of FRCP Rule 11(b) and Fifth Circuit Court orders if it is not made clear that the case cited is not precedent.[4]

Fortunately, in Martin the court noted that that particular quote is taken verbatim from Iannaccone v. Law, 142 F.3d 553, 558 (2nd Cir. 1998) which is precedent. Monroe's actual conclusion that a husband can represent his wife with her consent is based on well established precedent in Iannaccone.

**Iannaccone Provides Excellent History to Pro Se and Due Process**

The roots of Pro Se individuals representing themselves run very deep and place requirements on the courts, the legislature and government as a whole from dismissing legitimate pro se claims based on inadvertent errors and violations of obscure and confusing procedures. The foundation of due process as understood by the American colonists was an agreement signed the British King in the thirteenth century, i.e. the Magna Carta.

Iannaccone v. Law, 142 F.3d 553, 558 (2nd Cir. 1998) indirectly cited by this court

2 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)....

3 FRAP Rule 32.1 Citing Judicial Dispositions states:
(a) Citation Permitted. A court may not prohibit or restrict the citation of federal judicial opinions, orders, judgments, or other written dispositions that have been:
(i) designated as "unpublished," "not for publication," "non-precedential," "not precedent," or the like; and
(ii) issued on or after January 1, 2007.

4 The quoted text of '(per curiam)(not published)' should have been replaced with '(not precedent)' to make it clear that the quote has no more relevance than text from Shakespeare's Hamlet.

in reference to pro se representation states:

> First, history. Under the English common law with its complicated forms of action and veritable maze of writs and confusing procedures, the right to retain counsel in civil proceedings became a necessity. By the middle of the thirteenth century, lawyers so monopolized the courts in London that the King was forced to decree that, except for a few special causes, litigants were entitled to plead their own cases without lawyers. See Note, The Right to Counsel in Civil Litigation, 66 Colum. L.Rev. 1322, 1325 (1966).
>
> Second, mistrust of lawyers made appearance in court without benefit of counsel the preferred course. See A.L. Downey, Note, Fools and Their Ethics: The Professional Responsibility of Pro Se Attorneys, 34 B.C. L.Rev. 529, 533 (1993). Lawyers had no position of honor or place in society in early colonial days. The pioneers who cleared the wilderness looked down upon them. For example, the Massachusetts Body of Liberties of 1641 expressly permitted every litigant to plead his own cause and provided, if forced to employ counsel, the litigant would pay counsel no fee for his services. See Charles A. & Mary R. Beard, The Rise of American Civilization 100-01 (College ed.1930).
>
> Third, informality. In early colonial days, the rule of informality was a necessity in court proceedings since most presiding judges were not lawyers. See The Right to Counsel in Civil Litigation, supra, at 1328. By the time of the Revolution, legal proceedings had become more technical and reliance on precedent had evolved, both of which required people trained in legal interpretation. As the decades of the 18th century passed, legal questions became more complex and the need for skilled attorneys was recognized. Enough individuals had gone into law so that by the time the First Continental Congress commenced, 24 of the 45 delegates were lawyers, and in the Constitutional Convention, 33 of the 55 members were lawyers. See Beard, supra, at 101. Nonetheless, the number of lawyers although growing was still few, many judges were still laymen, and the legal process still remained sufficiently simple to permit persons whether rich or poor to plead their own causes. See The Right to Counsel in Civil Litigation, supra, at

1329.

The result of those concessions by British kings is that judges implicitly must assist pro se litigants who do not have the legal knowledge to properly present their claim. Judges must help them establish their legal claims within the limits of the law.

Certainly the court can not misconstrue and incorrectly apply rules and the law in order to deny valid claims of pro se litigants. This court's misapplication of LR 7.2 and its obscure tenets is grossly improper and warrants recusal.

**Due Process Restricts the Government's Ability Deprive Any Person**

While Iannaccone focuses on pro se / self representation facet of due process, the pre-colonial history of British law is more broadly applicable to due process and all its various facets.

The underlying premise of due process is that the government (or the king originally) can not penalize a person for failure to be prescient, omniscient, or omnipotent. It is well established that no person possesses those attributes, but before the Magna Carta the various lords and other nobility (along with their serfs and freemen secondarily) were subject to the capricious whims of the king to whom they had sworn fealty.

The Magna Carta was significant (and revolutionary in many ways) as it provided an alternative to treason and revolution if the king made demands that were unreasonable or even impossible. The only alternative was plotting for a new (and hopefully better) king in the face of impossible demands. Failure to meet the

impossible demands of the king risked the loss of the lands, serfs, and wealth provided through the largess of the king as well as direct punishment to include imprisonment and death. However, plotting to replace the king with a less demanding alternative risked similar loss of the above as well as a certain death sentence for treason if the plot failed.

The constant plotting to overthrow the current king led to countless revolutions and wars and the execution for treason of the nobility and supporting parties for the losing side throughout the various remnants of the Roman empire (e.g. the feudal states in Europe). The introduction of elected representatives and their legislatures as an alternative to resolve disputes was vastly more efficient than the regular warfare and purges. This improved efficiency could be an underlying cause for the phenomenal success of the British Empire over the centuries.

Over the 400 years after the Magna Carta a novel system of taxation with representation was refined and developed, culminating with the Financial Revolution in England from 1689 through 1698 clearly establishing the 'power of the purse' for the democratically elected legislature (the House Commons) having established absolute control of taxation, debt and the disbursement of treasury funds. This was foundation of the thinking of the framers of the constitution.[5]

Pro se self representation, choosing a representative as an extension of self representation, notice, and fair hearings are all natural extensions of the premise

5 Sovereign Immunity or the idea that the king was above the law was contradicted with the Magna Carta which clearly established that the king was not above the law. The Financial Revolution established the primacy of the power of the purse for the elected representative legislature reducing any arguments of Sovereign Immunity as irrelevant. Oddly enough, after the Constitution was adopted some attorneys continued referring to the now obsolete term 'Sovereign Immunity' even though its meaning had been revised to mean legislative or Congressional discretion. Clarity would have been improved had they adopted 'Congressional Discretion' or the 'Power of the Purse' instead of the misleading and antiquated term 'Sovereign Immunity'.

that no person should be penalized for failures to possess prescience, omniscience, or omnipotence.

No branch of government can make or enforce laws which are so complex or arduous that an ordinary person can not comply. The numerous facets of due process are all extensions of that simple premise. In this matter, there are several cases of administrative rules and statutes which, it will be argued, are so complex and heavy handed as to be unconstitutional. They penalize ordinary people without the fair hearing required by due process.

**Congress Can Not Simply Ban Non Attorneys as Representatives**

While the courts and statutes at the time when the Constitution was adopted may have been simple enough that an attorney was not required for justice to prevail, it appears that things have degenerated to the point where the courts can no longer fulfill their obligation of assisting pro se parties sufficiently to find the legal basis (if any exist) for the relief sought by pro se parties. In this specific case, the court misused complex and arcane rules to deny justice even though the legal basis for the relief sought was readily available.

In this matter, if legal assistance attorneys can not be identified to adopt each of the specific counts within this matter after the results of FOIA requests demonstrate the magnitude of each class under consideration, then I should be permitted to represent the class with the assistance and guidance of the court as it will be clear that Congress and the defendants (executive branch) have created rules and statutes too complex to provide due process for ordinary people.

The statutory ban on pro se parties representing other parties (with their consent) is based on 28 USC § 1654 which states:

> In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

The courts' recent interpretations of this statute to mean that only proper attorneys can represent or assist individuals with mutual consent is unconstitutional. Individuals must be permitted to seek assistance from whatever source is available in order to fulfill the due process requirement of representation. Of course as the statute specifies, the courts are given latitude and can require non attorney 'counsel' to be reputable individuals and working without remuneration (to comply with other statutes).

**Summary**

The court selectively quoted from Monroe which stated that a husband can not represent his wife without her consent and omitted the critical 'without her consent' section to reach the opposite conclusion as it is clear that my wife actively joined this matter.

The Monroe court erred in citing Martin as it is 'not precedent' but did include enough of Martin to note that the underlying quote was from Iannaccone which is a well established and widely cited precedent.

Iannaccone has an extensive history of the development of due process from the Magna Carta to the Financial Revolution which was the context of our Constitution. Due process is a simple reflection of the fact that the government can not penalize a person for failing to perform those acts which are impossible.

Notice, pro se representation, representation by a party of the person's choice, and a fair hearing (with all that that entails) are all facets of due process and that simple premise.

Respectfully submitted,

**Verification of Document**

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
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Date: 7. Jun. 2025

Location: Irving, Texas

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