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 Verified[1] Consolidated[2] FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal Certificate of Conference - UNOPPOSED

FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal

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1 The Verification of Motion is listed in the Table Contents toward the end of this document.

2 These consolidated motions are a consolidation of nine motions to reverse the dismissal of each of the original nine counts as well as two motions to add two new counts (and two new defendants). The result is a consolidation of 11 motions.

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Introduction

Reverse Dismissal

The Court is asked to rescind its order dismissing all claims without prejudice (ECF 63) on 21 Mar 2025 and grant the Plaintiffs authorization to amend the Complaint to, among other things, correct all cited defects and add two new counts as well as two new defendants.

Motion to Recuse

There is also a 28 USC § 455 Motion to Recuse for consideration by both judges in this matter. It will be presented after the errors in the final Order (ECF 63 as well as the supporting decisions in ECF 59, ECF 60, ECF 61, and ECF 62) as some of these errors are so egregious as to suggest bias (or incompetenece). I will also cite the time line of some events which create the appearance of collusions with the defendants as well as other errors in this case which create the appearance of bias and / or persoal knowledge.

Identity of the Plaintiffs, Who We Are

I am Brian Carr (or Mr. Carr), a Plaintiff in this matter, and I have coordinated this request with the other two plaintiffs, Rueangrong Carr, my wife or Mrs. Carr, and her sister, Buakhao Von Kramer or Mrs. Von Kramer. For ease of reading I will

use simple pronouns such as 'I' and 'we' though, properly speaking, this request is from all three of us with our signatures (or signature blocks to be precise) at the bottom just below the Verification of Motion where we each affirm under penalty of perjury that everything is true to the best of our knowledge. As these requests are submitted electronically there are no actual signatures. My signature is validated when I submit the document into ECF under my login credentials. There is also a 'Certification of Electronic Signatures' on page 61 for my wife's and her sister's signatures. Their consent to these signatures is confirmed by ECF 65 for my wife and ECF 68 for her sister.

LR 7.2 Page Limitations Relief

There was a previous consolidated FRCP Rule 60 Motions for LR 7.1, LR 7.2, and LR 11.1 Relief (ECF 67) submitted on 7 Apr 2025 which was unopposed but is still pending. This pending motion is particularly relevant as it was timely submitted in accordance with FRAP Rule 4 Notices of Appeal and, as such, also makes this motion timely.

As this is a consolidation of 12 motions, the page limitations of LR 7.2 are not really applicable (this brief will certainly not exceed 300 pages), but the court is asked to permit the referencing of briefs previously submitted as they are highly relevant to the errors in the order we are seeking relief from (ECF 63) as the court ignored several such briefs (so they have to be discussed as to relevancy) as well as new briefs submitted to avoid needless repetition (rather than repeating the same text in each motion it is more clear, concise, and convincing to summarize the brief and then refer to it in the current motion). This will not 'eviscerate' the page length restrictions as even including such independent briefs will not exceed the generous 300 pages permitted. This relief was sought in the unopposed pending

motion (ECF 67) but rather than delay the current FRCP Rule 60 Motions for Relief (as well as the Motion to Amend the Complaint) and the FRAP Rule 4 Notice of Appeal, these consolidated motions assume some leniency as to referencing other briefs.

Overview

Order of 21 Mar 2025 (ECF 62) Was Premature

The order of the court on 21 Mar 2025 (ECF 62) finding that 'No objections were filed.' and accepting the Recommendations of 26 Feb 2025 (ECF 61) was made while we were preparing our objections (which are numerous) to the Findings, Conclusions and Recommendations (ECF 61) of 26 Feb 2025.

Findings (ECF 61) Misapplied Statutes and Case Law

Most of the Counts were dismissed because the court improperly removed my wife and her sister as Plaintiffs in this matter. I then did not have standing as the damages were against my wife and her sister, not myself. However, the court had no justification for removing Plaintiffs and so the dismissal was improper.

FRCP Rule 11(a) Completely Misunderstood

The court appears to have completely misunderstood the FRCP Rule 11(a) requirement that each pleading be signed by at least one party to instead require that every party must sign each pleading (which is not possible for documents filed electronically). Electronic documents are, practically speaking, automatically signed by the party who submits them and only one party can submit a document to ECF (it is submitted from their ECF account which can not be shared).

The court relied on this misunderstanding to remove my wife and her sister from this matter though the rule actually only provides for the striking of the unsigned

document. This would not remove any parties, only revert to the original complaint.

Monroe Cited Actually Refutes Removal Of Spouse

The court also misunderstood case law for husbands representing wives quoting Monroe that a husband can not represent his wife without her consent (the actual law) and omitting the 'without her consent' (so this court's decision is contrary to the case law).

Clearly the Monroe court believed that a husband could represent his wife with her consent else it would not have elaborated on the absence of her consent. In this matter, it is clear that my wife has consented to my representation so that all counts survive this absurd challenge.

The Court Dismissed Most Counts Because It Improperly Removed Parties

Having improperly removed my wife and her sister from this matter, the court then dismissed most of the Counts as the damaged parties were no longer part of the suit. Of course, on correcting the improper removal of two plaintiffs the Counts should also be restored as well.

Count One Dismissed Through a Misreading of Dolan

The court only really considered Count 1, the USPS disputed refund.[3] The court also misunderstood the case law governing USPS Count 1 (Dolan which actually said that the refund requested was not covered by the FTCA as it was already authorized by Congress in 39 USC § 245 (1940 ed. and Supp. V)).

Each Count Will Be Discussed Individually

There are numerous errors in the Findings and Recommendations (ECF 61) of 26

3 The absurd of removal of my wife and her sister allowed the court to ignore Counts 2 to 9.

Feb 2025 (ECF 61) and the Order of 21 Mar 2025 (ECF 62). The Order improperly dismissed all 9 counts and 56 reliefs barely mentioning most and completely ignoring many. In response, we will discuss all 56 reliefs and 9 counts covering the standard topics of 'stating a claim', 'sovereign immunity', 'executive discretion' and, as appropriate, the 'Doctrine of Consular Non Reviewability' (DoCNR).

Two New Counts, Two New Defendants, Two New Plaintiffs

We will also discuss the standard topics for the two new counts and two new defendants.

Due to the long delay in reaching any meaningful decision in this matter (over a year from the first Motion to Dismiss, ECF 15, 8 Mar 2024), circumstances have changed substantially requiring the adjustment of the specific reliefs sought (citizenship no longer required) as well as the previously speculative relief (early immigration visas for immediate family members no longer speculative).

Through the use of shared briefs it is hoped that this will not be too unwieldy.

Independent Arguments to Recuse

In the sections opposing the dissmissal there will be several decisions which, it is argued, warrant recusal. However, we will conclude with discussions of earlier decisions of the court which warrant recusal. That will include apparent collusion of the court with the defendants in delaying this matter and extending the plight of my wife where she was left as an apparent illegal alien for over a year even though USCIS had sent her a notice with a final findings and decision that her citizenship was approved.

FRCP Rule 60 Motions for Relief Reversing Dismissal is Timely

FRCP Rule 60 states:

> (1) Timing. A motion under Rule 60(b) must be made within a reasonable time - and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

FRCP Rule 59 (Amending a Judgment after trial) has the most stringent requirement for filing a motion to alter an order with:

> (b) Time to File a Motion for a New Trial. A motion for a new trial must be filed no later than 28 days after the entry of judgment.

The first FRCP Rule 60 Motion for Relief (ECF 67) was timely (7 Apr 2025) within the required 28 days. This is particularly relevant as FRAP Rule 4 Notices of Appeal cite this deadline for filing motions which extend the time for a Notice of Appeal with:

> Appeal as of Right - When Taken
> (a) Appeal in a Civil Case.
> (1) Time for Filing a Notice of Appeal.
> (A) In a civil case, ... the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from. …
> (4) Effect of a Motion on a Notice of Appeal.
> (A) **If a party files in the district court any of the following motions** under the Federal Rules of Civil Procedure - and does so within the time allowed by those rules - **the time to file an appeal runs** for all parties **from the entry of the order disposing of the last such remaining motion**: …
> (vi) **for relief under Rule 60 if the motion is filed within the time allowed for filing a motion under Rule 59**.[4]

The filing of the original Consolidated Rule 60 Motions (ECF 67) clearly extended the time for filing a Notice of Appeal until all timely post order motions are

4 Bold added by Plaintiffs.

resolved, making these consolidated Motions for Relief timely.

Order of 21 Mar 2025 (ECF 62) Was Premature

The order of the court on 21 Mar 2025 (ECF 62) finding that 'No objections were filed.' and accepting the Recommendations of 26 Feb 2025 (ECF 61) was made while we were preparing our objections (which are numerous) to the Findings, Conclusions and Recommendations (ECF 61) and, arguably, the order was premature.

While the court certainly can issue orders at any time after the parties have joined a proceeding, given the magnitude of the decision (dismissing all nine counts and eliminating two plaintiffs under circumstances that are, at best, unusual), and the long delay since the pending motions were first ripe (close to a year), a delay in accordance with FRAP Rule 4 (30 days) or FRCP Rule 59 (28 days) would be more appropriate rather than the actual delay of 22 days.

This is particularly important as my wife's sister, Buakhao, is a resident of Thailand and the court was seeking a physical signature to supplement previous electronic signatures. Getting a physical signature from a Thai national in Thailand with extremely limited ability to read and write English is, at best, problematic. In ECF 67, we sought LR 7.1 Relief, seeking additional time when physical signatures are required of parties who are outside the country, and, especially, active duty soldiers who are deployed with restricted access (new Plaintiff).

Mrs. Carr's Response (ECF 64) Opposing Removal (ECF 61) Was Timely

Mrs. Carr Clearly Sought to Remain in this Suit

We were in the process of preparing our concerns to the recommendations of the court of 26 Feb 2025 (ECF 61) on 21 Mar 2025. My wife completed her requests to the court on 23 Mar 2025 with my clerical assistance in translating, printing, and mailing.

ECF 64 is my wife's request to the court to remain in this suit in the first two pages (original signature on the first page on 23 Mar 2025) with a signed copy of the current Amended Complaint (ECF 29) with her physical signature on page 58 in an effort to comply with the court's Orders on 22 Apr 2024 (ECF 26).

ECF 65 is a request for assistance from my wife listing her experiences and the relief she is most focused on. It is signed on page 13. Both were filed on 28 Mar 2025 (29 days) though the papers were received by the court on 27 Mar 2025. The traditional date of record for mailed papers is the date of mailing which is 25 Mar 2025 (ECF 73-1), not the date of receipt.

Mrs. Von Kramer Also Responded Opposing Removal (ECF 61)

Mrs. Von Kramer Clearly Sought to Remain in this Suit

I also assisted Buakhao in preparing a request to remain in the suit, but she was in Thailand making coordination more difficult and I forgot that she does not have significant clerical experience. Her signed copy of the current Amended Complaint (ECF 29) has her physical signature on page 56 and was filed on 7 Apr 2025 as ECF 66. I was not able to print and mail the papers for Buakhao as she was in Thailand so that other papers we wanted to include with original signatures did not get in the packet mailed to the court.

ECF 67-4 is an unsigned electronic copy of Buakhao's request for assistance listing her experiences and the relief that is most important to her. The signature page for that document was included in ECF 66 as page 60.

Attached as ECF 67-5 is a short electronic document which is Buakhao's request that the Amended Complaint be filed with her original signature. The signed version of that document did not get into the packet

It should be noted that the postage on her legal papers was almost $50 (1,700 Thai Baht) making some alternative desirable.

Physical Signatures Above Demonstrate Status As Active Plaintiffs

As the court had dismissed most of the counts in this matter based on the absence of physical signatures (as discussed below), the physical signatures of my wife and her sister in ECF 64, ECF 65, ECF 66, ECF 67-4 and ECF 67-5 invalidates the dismissal and require the reversal of the Order dismissing this matter (ECF 63)

Improper Removal of Plaintiffs Without Due Process

FRCP Rule 11(a) Does Not Apply

The court incorrectly applied FRCP Rule 11(a) requirement that each pleading be signed by at least one party to the Amended Complaint (ECF 29) to justify improperly removing two Plaintiffs from the matter.

The court in ECF 61 incorrectly cited FRCP Rule 11 with:

> [FRCP Rule 11] requires that every pleading, motion and other paper must

> be signed by an attorney or by a party personally if the person is unrepresented.

However, FRCP Rule 11(a) actually states:

> (a) Signature. Every pleading, written motion, and other paper must be signed by **at least one** attorney ... or by **a** party personally if the party is unrepresented. ... The court **must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention**.[5]

The court alters 'at least one' to instead be 'an' and ignores the singular nature of 'a party' and 'the party'. Only one party to a suit must sign a paper to be properly submitted to the court and included in the record.

Further, notice must be provided to the party who submitted the unsigned paper before the remedy of striking the document can be applied.

Mr. Carr Properly Signed the Amended Complaint Electronically

While only one party needs to sign a paper for submission to the court, I did, in fact, properly sign the proposed Amended Complaint (ECF 18-1)

FRCP Rule 5(d)(3)(C) states:

> (d) Filing. ...
> (3) Electronic Filing and Signing. ...
> (C) Signing. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

ECF 18, 18-1, and 29 were all submitted electronically by myself via my ECF

5 Bold added by Plaintiffs

account and have my signature block. See ECF 29 page 56. As such, I had signed each document on submitting them to ECF.

Mrs. Von Kramer and Mrs. Carr Signed the Amended Complaint

TXND Local Civil Rules LR 11.1 states:

> (a) What Constitutes Electronic Signature. [REPEALED]
> (b) Requirements for Electronic Signature. [REPEALED]
> (c) Certification of Signature of Another Person. By submitting a document by electronic means and representing the consent of another person on the document, **an attorney** who submits the document certifies that the document has been properly signed.
> (d) Requirements for Another Person's Electronic Signature. **An attorney** who submits a document by electronic means that is signed by another person - including by a moving party under LR 40.1 – must:
>
> > (1) include a scanned image of the other person's signature, **or represent the consent of the other person in a manner permitted or required by the presiding judge**; and
> > (2) maintain the signed paper copy of the document for one year after final disposition of the case.

With the original Complaint, there was no problem as the Complaint included the actual physical signature of all of us (ECF 3, pages 54 and 55). However, with the proposed Amended Complaint (ECF 18-1), electronic signatures were required for my wife and her sister, but the local rules provided no guidance. LR 11.1 only describes how an attorney can verify the electronic signature of another person, but does not say how a pro se party would accomplish this same required task..

As such, I attempted to 'represent the consent of the other person in a manner permitted or required by the presiding judge' with an affirmed statement made

under penalty of perjury that:

> In accordance with TXND LR 11.1(d), on the recorded date I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf after having provided them with the relevant sections of the document in English and translated into Thai (relying on Google Translate). …[6]

When the court granted leave to submit the Amended Complaint (ECF 26), I assumed that my affirmed statement (under penalty of perjury) of the consent of the other parties was sufficient.

Mr. Carr Ordered to File the Amended Complaint Violating Local Rules

I submitted the proposed Amended Complaint (ECF 18-1) as an attachment to ECF 18, Motion for Leave to Amend, on 28 Mar 2024 with my electronic signature correctly included. However, instead of notifying myself of any perceived defects in the proposed Amended Complaint, the court instead ordered in ECF 26 (dated 22 Apr 2024):

> 1. Plaintiffs must file their Amended Complaint on the docket by April 30, 2024.

with a footnote that ordered:

> Plaintiffs included their proposed Amended Complaint as an appendix.... Plaintiffs should file this same proposed Amended Complaint as a separate docket entry titled "Amended Complaint."

The court required us to file the unaltered pleading in violation of TXND Local Civil Rules which states:

> LR 15.1 Motions to Amend. …
> (b) When Filed by Electronic Means. When a party files by electronic means a motion for leave to file an amended pleading, the party must attach the

6 See ECF 29, page 58 for this Certification of Electronic Signatures.

> proposed amended pleading to the motion as an exhibit. If leave is granted, the amended pleading will be deemed filed as of the date of the order granting leave, or as otherwise specified by the presiding judge, and **the clerk will file a copy of the amended pleading.**[7]

Once we had submitted a proposed Amended Complaint as an appendix, it is the clerk who should have filed the amended pleading under order of the court. In ECF, it is not possible for multiple parties (such as 'the Plaintiffs' in the order) to file a document as each filing must be made from the account of a single individual (shared accounts are prohibited, presumably for accurate auditing and compliance with FRCP Rule 11).

FRCP Rule 11 Remedy Not Applied

FRCP Rule 11(a) was cited as the basis for removing my wife and her sister but notice of the problem as required by FRCP Rule 11 was not provided to us. Further the only remedy in FRCP Rule 11 of striking the unsigned document (ECF 29?) would require the striking of other documents as well. Striking a specific document also requires the striking of documents both before and after which are dependent on the specified document. Striking ECF 29 would require also striking the Motion to Dismiss, ECF 30, as well as the instant order (ECF 63) granting dismissal of the entire matter as ECF 30 refers extensively to the Amended Complaint, ECF 29, the document to be struck. Indeed striking a central document like ECF 29 would require striking virtually every filing in the matter after ECF 18. The only surviving documents would be the original Complaint (ECF 3), the original Motion to Dismiss (ECF 15, which was previously dismissed as moot in Order ECF 26, but that order would need to be struck), and possibly the original Motion for Partial Summary Judgment (one portion of ECF 18) and the Motion for

7 Bold added by Plaintiffs.

Sanctions (ECF 30).

The Court Removes Plaintiffs Without Proper Cause

The Court Ignores Clear Qualifiers in the Complaint

In ECF 61 page 1, the court claims that:

> The Amended Complaint states that "to the degree that it is legally permissible, Mr. Carr will represent" Rueangrong Carr (Rueangrong) and Buakhao Von Kramer (Buakhao) in this matter. Am. Compl. ¶¶ 12, 13 (ECF No. 29).

But in both Complaints (ECF 3 and 29) the paragraph for my wife (12) states:

> Mrs. Carr is ... **a Plaintiff appearing Pro Se in this matter** ... and to the degree that it is legally permissible, Mr. Carr will represent Mrs. Carr.

and the paragraph for her sister (13) states:

> Mrs. Von Kramer is ... **a Plaintiff appearing Pro Se in this matter**. ... and ... has also requested that Mr. Carr represent Mrs. Von Kramer to the degree that it is legally permissible ...[8]

In both the original complaint and amended complaint it is clear that all of us are appearing pro se in this matter and that I will only represent my wife and her sister with the permission of the court. Further, there are the signatures for each of us in both complaints making it clear that each of us wishes to be considered in this matter.

Possible Federal Crime by Court

Making False or Misleading Statements Violates 18 USC § 1001

18 USC § 1001 states:

> (a) ... whoever ... knowingly and willfully ...

8 Bold added by Plaintiffs.

> (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; …
> shall be fined under this title, imprisoned not more than 5 years or, …

Paragraphs 12 and 13 quoted above make it clear that both my wife and her sister were appearing pro se in this matter (without conditions or equivocations) and the section about 'to the degree that it is legally permissable' were conditional and certainly did not override the clear statements about being pro se.

To intentionally conceal the unequivocal pro se status of my wife and her sister in the recommendation to dismiss an otherwise valid claim would certainly qualify as a federal crime.

Court Incorrectly Cites Restrictions on Spousal Representation

Monroe Cited Refutes Removal Of Spouse

In the Findings of the court (ECF 61), the court misconstrues case law with:

> Brian is not authorized to represent any other party in this action, including his wife, Rueangrong, or Rueangrong's sister, Buakhao Von Kramer.1 Monroe v. Smith, 2011 WL 2670094, at *2 (S.D. Tex. July 6, 2011) ("Because Plaintiff is not an attorney, he cannot represent his wife's interests in this action").

The court goes on to conclude that because Mr. Carr submitted the Amended Complaint without the physical signatures of the other two Plaintiffs they must be removed from the matter. However, Monroe actually says the reverse.

In Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011) both spouses were in prison and separated (as required by prison rules) with Monroe complaining that he was unable to 'correspond with' (write to) his wife. This was the basis of the complaint.

It appears that his wife never attempted to join the matter as the court in Monroe went on with:

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

with the conclusion that Monroe could initiate the action but the consent of his wife was required for him to be able to represent her.

As noted above, in this case both my wife and her sister specifically and consistently asked that I represent them with their physical signatures on the original complaint (ECF 3) and electronic signatures in the Amended Complaint (ECF 29). According to Monroe, this is sufficient for my wife. In later sections it will be shown that this is also sufficient for her sister.

Monroe Text Based On Long History of Pro Se Rulings

The text quoted from Monroe was actually derived from:

> "[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."

citing Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006). This is a Fifth Circuit decision, but, sadly, it was also declared as 'not precedent' and is not widely published. As such it is no more significant than a quote from Shakespeare's Hamlet. It was an error for the court in Monroe to cite this irrelevant case. It was also a violation of Fifth Circuit Court orders to not explicitly state that Martin is not precedent.

However, that specific quote was a direct and verbatim quote from Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998) which was listed as the source in Martin. Fortunately, Iannaccone is precedent and is widely cited and available. It includes

a history of Pro Se representation with:

> Thomas Paine, arguing in 1777 for a Pennsylvania Declaration of Rights, who said that to plead one's cause was "a natural right," pleading through counsel was merely an "appendage" to the natural right of self-representation. See [Faretta v. California, 422 U.S. 806 (1975)]

and

> …. on September 24, 1789, ... section 35, which reads as follows: "That in all the Courts of the United States the Parties may plead and manage their own causes personally or by the assistance of such Counsel or Attornies at law as by the rules of the said Courts respectively shall be permitted to manage and conduct causes therein."

which makes it clear that Pro Se self representation is a fundamental right which can not be denied under normal circumstances. Seeking assistance from counsel is optional.

Iannaccone was ground breaking in clarifying that each person can only represent their own interests and not the interests of another.

This does not mean that Pro Se parties can not join together to produce a single complaint as long as each party is allowed to advocate for their own interests. Indeed, in Monroe the court removed Monroe's spouse from the proceeding solely because she did not choose to join the matter.

Pro Se Parties Can Join Together in A Single Complaint

While it is certainly possible for several Pro Se parties to join together in a single suit with numerous separate Complaints this is tedious for all parties.

It is also possible for several Pro Se parties to join together in a single Complaint which includes the consolidated allegations (or affirmed statements in this case)

and consolidated legal arguments and relief. Such a consolidation benefits all parties, plaintiffs, defendants, and the court, by reducing the confusion which would result from multiple conflicting complaints. It supports the possibility of a single consolidated Answer and greatly reduces the work of the court.

Each party can share their legal expertise, recollections, records, opinions and desires with the other parties. Indeed, among several Pro Se parties it is likely that one or more plaintiff(s) could advise and assist the others in preparing papers and responses. This is not a problem as long as no party:

- Falsely claims to be an attorney or
- Accepts remuneration for legal services or advice

While this could become a problem with 'friends' representing the interests of others, it is unlikely to present a problem within family and certainly not spouses under the umbrella of multiple Pro Se parties conferring and consolidating their claim.

Marriage is Legal Union Which Permits Representation with Consent

I challenge the legal basis for any restrictions the court may choose to apply to spousal representation with consent. When the constitution was written and even in 'Separate but Equal' times of Plessy v. Ferguson, 163 U.S. 537 (1896) and the DoCNR, men had an absolute right to represent their wife who were in a nebulous legal status, part person and part chattel or livestock. Women were counted in the census to measure the number of voters, but not actually allowed to vote, similar to slaves.

However, over time women's rights were expanded so that women were considered as proper persons with all the rights that entails. There were numerous

deicsions by Congress and state legislatures, the courts and the people (via elections) to provide equal rights for all persons such as such as Brown v. Board of Education of Topeka, 347 U.S. 483 (1954) and the 19th Amendment.

The question is with all these separate actions to improve equality what, if any, were the intended changes to rights intrinsic to the legal union of marriage. Were marital rights reduced or eliminated or were they adjusted and enhanced in these transitions.

I argue that individual rights were enhanced while strengthening the institution of marriage. The previously inalienable right of a husband to represent his wife is now enhanced and reciprocated so that both spouses have an inalienable due process right each to represent the other with the consent of the other.[9]

Close Family Members Can Represent Each Other With Consent

There are similar arguments that the traditional absolute right of a father to represent his unmarried adult daughters has been enhanced so that each can represent the other with the consent of the other. Further, in the event of the death of the father, this right was normally conferred on the eldest son (often the sibling of the unmarried daughter). In Thailand it is also the case that sibling relationships are extended through marriage (making families very large and complex) as it was in historical America. If Buakhao, a widow whose father has passed, chooses to consider me as her eldest brother and seeks my representation, then I have a right to represent her.

9 The Amended Complaint (ECF 29) seeks relief allowing a husband to represent his wife with both DoS, relief 10, and USCIS, relief 49 and 50. Relief 10 sought general rights to representation for DoS visa applications which would include inmmediate family members as with my sister in law.

As these rights of representation were founded in the Firth Amendment due process clause, Congress has no right to restrict them. While the original rights were vested only in adult white male Christian property owners, we as a nation have progressed by extending these rights to all people. As such any immediate family member can represent other family members (even family members extended through marriage) with their consent.

Sovereign Immunity Does Not Apply to USPS

Dolan Clearly Permits Refunds for 'Guaranteed Delivery' Failures

The court in ECF 61 states:

> the Postal Reorganization Act (PRA) establishes the USPS as "an independent establishment of the executive branch" that "enjoys federal sovereign immunity absent a waiver." Hale v. U.S., 2023 WL 1795359, at *1 (5th Cir. Feb. 7, 2023 (internal quotation marks omitted) (quoting Dolan v. U.S. Postal Serv., 546 U.S. 481, 483–84 (2006)).

but the quoted Dolan v. Postal Service, 546 U.S. 481 (2006) goes on to say:

> losses of the type for which immunity is retained under section 2680(b) are at least to some degree avoidable or compensable through postal registration and insurance. …
> (allowing indemnity claims for loss or damage of "insured, collect on delivery (COD), registered with postal insurance, or Express Mail"); 39 CFR § 111.1 (2005)... The same was true when Congress enacted the FTCA in 1946. ... See 39 USC § 245 (1940 ed. and Supp. V) ("For the greater security of valuable mail matter the Postmaster General may establish a uniform system of registration, and as a part of such system he may provide rules under which the senders or owners of any registered matter shall be indemnified for loss, rifling, or damage thereof in the mails ..."). As Kosak explains, one purpose of the FTCA exceptions was to avoid "extending the coverage of the Act to suits for which adequate remedies were already

> available," ... an objective consistent with retaining immunity as to claims of mail damage or delay covered by postal registration and insurance.

In the 1940 edition of 39 USC § 245, USPS was authorized to establish a system where senders can be indemnified for certain losses. This system is now embodied in 39 CFR § 111.1 which incorporates the Domestic Mail Manual by reference with 604 9.2.3:

> A full refund (100 percent) may be made when: …
> * Fees are paid for Certified Mail services, USPS Tracking, or USPS Signature Services, and the article fails to receive the extra service for which the fee is paid.

Indeed we did purchase such a service through 'Guaranteed Delivery' (ECF 18-3) and, after an administrative appeal, the refund of $26.35 was approved with 'Dispute Paid' (ECF 18-8). As explained in Dolan we can seek a refund for services which we paid for and were not provided and 'for which adequate remedies were already available' under 39 CFR § 111.1.

However, while USPS approved our refund with 'Dispute Paid', it appears USPS never actually credited our account with this payment.

Indeed, this court could order USPS to determine if the payment was ever made. If not, the court could order USPS to make the payment as USPS has already authorized the payment but not completed the process specified in 39 CFR § 111.1.

The FTCA Supports Simple Tort Claim Against USPS

As an alternative, the court could order USPS to make the payment under 28 USC Chapter 171 (FTCA tort claims) as this is not actually a claim for late delivery which was resolved when USPS authorized the payment, but instead a failure to

pay an amount due, a simple tort claim which the FTCA does support as there is no exception for accounting and payment failures.

Credit for Future Services Not Protected By Sovereign Immunity

In this case, the court is asked to order USPS to make a credit for future services. This is, apparently, a novel legal theory, which I would like to develop fully. Unfortunately the court rejected the claim by simply declaring:

> That Brian **allegedly** seeks "a credit for future services" rather than money damages does not change this result.[10]

It is unclear why the court adds '**allegedly**' before 'seeks' as the Amended Complaint is verified so that there are no allegations, only affirmations. Also any review of the Amended Complaint will show with certainty that I did, in fact, seek "a credit for future services". The addition of unnecessary and false doubt for a simple fact creates the appearance that the court is attempting to discredit my truthfulness and accuracy. In fact, I always strive to be truthful and accurate in everything I include in legal papers (so verifying the complaint is no burden) as well as clear, concise, and persuasive.

However, the absence of any case law to support the conclusion of the court suggests that this is a novel challenge to existing case law. There are, in fact, substantial differences between a cash payment (which infringes on Congressional control of the purse) and a credit for future services (which is dependent on Congressional authorization of the services). Indeed there is a separate brief discussing this novel legal theory as ECF 67-3.

Plaintiff Denied Due Process From Misapplication of LR 7.2

In its recommendations of 27 Feb 2025 (ECF 61), the court goes on at great length

10 Bold added by Plaintiff.

with:

> Brian does not respond to Defendants' arguments regarding sovereign immunity and instead merely - and improperly - refers to briefing he filed in response to Defendants' earlier motion to dismiss. See Resp. 3 (ECF No. 34) ("The restrictions on Sovereign Immunity are discussed at length in my Response of 18 Mar 2024 (ECF 18) pages 1 to 4 and won't be repeated here"); Black Cat Expl. & Prod., LLC v. MWW Cap. Ltd., 2015 WL 12731751, at *2-3 (N.D. Tex. Apr. 29, 2015) (finding improper plaintiff's attempt to incorporate by reference its preliminary injunction reply brief into its motion for remand reply brief); see also Hudson Specialty Ins. Co. v. Talex Enterprises, LLC, 2020 WL 1318802, at *2 (S.D. Miss. Mar. 20, 2020) (noting that the commentary to Federal Rule of Civil Procedure 10 explains that "Rule 10 only permits the incorporation of contents from pleadings [and] does not authorize parties to incorporate by reference the contents or earlier motions or other papers"). Thus, the District Judge should dismiss Brian's claims. See Bearden v. United States Dep't of Agric., Rural Hous. Serv., 2023 WL 6462861, at *2-3 (N.D. Tex. Oct. 2, 2023) (granting defendant's motion to dismiss when plaintiff "fail[ed] to identify any waiver of immunity by the government").

Basically the court is saying that because I violated LR 7.2 page length restrictions by attempting to reference previous motion papers, the court is going to ignore my arguments against sovereign immunity and dismiss all claims which are based these arguments. LR 7.2 does not explicitly prohibit referencing previous motions papers making the prohibition too obtuse to be enforced with pro se plaintiffs.

Further LR 7.2 restrictions never justifies dismissal of a claim because of the incorrect form of presentation; this would be a fundamental violation of due process.

The Court Can Not Dismiss Pro Se Claims Based on Inadvertent Errors

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 the Magna Carta (or a decree of the British King in the thirteenth century cited below).

Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998) indirectly cited by the court in this matter 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 early 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.

LR 7.2 Does Not Authorize Dismissal of Claim From Simple Error

Plaintiff Informally Requested Relief from LR 7.2

In my response (ECF 34) to the Defendants' 2nd Motion to Dismiss (ECF 31) I did indeed request leniency from LR 7.2 on page 1 with:

> I apologize to the court for the length of the various responses, but with the many facets of this case and lack of specificity in USATXN's criticisms a full response is required. To aid the court, a high level summary is included in this Response with a more detailed analysis in separate affirmations as well as references to the Plaintiffs' previous Response (ECF 18) to the

> Defendants' previous Motion to Dismiss (ECF 15).

While it appears that I could have combined this response with a LR 7.2 Motion for less restrictive page restrictions, this could result in an explosive growth in the number of pending motions with every motion and response requiring an additional set of LR 7.2 Motions. I don't believe this would have led to prompt and just resolution of pressing matters as in my previous challenge to the use of 56(d) Motions in 5th Circuit Courts versus 56(d) Responses in 3rd Circuit Courts.

Court Ignores Mrs. Carr's Plight as an Apparent Illegal Alien

It is also important to note that at the time my wife was terrified that ICE (immigration police in her vernacular) would arrest her without cause or notice and deport her (perhaps to a harsh maximum security prison in El Salvador).

My response (ECF 34) also included:

> Even though USCIS informed us 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 has been left as an apparent 'undocumented alien' (a.k.a. an 'illegal').

I filed the response as quickly as possible in the hope that my wife could get some relief from the court and no longer be an apparent illegal alien. I did not want to delay the resolution of these matters by filing extraneous LR 7.2 Motions to support full and proper analysis of the complex issues.

Had I known that the court was going to ignore our plight and take almost a year to resolve any matter, then I would have been more conscientious in following the

arcane 'veritable maze of writs and confusing procedures' which seem to have been developed by this court.

LR 7.2 Does Not Mention Any Restrictions on Referring To Other Motions

TXND Local Civil Rules LR 7.2 states:

> Briefs. …
> (c) Length. Unless another local civil rule provides otherwise, a brief must not exceed 25 pages (excluding the table of contents and table of authorities). A reply brief must not exceed 10 pages. Permission to file a brief in excess of these page limitations will be granted by the presiding judge only for extraordinary and compelling reasons.

It is important to note there is no prohibition to referring to arguments discussed in other motion papers in the rule itself.

The court cites Saffran v. Boston Sci. Corp, No. 2-05-cv-547 (E.D. Tex. July 9, 2008, ECF 195) which is another court with its own unique rules. The actual text cited comes from a minor footnote which states:

> BSC incorporates multiple arguments by reference into this motion. Procedurally, this eviscerates the court's page limit restriction. BSC did not ask for, nor did the court grant, leave to incorporate more than 100 pages of argument by reference. Moreover, by incorporating arguments by reference without specifically identifying them, BSC leaves the court to speculate which specific arguments BSC intended to incorporate into the Motion.

In Saffran, that court chose to ignore the arguments by reference primarily because, it appears, the court had previously considered these arguments and could not figure out which specific arguments were to be revisited. In contrast, in this case the court quoted myself with:

> The restrictions on Sovereign Immunity are discussed at length in my Response of 18 Mar 2024 (ECF 18) pages 1 to 4 and won't be repeated here

This is less than 4 pages and it is very clear which argument is referred to, sovereign immunity. This could hardly be described as "eviscerates the court's page limit restriction".

Further, in Saffran that court had already decided those extensive issues (over 100 pages) and was being asked to revisit them (in their entirety it seems) providing an unauthorized 'second bite at the apple'. It was reasonable for that court to decline the 'second bite'.

However, in the Court's Orders on 22 Apr 2024 (ECF 26) 'DENIES as moot Defendants' Motion to Dismiss (ECF No. 15).' so that the arguments in the cited 'Response of 18 Mar 2024 (ECF 18)' were never considered.[11] This delay in resolving critical issues also creates the appearance that the court was assisting USATXN in delaying this matter until USCIS had time to ameliorate their violations of due process and criminal statutes as well as INA and their administrative procedures.

To dismiss a claim without ever considering the party's arguments violates due process and, as such, is an overreach of the application of LR 7.2.

I have submitted a separate affirmed brief as ECF 67-3 which discusses the background and limits of sovereign immunity.

11 It is important to note that I had objected to delays created by finding the first MTD, ECF 15, moot as my wife was in dire circumstances as an apparent illegal alien even though USCIS had approved my wife's citizenship on 31 Jan 2023 (ECF 10-5).

Obscure Case Law Relied on to Improperly Justify Dismissal

The court continued with:

> Black Cat Expl. & Prod., LLC v. MWW Cap. Ltd., 2015 WL 12731751, at *2-3 (N.D. Tex. Apr. 29, 2015) (finding improper plaintiff's attempt to incorporate by reference its preliminary injunction reply brief into its motion for remand reply brief);

Black Cat Expl. & Prod., LLC v. MWW Cap. Ltd., 2015 WL 12731751 (N.D. Tex. Apr. 29, 2015) states:

> Defendants also take issue with Plaintiff's attempt to incorporate by reference its preliminary injunction reply, (Doc. 11), into its reply on motion for remand. ... Based on these infirmities, Defendants request the Court to strike all but ten paragraphs from Plaintiff's reply brief, and the supporting appendix. (Doc. 18, 19). …
>
> Because Plaintiff ... and because Plaintiff has failed to conform to the Local Rules of the Northern District of Texas, Defendants' motion to strike Plaintiff's reply and appendix, (Doc. 18, 19), is GRANTED, subject to Paragraphs 2 and 3 below. The Clerk of Court is hereby directed to strike Documents 18 and 19 from the docket sheet. …
>
> Plaintiff is ORDERED to refile its reply brief and appendix, which must conform to and comply with all Northern District of Texas' Local Rules.

A critical distinction is that it was the Defendants attorneys who raised the concerns about incorporation by reference and asked that the offending documents be struck, not the court itself at a much later date. Further, the relief in Black Cat was to strike the offending documents and allow the Plaintiffs (also represented by attorneys) to refile their reply.

The court in Black Cat did not simply refuse to consider the claim and dismiss the matter.

The refusal to consider and dismissal of the claim by this court is a violation of the due process right to be heard. The court could (and did) admonish myself and the court could have considered sanctions, even community service after a proper order to show cause. The court also could have ordered our Response (ECF 34), stricken and ordered us to file a new Response as was done in Black Cat, though that would appear absurd after the court delayed any hearing more than a year while my wife was left as an apparent illegal alien because of the delays caused by DoJ and the court.

However, refusal to consider arguments and dismissal without hearing is not a constitutional option for inadvertent errors of arcane local rules and a veritable maze of writs and confusing procedures of the court.

Court Cites Unknown Authority For Inexplicable Reasons

The court continues with:

> see also Hudson Specialty Ins. Co. v. Talex Enterprises, LLC, 2020 WL 1318802, at *2 (S.D. Miss. Mar. 20, 2020) (noting that the commentary to Federal Rule of Civil Procedure 10 explains that "Rule 10 only permits the incorporation of contents from pleadings [and] does not authorize parties to incorporate by reference the contents of earlier motions or other papers").

As best I can determine there is no official commentary on FRCP Rule 10. There are numerous businesses (such as WestLaw) which have written countless commentaries on various topics. However, these commentaries are not based on law but rather the opinions of contractors hired by the business.

Hudson did indeed include the quoted material, but that was an error of Judge

David Bramlette of a different and generally unrelated court. Further, as these businesses almost always copyright their commentaries and other material, it is likely a violation of the business's 'Terms of Service' to publish the text verbatim without a proper reference (at least a copyright notice for the business).

It was an error for this court to continue the violations of copyrighted material. It was also an error to cite as precedence an opinion from an unknown author which has no more precedence than a quote from Shakespeare's Hamlet.

No Response is Different From A Response Which is Ignored By the Court

The court concludes with:

> See Bearden v. United States Dep't of Agric., Rural Hous. Serv., 2023 WL 6462861, at *2-3 (N.D. Tex. Oct. 2, 2023) (granting defendant's motion to dismiss when plaintiff "fail[ed] to identify any waiver of immunity by the government").

The Bearden decision stated:

> Here, Bearden failed to respond to USDA's motion to dismiss; more than 21 days have passed since the date USDA filed its motion to dismiss. …
>
> In her Original Petition, (ECF No. 1-5), Bearden fails to identify any waiver of immunity by the government.

Of course the court in Bearden could grant the Motion to Dismiss when the plaintiff never responded to the Motion to Dismiss and claims of sovereign immunity.

In contrast to Bearden, I responded in detail and at length to every claim made by USATXN. While the court improperly refused to consider my broad discussion of sovereign immunity there were, in fact, several specific references to sovereign

immunity to include:

> The U.S. Attorney for the Northern District of Texas (hereafter USATXN) makes broad criticisms such as failure to state a claim and sovereign immunity and malformed Doctrine of Exhaustion of Remedies and Executive Discretion challenges. Each of these claims are meritless supported only by misleading summaries and false conclusions. [from page 1 of ECF 34] …
>
> Rule 12(b)(1) Unfounded Challenge of Sovereign Immunity
>
> In USATXN's 'II. Legal Standards - A. Rule 12(b)(1)' makes numerous citations concerning Sovereign Immunity but all the claims are conclusory and there are no specific references to any particular count (there are nine). As such there is a detailed discussion of each count which addresses Sovereign Immunity and demonstrates that Sovereign Immunity does not apply to any count. This entire challenge by USATXN is unfounded.
>
> The restrictions on Sovereign Immunity are discussed at length in my Response of 18 Mar 2024 (ECF 18) pages 1 to 4 and won't be repeated here. [from page 3 of ECF 34] …
>
> III. A. Sovereign Immunity for Investigating Alleged Crimes
>
> In the title of this section, USATXN states the entirety of this confusing claim of Sovereign Immunity with:
>
> Plaintiffs have not shown that the federal government has waived sovereign immunity for claims seeking non-monetary relief ordering federal law enforcement to investigate alleged crimes.
>
> It then cites the usual Sovereign Immunity cases, but adds:
>
> Plaintiffs have identified no such waiver for their claims for non-monetary relief - meaning Defendants retain sovereign immunity from all of Plaintiffs' claims.

> This is troubling as nowhere in the complaint is 'federal law enforcement' mandated to investigate any alleged crimes. [from page 4 of ECF 34][12]

The court in this matter chose to ignore all the above arguments and references to sovereign immunity (which are suprisingly extensive) in our response (ECF 34) and then pretends that there was an absence of any response to justify the results in Bearden, where there was an actual lack of ANY response ('21 days have passed').

The ignoring of a timely and rather extensive response is not the same as an actual lack of a response. This gross breach of due process also warrants recusal and could be construed as concealing a material fact which is a crime under 18 USC § 1001.

Each Generic Challenge Addressed for Each Count

There were also four Affirmed Briefs referred to in the response (ECF 34) each of which supported their relevant counts directly addressing 'stating a claim', sovereign immunity, executive discretion, and for Count 3, the Doctrine of Consular Non Reviewabiilty (DoCNR):

> 34-1 Affirmation of Mr. Carr supporting Count 1 and Count 2
> 34-2 Affirmation of Mr. Carr supporting Count 3, 4 and Count 5
> 34-3 Affirmation of Mr. Carr supporting Count 7 and Count 8
> 34-4 Affirmation of Mr. Carr supporting Count 6 and Count 9

Each of those affirmations discussed how sovereign immunity did not apply to the specific counts.

12 The complaint does go on to explain that IG's are required to report crimes to DoJ and DoJ is required to monitor the results of any investigations and corrections. The actual investigation and correction can all be done by local management under DoJ supervision. The duty of the IG's and DoJ to perform these roles has clear statutory mandates so that sovereign immunity does not apply.

Updates to the Complaint

New Defendants IRS and TIGTA

In May 2024, my wife and I received a CP30 notice from the Internal Revenue Service (IRS) which stated that we owed $1,055.19 in penalties for failing to pay estimated taxes, ECF 67-7. I promptly contacted the IRS and sent in the requested Form 843 (an abatement request) with supporting documentation asking that the penalties of $1,055.19 be forgiven as I had tried to make the required estimated tax payments.

There were delays in processing this appeal, but on 27 Aug 2024 the IRS notified us that our Form 843 was denied but that we could submit a Form 2210 with the breakdown of income received through the year, ECF 67-11. I completed and submitted the Form 2210 (ECF 67-12) with another appeal request on 03 Sep 2024, ECF 69-1. The computed penalty of $340.81 was paid before submission.

In early October 2024 my appeal was forwarded to 'Appeals' (ECF 67-15) but on 11 Nov 2024 the IRS sent us a CP504 Final Notice that we must pay $753.70 immediately or they would seize (or Levy) our property, ECF 67-16. Of course we paid the $753.70 immediately as that was a comparatively paltry sum when compared to having our car, house, or joint business accounts seized.

However, this seizure notice was illegal as it violated our rights to due process before seizure of our property as our appeal was still pending. Further, the wording of the CP504 violated statutory mandated 30 day notice, making the CP504 a falsified government record (and a crime under 18 USC § 1001).

On 17 Dec 2024 I requested assistance from the IRS, Treasury Inspector General for Tax Administration (TIGTA), CIGIE, DoJ, and USATXN via email but we have not received any response to date (see ECF 67-1).

On 18 Feb 2025, the IRS notified us that they had reviewed our form 2210 of 03 Sep 2024 and agreed that amount due was $340.81. (see ECF 67-2).

On 24 Feb 2025 the IRS sent us a check for $758.72 but without any explanation or computation of the amount due. This substantially resolves most of the amount claimed but does not include minor damages and costs.

We are also asking that the penalty of $340.81 be forgiven as the IRS publications concerning estimated tax payments and form 2210 are too complex for most individual taxpayers to comply with if they don't have paid assistance (see ECF 71-8).

We are also seeking that the IRS collection and appeal process be corrected to prevent violations of constitutional rights (due process) and federal crimes such as falsifying government records. Tax credits are requested for other similar individual tax payers as well as enhanced support for individuals who are required to make estimated tax payments. (see ECF 71-9)

Explicitly Add FOIA Requests

The Court Did Not Address FOIA Requests in Amended Complaint

In the Amended Complaint there are several references to FOIA requests to include:

Paragraph	Defendant
47	USPS OIG
118-123	DoS
200-203	USCIS
236	Duty to Perform for all FOIA requests

There are also specific FOIA Reliefs:

Relief	Defendant
10	DoS
51	USCIS

None of the defendants specifically addressed any of the FOIA claims (which were properly stated, not protected by sovereign immunity or executive discretion or DoCNR) with defendants only raising those standard challenges against all claims.

However, the court also did not specifically address these claims which was an error. The court improperly removed my wife and her sister from the suit, but as I initiated the FOIA requests that is irrelevant. The court cited only sovereign immunity for denying the USPS 'credit for future services' (also an error as discussed above), but did not mention any of the FOIA requests. It is not proper to dismiss an entire case without addressing every claim or relief requested.

There are countless cases where FOIA requests were ordered by the court and even specific statutes that grant the court this authority. The FOIA office of the potential defendant, the IRS, even cited the authority of the court to provide the relief sought. The court should immediately order the requested FOIA relief.

Recuse Because of Apparent Collusion of Court With DoJ

FOIA Non Responses Made During the February 2025 Blitz

It is clear that the defendants were coordinating their responses with USCIS and my wife's citizenship as there was a blitz of activity by all defendants during the period after my wife passed her citizenship test and before she received her Certificate of Naturalization. Both DoS (ECF 69-4) and IRS (ECF 69-3) sent status notices that my FOIA requests which had been languishing without any response for long periods, over two years in the worst case, would continue to languish for an undetermined period. This very busy period (the February 2025 Blitz) was also when the IRS resolved my appeal (ECF 67-2) and made a refund.

While it is completely reasonable for the different defendants (and potential defendants) to coordinate their responses through AUSA Owen so that they were all in a stronger position when the strongest and clearest claim against USCIS was ameliorated, the court itself should not have any awareness of these events.

Court Ignores Mrs. Carr's Dire Circumstances for Over a Year

Court Recommends Dismissal The Day Before Mrs. Carr Becomes Citizen

From the court's perspective, the court had simply left my wife in the dire circumstances of being an apparent illegal alien and terrified of being deported by ICE without notice or cause even during times of heightened discrimination against Asians and Hispanics. The court simply ignored my wife’s plight for over a year without taking any action to provide relief until one day before (ECF 61 on 27 Feb 2025) she resolved her being an apparent ‘illegal’ alien on her own (ECF 71-3) on 28 Feb 2025.

Apparent Collusion by the Court with Defendants

While it is possible that the Court simply ignored my wife's plight for almost a year and then suddenly and without any discernible cause decided to take up the matter and dismiss the case just as the problems at USCIS were resolved, this does not seem likely.

What seems more likely is that the court was concerned about my wife's dire circumstances and, through back channels such as the clerks in the various offices, cut a deal with DoJ to provide the relief my wife desperately required but on their schedule and without any involvement by myself or my wife. Due process requires that my wife and I be involved in any such deals (if there were such a deal). The appearance of this sort of collusion warrants recusal.

Potential Class Action Suits Delayed Unnecessarily

Further, as noted in previous motion papers, there could well be dozens or even thousands of other postal customers, foreign nationals, immigrants, and taxpayers suffering the same damages. This matter should not have been delayed for over a year but rather the FOIA requests should have been promptly answered so that appropriate legal aid agencies could apply to convert this case into the appropriate class action suits against USPS, DoS, USCIS, and, now, the IRS.

Outstanding FOIA Requests to be Added to Future Amended Complaint Provides Potential for Class Action Expansions

I apologize to the court for not explicitly listing all the FOIA requests which were outstanding in the current Amended Complaint but I did not expect the court to prematurely dismiss the matter before discovery. I was planning on pursuing the FOIA problems in discovery, now significantly delayed.

I intend to correct that error and add the missing FOIA requests to the future Amended Complaints for the following defendants: USPS, DoS, USCIS, and IRS (a potential defendant at this time). There are two classes of FOIA requests for each defendant, one for all the records concerning the plaintiffs, and another for cumulative data to determine the number of people in similar circumstances. There are indications that the number of people will be in the thousands but the FOIA cumulative results should be relied on to make that determination.

The Court's Violations Create Appearance of Bias, Must Recuse

The Court's False and Misleading Findings Used to Justify Dismissal

In a footnote on page 3 of the Findings (ECF 61) the court states:

> Rueangrong and Buakhao **allege**[13] that United States Citizenship and Immigration Services (USCIS) violated their due process rights by initially denying their visa applications before approving them. Am. Compl. Counts 3, 4, 5, 6, 8. Rueangrong also alleges that USCIS violated her due process rights because USCIS gave her conflicting information regarding the status of her citizenship application before ultimately denying her application. Id. Count 7.

There is no mention of the second count 8 which would normally be count 9 (a most inconvenient error in the Amended Complaint). Further, the court confuses USCIS and DoS as only DoS issues visas. The court also omitted any reference to the controversial Doctrine of Consular Non Reviewabiilty (DoCNR) which was central to the DoS disputes. The DoCNR challenges also included challenges based on my relationship to my sister in law. I was a citizen wishing to host a visit by sister in law, a distinct challenge to DoCNR.

13 Bold added by Plaintiffs. The court incorrectly uses 'allege' here and again fails in its responsibility to be truthful and accurate as the Amended Complaint is a verified complaint and all statements are affirmed under penalty of perjury. The accurate word to replace 'allege' is 'affirm'.

The Court Rejected Plaintiffs' Second Amended Complaint to Correct Errors

The Court Relies on Those Errors to Conceal False Findings

On 19 Nov 2024, we submitted a Second Motion to Amend (ECF 49) to correct 'typographical and clerical errors' such as “having two count 8's and no count 9” and 'the addition of a table of contents, reference table, and time line table, none of which are formal parts of the record but added for the convenience of the court and other parties.' The defendants did not cite any problems with the amended complaint but the court decided in ECF 53 on 31 Dec 2024:

> ELECTRONIC ORDER denying [49] Motion to Amend/Correct. Plaintiff represents that the purpose of his proposed amended complaint is to correct "typographical and clerical errors" and to add facts "based on events that happened after the date of the [earlier] pleading." He further states that the proposed amendment "do[es] not impact any of the claims in the pending Motion to Dismiss." Therefore, the amendment is denied as unnecessary. (Ordered by Magistrate Judge Rebecca Rutherford on 12/31/2024)

However, a cursory review of the proposed Second Amended Complaint (ECF 49-1) demonstrates that, as we had suggested, ECF 49-1 had several improvements to aid the court in correctly analyzing the various counts and arriving at accurate and just findings.

For example, a review of the table of contents on page 1 of ECF 49-1 makes it obvious that DoS issues visas not USCIS. The refusal of the court to take advantage of these tools to clarify an admittedly long and complex complaint makes it appear that the court was not really interested in accurately deciding the actual issues which were raised. Rather, it appears that the court intended to make the matter go away with false and misleading findings.

Further, ECF 49-1 clearly has a 9th count which the court completely omitted in its findings in ECF 62.

The Court Criminally Falsifies Findings to Justify Dismissal

The above falsifications and misleading conclusions (concealing material facts) amount to a crime as 18 USC § 1001 states:

> (a) … whoever, ... knowingly and willfully -
> (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
> (2) makes any materially false, fictitious, or fraudulent statement or representation; …
> shall be fined under this title, imprisoned not more than 5 years or, …
> (b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

Litigants Have Lesser Standard of Truthfulness in Their Papers

Paragraph (b) is important in this case as it says that litigants can falsify anything they submit to the court without violating this statute. There are less stringent requirements for pleadings submitted to the court, but the court itself is held to the higher standard of 18 USC § 1001.

It is also important to note that we, the plaintiffs, have verified everything we have submitted to the court after the original complaint (ECF 3). That means that at the bottom of every such paper there is a statement that we affirm under penalty of perjury that everything we submit is true to the best of our knowledge.

The Court is Held to the Higher Standard of 18 USC § 1001

However, judges are held to the standard of 18 USC § 1001) in their findings and other papers.

The Court Falsifies Visas Denials To Conceal DoCNR Challenges

The court's states in ECF 61:

> Rueangrong and Buakhao **allege**[14] that United States Citizenship and Immigration Services (USCIS) violated their due process rights by initially denying their visa applications before approving them. Am. Compl. Counts 3, 4

However, even a cursory review of the headers for Counts 3 and 4 in ECF 29 (pages 12-20, para 59-123) shows that it is DoS responsible for accepting or denying visa applications. This reference to USCIS is **false**.

This obvious false statement appears to be intended draw attention away from the significant challenges to the Doctrine of Consular Non Reviewabilty (DoCNR).

DoS in granting or denying visas is governed by different statutes from USCIS and it is clear that the visa statutes override sovereign immunity. This is clear from the case law cited below.

Four Non-Immigrant Visas Denied Without Due Process, Contrary to INA

In Count 3, DoS denied my wife's non immigrant visa application without due process in 2018. Similarly in 2019 her sister applied for non immigrant visa three times with each denied without due process. Specifically they were not permitted representation and not alowed to present evidence.

Denial Without Considering Evidence Violates Statutes and Due Process

With each denial they were given an identical written letter which cited INA

14 Bold added by Plaintiffs. The court incorrectly uses 'allege' here and again fails in its responsibility to be truthful and accurate as the Amended Complaint is a verified complaint and all statements are affirmed under penalty of perjury. The accurate word to replace 'alleges' is 'affirms'

214(b)[15] and 'you did not overcome the presumption of immigrant intent, required by law, by sufficiently demonstrating that you have strong ties to your home country that will compel you to leave the United States at the end of your temporary stay'. However, while they each had a packet of documents and pictures roughly one inch thick to demonstrate their ties, the interviewer did not review the evidence available but instead relied on a review of information on their computer and brief converstation of about two minutes duration.

Verbal Justification of Denial Not Based on Statute, Was a Federal Crime

The verbal justification for denial was always different and never in accordance with statute. For example, one interviewer complained that Buakhao did not have definite travel plans even though the packet had non-refundable round trip flight tickets and an invitation letter from my wife and I saying that she would travel with us and stay with us at our house and we would insure that she returned as required. As the verbal denial was almost certainly recorded with audio and video, the verbal denial was also a government record making the verbal explanation a federal crime of falsifying government records under 18 USC § 1001.

Novel Challenges to DoCNR Not Considered By Court

Both my wife and her sister applied again for non immigrant visas in 2022 and were granted the visas, but again there was no review of the extensive evidence they had with them. Traditionally DoS has opposed court review of visa applications based on DoCNR, but in this case we are not asking the court to overturn the visa denial (they already have valid visas). Instead we are seeking

15 INA 214(b) is 8 USC § 1184 - Admission of nonimmigrants which states:
(b) Presumption of status; written waiver
Every alien ... shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a non immigrant status under section 1101(a)(15) of this title.

credits for future services and, in Buakhao's case, declaratory relief that she was illegally prevented from visiting the U.S. in 2019, 2020, 2021 for consideration by the Social Security Administration in its five year 'lawful presence' considerations.

In Kleindienst v. Mandel, 408 U.S. 753 (1972), DoCNR was opened for challenges based on the impact of citizens' rights and, of course, my status as a citizen relative are two branches of our numerous challenges to DoCNR. The court improperly removing my wife and her sister from the suit has no impact on my standing to challenge DoCNR as a citizen relative. Similarly, our credit for future services relief is still applicable to DoS as I paid for the visa applications and would be a beneficiary of the credit for future services.

In our response (ECF 34) to defendants MTD (ECF 31) we clearly stated our intent to challenge the DoCNR and that, given the DoJ position supporting the DoCNR, an appeal to the Fifth Circuit Court is likely and it is plausible that the Supreme Court could consider the matter.

Sovereign Immunity Does Not Apply to DoS Claims

It is also important as two of the proposed challenges to DoCNR relied on my status as a husband who wished to travel with his wife and a brother-in-law who wished to host my sister-in-law, a widow of a US Army pre-1968 veteran so she could initiate her social security surviving spouse benefits.

Sovereign Immunity obviously does not apply to these claims and so the improper removal of my wife and her sister from this matter does not eliminate these important challenges.

Plaintiffs Have Novel Legal Challenges to DoCNR

These challenges were suggested in Kleindienst v. Mandel, 408 U.S. 753 (1972) and supported by Sandra Munoz v. State Department (9th Cir. 2022, 21-55365) and were not addressed by the recent results in Department of State v. Munoz (S. Ct. 2024).

Of course the most interesting challenge is based on Mrs. Von Kramer herself arguing that as an alien she:

- is not a vermin to be exploited for profit or eliminated if exploitation is not possible
- but instead a human being or person entitled to due process in accordance with the Fifth Amendment.

There are several valid challenges to DoCNR that should be heard and the court falsely concealing the basis for these claims warrants recusal.

It is likely that the controversial DoCNR will be appealed to the Fifth Circuit Court in this matter. This court is required to directly address DoCNR in its decision and findings so that the appeal can bear fruit and not be remanded to this court for some decision to review.

Social Security Administration Declaratory Relief Ignored

The court having incorrectly removed Buakhao from the suit should not prevent her from being heard on the declaratory relief she is seeking to aid her continued Social Security Survivor Benefits. This relief is also ignored improperly by the court.

The Court Omits and Misconstrues USCIS Failures

USCIS Violated Statutes and Left Mrs. Carr Stranded in Thailand

The court does not address an entire cause of action which is part of Count 7. The Amended Complaint (ECF 29) para 147 - 153 explains how Mrs. Carr was left stranded in Thailand and had to get a tourist visa from DoS in order to return home. This broad standard challenges of standing, sovereign immunity, and excutive discretion made by USATXN were addressed for this cause of action in ECF 34-3 as part of our Response (ECF 34).

In 2020, USCIS unlawfully refused to adjudicate my wife's I-751 application for 10 a ten year 'green card' within 90 days as required in 8 CFR 216.4(b)(1)[16] (see ECF 29, para 147). Further, in 2022 USCIS allowed the unlawful 2 year extension of her 2 year 'green card' to expire and left my wife stranded in Thailand even though 8 CFR 216.4 requires USCIS to automatically extend her current 'green card' until the I-751 has been adjudicated.[17] See ECF 29 para 151 to 153.

As a result, we had to apply for a second time for a non immigration visa from DoS on an emergency basis. Half of the cost of this application is attributed to USCIS. However, instead of seeking any payment, we are seeking a credit for $80 for future services with USCIS. This is a paltry sum considering the distress of being stranded in Thailand and having to make emergency visa interviews and travel arrangements.

16 8 CFR 216.4(b)(1) states:
... The [USCIS] director must either waive the requirement for an interview and adjudicate the petition or arrange for an interview within 90 days of the date on which the petition was properly filed.

17 8 CFR 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.,

However, the primary relief is corrections in USCIS and DoS procedures requiring them to actually follow the statutes and provide Due Process in all their dealings with applicants. Good governance is of immeasurable value in and of itself.

Mrs. Carr was left an Apparent Undocumented Alien (a.k.a. an 'illegal')

Mrs. Carr Unlawfully Denied the Privileges of Citizenship

Even though USCIS informed my wife on 31 Jan **2023** (over two years 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 for over two years she was not been permitted to take the Oath of Allegiance to become a citizen and was an apparent 'undocumented alien' (a.k.a. an 'illegal').

ECF 10-5 is a USCIS Notice of a final decision and order 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.

However, USCIS refused to schedule an appointment for my wife to take the Oath of Allegiance for over two years and all her other USCIS documents of her lawful permanent resident status expired (ECF 24-1, 18-6, 20-2), and, contrary to law[18], with no ten year 'green card' she had realistic fears of being deported at any time by ICE (she doesn't trust U.S. immigration), vigilantes (under Texas SB4), or National

18 INA 264 is 8 USC § 1304 which in (d) states:
(d) Certificate of alien registration or alien receipt card
Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this chapter shall be issued a certificate of alien registration or an alien registration receipt card...

Guardsmen (on day one to deport millions of illegals who are poisoning the blood of our nation), perhaps to a harsh maximum security prison in El Salvador.

In addition, for over two years my wife has been deprived of the rights of citizenship which were authorized in the USCIS decision of 31 Jan 2023 (ECF 10-5) which includes the right to vote but also to assist her two sons in seeking better employment and her sister in providing more secure travel to maintain her Social Security benefits.

Court Assists USATXN in Concealing Mrs. Carr's Plight

At no time has USATXN ever recognized the USCIS formal notice that my wife's citizenship was approved on 31 Jan **2023** (ECF 10-5) even though it is a USCIS document which I provided to AUSA Padis via email on 3 Mar 2023 (see email thread in ECF 28-1) informing him of my wife's dire circumstances and asking his assistance in resolving this critical need.

Defendants' FRCP Rule 56(d) Affidavit Woefully Inadequate

ECF 19 was a combined response and a Motion for Partial Summary Judgment (MfPSJ) on 29 Mar 2024 where I asked the court to end my wife's plight of being an apparent illegal alien. AUSA Padis responded with a FRCP Rule 56(d) Motion[19] (ECF 22) and 56(d) Affidavit (ECF 23) on 17 Apr 2024 which was woefully inadequate and did not meet any of the requirements specified by FRCP Rule 56(d) which states:

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows

19 The text of FRCP Rule 56(d) does not support a separate motion to oppose a Motion for Summary Judgment (MSJ) as it needlessly increases the number of motions being considered and causes needless delays. Of course this court and the Fifth Circuit Court have a long history of FRCP Rule 56(d) motions. Howeever, in the 3rd Circuit Court there is also a long history of FRCP Rule 56 Responses (in opposition to the MSJ). The needless confusion about this rule and the response to an MSJ will likely be raised on appeal and the correct meaning of FRCP Rule 56(d) could be decided by the Supreme Court.

> by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:
> (1) defer considering the motion or deny it;

However, the relevant portion of the required affidavit (ECF 23) only stated:

> 3. Plaintiffs filed a motion for partial summary judgment before Defendants received a ruling on Defendants' motion to dismiss and before Defendants' deadline to file an answer.
> 4. If Defendants' motion to dismiss is denied, Defendants intend to seek discovery to respond to the allegations in the complaint (or the contemplated amended complaint), including serving written discovery on each Plaintiff and taking the depositions of each Plaintiff. Defendants may need to rely upon an administrative record, which has not yet been assembled or filed in this case.
> 5. Completing the above-mentioned discovery is necessary to fully respond to the assertions that Plaintiffs rely upon in their motion.
> 6. Defendants cannot at this time present facts essential to justify its opposition to Plaintiffs' motion.

Contrary to the law concerning such FRCP Rule 56(d) responses, nothing in the affidavit is specific to this particular matter. In the widely cited Areizaga v. ADW Corp., No. 3:14-cv-2899-B (N.D. Tex. Jun 28, 2016) this court found:

> The nonmovant, however, must "present specific facts explaining his inability to make a substantive response ... and specifically demonstrating how postponement of a ruling on the motion will enable him, by discovery or other means, to rebut the movant's showing of the absence of a genuine issue of fact" and defeat summary judgment. Washington, 901 F.2d at 1285 ... (construing former FED. R. CIV. P. 56(f)). The nonmovant "may not simply rely on vague assertions that additional discovery will produce needed, but unspecified, facts." Raby, 600 F.3d [552] at 561 (quoting SEC v. Spence & Green Chem. Co., 612 F.2d 896, 901 (5th Cir. 1980)). "Rather, a request to stay summary judgment under [Rule 56(d)] must 'set forth a plausible basis for believing that specified facts, susceptible of collection

> within a reasonable time frame, probably exist and indicate how the emergent facts, if adduced, will influence the outcome of the pending summary judgment motion.'" Id. (quoting C.B. Trucking, Inc. v. Waste Management Inc., 137 F.3d 41, 44 (1st Cir. 1998)). The party requesting the additional discovery or extension also must show that relevant discovery has been diligently pursued. See Wichita Falls Office Assocs. v. Banc One Corp., 978 F.2d 915, 919 (5th Cir. 1992). "If it appears that further discovery will not provide evidence creating a genuine issue of material fact, the district court may grant summary judgment." Raby, 600 F.3d at 561 (quoting Access Telecom, Inc. v. MCI Telecomm. Corp., 197 F.3d 694, 720 (5th Cir. 1999)).

The defendants' affidavit did not meet any of these requirements. At no time has USATXN ever referred to ECF 10-5 where USCIS notified my wife that her citizenship was approved on 31 Jan 2023. Indeed the evidence of my wife's plight is four documents from USCIS which I had included in the record which demonstrate that wife was promised citizenship but instead left an apparent illegal alien (see ECF 24-1, ECF 18-6, and ECF 20-2).

However, before I had time to Reply / Respond to AUSA Padis woefully inadequte FRCP Rule 56(d) Motion / Response the court ruled that our MfPSJ was denied 'as premature' (ECF 26) on 22 Apr 2025 (5 days after AUSA Padis FRCP Rule 56(d) Motion). Within a few hours of the courts premature refusal to provide any relief to my wife's plight, DoJ substituted lead counsel (ECF 27), replacing AUSA Padis with AUSA Owen, a likely response to my pending accusations of falsifying government records to delay proceedings against AUSA Padis. Such coordination creates the appearance of collusion between this court and the DoJ.

On 14 May 2024 I submitted a FRCP Rule 54(b) Motion to Reconsider (ECF 32)

and another MfPSJ (ECF 33) on 15 May 2024. The Court simply ignored these requests for almost a year. No serious consideration was given to the my wife's plight or her concerns about being improperly deported without cause or recourse (perhaps to a maximum security prison in El Salvador). Instead the court waited almost a year until USCIS had granted my wife the promised citizenship and then improperly removed her as a plaintiff. Of course the court should not have known that USCIS was granting my wife citizenship in the next few days which creates the appearance of collusion (personal knowledge) and warrants recusal.

The court has assisted USATXN in leaving my wife as an apparent illegal alien in these difficult times when many legal residents are being deported without cause or notice. The Motions For Partial Summary (part of ECF 19 and ECF 22) were not given due consideration but simply denied as 'premature' even though the Response by USATXN was woefully inadequate failing to meet any of the standards for 56(d) Responses. This apparent collusion with Defendants warrants recusal.

The Court Conceals Serious Violations

For the first time the court recognizes my wife's plight with a highly misleading summation in a footnote on page 3 of the Findings (ECF 61):

> Rueangrong also **alleges**[20] that USCIS violated her due process rights because USCIS gave her **conflicting information** regarding the status of her citizenship application before ultimately denying her application. Id. Count 7.

While it is true that '**conflicting information**' could be used to describe our concerns, I believe a more accurate summation is:

20 Bold added by Plaintiffs. The court incorrectly uses 'alleges' here and again fails in its responsibility to be truthful and accurate as the Amended Complaint is a verified complaint and all statements are affirmed under penalty of perjury. The accurate word to replace 'alleges' is 'affirms'

- violations of individual constitutional rights (due process),
- criminal falsification of government records,
- violations of clear and specific statutes mandating things USCIS must do for applicants, and
- apparent 'whistle blower' retaliation, ignoring normal USCIS administrative procedures to deny applicants benefits to which they are entitled because they complained to the IG, Congress and management (USCIS Director)

As most of the actions of USCIS in this matter **conflict** with:

- the constitution,
- criminal statutes,
- clear and specific statutes in the INA and
- administrative procedures

then all that is conflicting information (what USCIS is required to do and what USCIS actually does).

However, the courts summary of our USCIS concerns as 'conflicting information' makes it apparent that the court is trying to obscure the crimes and violations of USCIS rather than provide prompt and fair justice. This appearance further justifies recusal.

The Court's Efforts to Conceal Are Crimes Under 18 USC § 1001

Further, this effort to conceal the nature of USCIS actions constitutes crimes as 18 USC § 1001 states:

> (a) ... whoever, in any matter ... knowingly and willfully -
> (1) falsifies, **conceals**, or covers up by any trick, scheme, or device **a material fact**; …[21]

21 Bold added by Plaintiffs.

The court should rescind the Order of 21 Mar 2025 (ECF 62) to avoid violating 18 USC § 1001 (3):

> [whoever] makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; [commits a federal crime]

USCIS Citizenship Denial was Improper

The first problem with the denial is that the USCIS tribunal had no jurisdiction to revisit an issue which had been resolved on 31 Jan 2023 with the final decision declaring that my wife had passed both the I-751 (10 year green card) and N-400 (citizenship) interviews on 30 Jan 2023 (ECF 10-5).

USCIS attempted to establish jurisdiction on 1 Sep 2023 with an erroneous notice that the interview of 30 Jan 2023 had been canceled (ECF 10-6), obviously a crime under 18 USC § 1001 as everyone knew that the interview had been completed. Falsifying records and commiting federal crimes does not grant jurisdiction to a USCIS tribunal to reopen a closed and final decision.

My wife's N-400 application for citizenship was denied on 13 Oct 2023 (ECF 10-10) because my wife 'did not appear as requested'. However, the denial for 'failure to appear' was improper as there was no evidence of notice and timely notice is required by due process (expecially for ‘failure to appear’ decisions).

USCIS scheduled the interview on 6 Sep 2023 (ECF 10-7) for 11 Oct 2023 with the normal 33 days notice if by mailing, but USCIS did not actually mail the notice until 12 Sep 2023 and it did not arrive until 15 Sep 2023 (ECF 16-1, an email from USPS with the mail for 15 Sep 2023 and the apparent postmark of 12 Sep 2023).

USCIS had not mailed the notice soon enough to provide the required 33 days notice if by mailing and the notice did not arrive with the required 30 days notice. Notice was not timely and so the interview could not be denied for failure to appear.

Further, USCIS had scheduled the interview for a date when USCIS had been informed that we would be out of the country. We made numerous efforts to reschedule the interview with the first on 19 Sep 2023. All these requests were refused (ECF 10-8 and ECF 30-7).

There was no mention of the attempts to reschedule or their denial in the decision on 13 Oct 2023 (ECF 10-10), a serious failure by the tribunal in this matter (concealing material facts, a crime under 18 USC § 1001).

This is just a brief overview of the problems with the denial with a much more complete challenge in the Amended Complaint (ECF 29, para 187 to 201 and 210 to 222, pages 40 to 41) as well as our Response (ECF 34).

Material Facts about the Denial Concealed By Court

The court's conclusory statement:

> Rueangrong also alleges that USCIS violated her due process rights because USCIS gave her conflicting information regarding the status of her citizenship application before ultimately denying her application.

is a travesty of justice as there were numerous serious challenges which the court attempted to conceal in its 'conflicting information' before dismissing her claims. This is another 18 USC § 1001 violation by the court and grounds for recusal.

Refusal to Consider Sanctions Creates Appearance of Bias

In the Order (ECF 59) denying our Motion for Sanctions (ECF 30), the court again has apparent bias and disregard to prompt, equitable, and just resolution to disputes. The court correctly notes that such sanctions are at the discretion of the court and concludes 'the Court declines to issue sanctions' even for serious violations of Texas Bar Ethics (lieing in a government email, a federal crime).

AUSA Padis Lies in Email, Tries to Delay Case

Before responding to our Complaint in Mar 2024, AUSA Padis sent me an email in which he lied about not receiving a copy of the complaint with 'the U.S. Attorney's Office has no record of having been served in this case' when actually (he admitted later), they had records of being served but their records indicated that I served the complaint personally rather than through a third party (not a party to the suit). Of course the complaint was actually delivered by a friend of mine with my assistance (he handed the packet to the correct person), but AUSA Padis was hoping to trick me into giving him an almost 60 day delay.

Mrs. Carr Left as An Apparent Illegal Alien

I did not agree to any delay as my wife had been left as apparent illegal alien with no 10 year green card or citizenship (citizenship had been promised USCIS notice of 31 Jan 2023, ECF 10-5) and was terrified of ICE (immigration police to her) arresting her without cause and deporting her (perhaps to a maximum security prison in El Salvadore) without any hearing or even any chance to talk with me. Instead I replied to his email with a copy of the complaint along with the USCIS final decision and order (ECF 10-5) and asked for his assistance in resolving this pressing matter and offerered that the other matters could be dealt with at a more leisurely pace.

Court Continues Delay, Creates Appearance of Bias

However, AUSA Padis and DoJ continued to delay and, with the help of the court left my wife as an apparent illegal alien for over a year before she was able to get citizenship more than two years after USCIS had approved it. After it was apparent that AUSA Padis was only trying to delay, I submitted the motion for sanctions (ECF 30) on 8 May 2024, but the court took no action until 26 Feb 2025 with ECF 59.

The court's power to sanction goes back to early English law along with the development of due process and the court has almost absolute discretion with sanctions. However, the requirement that the court be unbiased and recuse itself restricts the courts discretion with sanctions (due process overrides this basic discretion).

AUSA Padis violations of TXND LR 83.8 (b)(3) through 'Unethical Behavior', Texas Disciplinary Rules of Professional Conduct (ECF 30-2)[22] Rule 4.01 'Truthfulness in Statements to Others' and 18 USC § 1001 (falsification of government records) along with the delay, leaving my wife in dire circumstances, were quite serious and warranted at least an investigation of the facts and circumstances to determine if sanctions were appropriate.

However, the courts decision which 'declines to issue sanctions' without any investigation creates the appearance of bias and 'personal knowledge' or collusion. It is also not surprising as the court itself delayed and lied avoiding prompt and

22 TDRPCEffective013122.pdf in ECF 30-2 is a copy of the Texas Disciplinary Rules of Professional Conduct retrieved from https://www.texasbar.com/ but the link used to retrieve the document was a dual party link with built in redirection which makes the link intrinsically unreliable and not robust. Such links are not archived in the various web archives making the validity uncertain.

equtiable justice.

The court should recuse itself and new justices should issue an Order to Show Cause to make the determination of whether sanctions are appropriate.

Conclusion

The court is asked to reverse the dismissal of this action in the Order of 21 Mar 2025 (ECF 62), recuse the current judges because of the appearance of bias and personal knowledge (back channel commication through various clerks), grant leave to submit a new Amended Complaint, and reverse the Order declining to consider sanctions (ECF 59).

Respectfully submitted,

Verification of Motion

We, the undersigned Plaintiffs, hereby affirm under penalty of perjury in both the United States and Thailand that as individuals:

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 in accordance with normal redaction procedures to remove sensitive personal information or other sensitive information as idenitifed in the redaction.

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: 21. Jun. 2025
Location: Irving, Texas

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061

Date: 21. Jun. 2025
Location: Irving, Texas

/s *Buakhao Von Kramer*

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140 THAILAND

Date: 21. Jun. 2025
Location: Irving, TX

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with the general procedures specified in TXND LR 11.1(d) and in light of the absence of any specific procedure for pro se litigants, on the recorded date, I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf.

/s *Brian P. Carr*

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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Certificate of Conference

This Motion To Reverse Dismissal of Matter And Recusal is UNOPPOSED

The conference was held via an email discussion concerning prior motions as well as these motions and the upcoming FRCP Rule 60 Motion for Relief to Amend the Complaint. On 6 May 2025 via email AUSA Owen stated 'I am not filing any response'. However, on 13 Jun 2025 DoJ submitted Notice of Substitution of Counsel (ECF 72) designating AUSA Tami Parker as lead counsel.

Also on 13 Jun 2025 I sent an email to AUSA Parker (copying AUSA Owen and AUSA Padis) informing her that the current DoJ response was 'not filing any response' which is UNOPPOSED and asking AUSA Parker if DoJ would be 'filing any responses (opposing these motions)?'

AUSA Parker has not sent any response to date. I did receive automated responses 'from' AUSA Owen saying she has 'left government service' and 'from' AUSA Padis saying he is 'on extended leave until 9/30/2025.'

/s Brian P. Carr

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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 are enrolled in the court's electronic case filing (and service) system.

/s Brian P. Carr

_____

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