

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

<p>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</p>	<p>Civil No. 3-23CV2875 - S Verified¹ Brief of Mr. Carr Supporting Count 7 and 8 Against USCIS and DHS OIG</p>
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Brief of Mr. Carr Supporting Counts 7 and 8 Against USCIS and DHS OIG

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Introduction

Standard Challenges and Defenses Discussed

This verified affirmation will present the legal arguments which demonstrate that both Count 7 and Count 8 have valid claims to be considered by the court. The basic form of a claim is to demonstrate that each defendant:

- had a duty to perform certain acts,
- that they did not perform the required acts,
- that the plaintiffs were damaged by their failure to act, and
- that the court can remedy the problem through valid orders.

Each element of the above will be discussed for each count to address the standard challenge of ‘failure to state a claim’ which means that one or more of the above elements is not alleged (the traditional form) or affirmed in this case as this is a verified complaint and brief.

As all of the defendants are government agencies, another standard challenge which will be addressed is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress or the constitution with a special focus on the disbursement of government funds (the power of the purse) which the constitution specifically reserves for Congress (and not the courts).

There is also an extension of sovereign immunity which is executive discretion which says that when Congress gives conflicting or ambiguous statutes then it is up

to the senior executive to decide what is the best course and the courts shouldn't micro-manage decisions in areas where the executives are assumed to have the best knowledge and experience (that is what they were hired for).

The statutes and case law for sovereign immunity and executive discretion are discussed in ECF 67-3, a verified brief on that topic, which also discusses the difference between a credit for future services and direct payments from the federal government.

Count 7, USCIS Claims

USCIS Violated Statutes and Left Mrs. Carr Stranded in Thailand

USCIS violated clear and specific statutes in failing to promptly process my wife's I-751 application to replace her 'conditional' 2 year green card with a 10 year green card. After an illegal delay in adjudicating the application of more than two years, the temporary extension letter USCIS provided for my wife expired and my wife was left stranded in Thailand. We had to get a tourist visa from DoS in order to return home in Dec 2022.

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

INA Statutes Require Due Process Hearings

There are clear and specific statutes which require USCIS to conduct interviews (or adjudicate applications), notify the applicants of the results, and then promptly conduct the administrative processes to complete the application and provide the relief sought (normally an official document of the revised status)

Mrs. Carr Unlawfully Denied the Privileges of Citizenship

Mrs. Carr Left as an Apparent 'Illegal'

Even though USCIS informed my wife on 31 Jan 2023 that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5²) 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').

USCIS Retaliates, Falsifies Documents, Denies Citizenship

New Plaintiffs Because of Delayed Immigration Applications

After we had been stranded in Thailand, I had reported the problems to the USCIS Director, DHS OIG, and Congress. In apparent retaliation, USCIS criminally falsified documents and created a sham 'denial' of citizenship (ECF 10-10) for the previously approved N-400 citizenship application (ECF 10-5). This required us to file a new N-400 application (ECF 49-4) with a substantial duplicate fee of \$710. My wife received her Naturalization Certificate on 28 Feb 2025 (ECF 71-3) with a delay of over two years. During this two year period not only was my wife not given the rights of citizenship, she also was not permitted to apply for immigration visas for her immediate family causing delays in their potential immigration.

Count 8, DHS OIG Failed to Report Crimes, Support Constitution

When my wife was first left as an apparent illegal and unable to return home in Dec 2022, I made the first of many complaints to DHS OIG, which, unlike other

² ECF 10-5 is a scanned image of a somewhat dog eared original and the text is fine print that can be hard to read. The USCIS decision of 30 Jan 2023 in ECF 10-5 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.

OIG hot-lines, never acknowledged any of the complaints. The only apparent response was USCIS creating a new (and illegal) 4 year extension letter for I-751 applications (for 10 year green cards) which are illegally delayed beyond the mandated 90 adjudication (and leading to permanent residents being left stranded overseas and subject to illegal deportation because of their apparent 'illegal' status).

When USCIS retaliated for my complaints to the DHS OIG, USCIS director, and Congress, I made additional complaints to DHS OIG (and USCIS Director and DoJ) and later to this court concerning criminal falsification of records and additional due process violations. However, DHS OIG took no apparent action to report or correct the criminal and constitutional violations. The duties of OIGs to report crimes and defend the constitution (particularly individual rights) are explained in detail in ECF 75-7, a verified brief on that topic and DoJs responsibility to work with IGs to uphold the law.

Count 7, USCIS Ignores INA Statutes and Constitutional

Mrs. Carr Left Stranded in Thailand, No Documentation of Status

In 2020, USCIS unlawfully refused to adjudicate my wife's I-751 application for 10 a ten year 'green card' within 90 days (ECF 29, para 147) as required in [8 CFR 216.4\(b\)\(1\)](#) which 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.

Further, in 2022 USCIS allowed the unlawful 2 year extension of her 2 year 'green card' to expire (ECF 18-6) 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 (ECF 29 para 151 to 153). [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.

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 reservations.

However, the primary relief is corrections in USCIS 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 Denied Privileges of Citizenship, Left as Apparent Illegal

Even though USCIS informed my wife on 31 Jan **2023** that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5³) 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').

The timeliness of the Oath of Allegiance is required in INA 337 which is [8 USC §](#)

³ ECF 10-5 is a scanned image of a somewhat dog eared original and the text is fine print that can be hard to read. The USCIS decision of 30 Jan 2023 in ECF 10-5 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.

1448 which states:

(d) Rules and regulations

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

The relevant CFR is even more clear in 8 CFR 337.2 with:

Oath administered by USCIS ...

(a) Public ceremony. An applicant for naturalization ... must appear in person in a public ceremony.... Naturalization ceremonies will be conducted at regular intervals as frequently as necessary to ensure timely naturalization, but in all events **at least once monthly** where it is required to minimize unreasonable delays.⁴

Clearly the delay of over 18 months after the N-400 application approval on 31 Jan 2023 was excessive.

All USCIS documents of her lawful permanent resident status expired (ECF 24-1, ECF 18-6, ECF 20-2) which is contrary to law. INA 264 is 8 USC § 1304 which states:

(d) Certificate of alien registration or alien receipt card

Every alien in the United States ... shall be issued a certificate of alien registration or an alien registration receipt card...

(e) Personal possession of registration or receipt card; penalties

... Every alien... shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d).

My wife was in dire straits as (e) required her to have documentation with her at all times but USCIS had not provided with her any such documents (contrary to the

⁴ Bold added by plaintiffs.

statute requirements). 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 Guardsmen (on day one to deport millions of illegals who are poisoning the blood of our nation) and sent to a high security prison in another country such as El Salvador without cause or any hearing.

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.

The relief we are seeking for these clear failures to perform is an adjusted application date for the immigration visa applications for my wife's two sons and her sister (ECF 71-4, ECF 71-5, and ECF 71-10), a normal adjustment which the court can order to provide some relief.

USCIS Retaliates, Falsifies Documents, Denies Citizenship

New Plaintiffs Because of Delayed Immigration Applications

After we had been stranded in Thailand, I had reported the problems to the USCIS Director, DHS OIG, and Congress. In apparent retaliation, USCIS criminally falsified documents and created a sham 'denial' of citizenship (ECF 10-10) for the previously approved N-400 citizenship application (ECF 10-5). This required us to file a new N-400 application (ECF 49-4) with a substantial duplicate fee of \$710. My wife received her Naturalization Certificate on 28 Feb 2025 (ECF 71-3) with a delay of over two years. During this two year period not only was my wife not

given the rights of citizenship, she also was not permitted to apply for immigration visas for her immediate family causing delays in their potential immigration.

USCIS Violates Criminal Statutes and Constitutional Rights

The criminal statutes and individual constitutional rights which USCIS violated are described at length in the proposed Second Amended Complaint (filed with this brief) with five pages under the heading ‘USCIS Denies Citizenship After Approval’ but also in the request for assistance sent to the director of USCIS, DHS IG, and DoJ shown as ECF 30-8. The relief sought for these obvious failures to perform is the adjusted application dates for the immigration visas listed above as well as a credit for the duplicated N-400 application fee also described above.

FOIA Requested Records Not Provided

In order to properly document the violations of due process and clear and specific statutes, I had submitted FOIA requests to USCIS as described in the proposed Second Amended Complaint (ECF 76-1) in the section ‘USCIS FOIA Failures’.

The court has authority to order DoS to produce those records and we are seeking such relief, see 5 USC § 552(a)(4)(B) which states:

(B) On complaint, the district court of the United States ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

The records sought will clarify and substantiate the violations to due process as well as aid in determining the number of other individuals so impacted and whether this count is a good candidate for becoming a class action suit.

Relief Sought Is Proper

We are seeking access to the records to determine the magnitude of the problem via existing FOIA requests that court can order the agency to provide. This will allow us to determine how widespread the problem is and whether it is appropriate to expand this action into a class action suit.

From USCIS we are seeking credits for future services for ourselves, our friends, and our family as well as adjusted immigration application dates for the three listed immediate family members. We are also seeking ancillary relief of correcting the USCIS I-751 and N-400 processes so that these future application will be processed fairly.

Count 8 DHS IG Failed to Defend the Constitution, Report Federal Crimes

USCIS OIG Failed to Intervene

For USCIS OIG, the problems with USCIS were reported to USCIS OIG as malfeasance (failure to implement clear and specific statutes by USCIS), violations of individual Constitutional rights, federal crimes, and apparent whistleblower retaliation (ECF 30-8). No relief was provided other than belated 4 year extension letters for other apparent undocumented ‘illegals’ (ECF 48-2); no such extension letter was ever provided to my wife after she was stranded in Thailand. Instead, retaliation by USCIS resulted in the two year delay in her citizenship and constant fear of being deported without cause or notice, perhaps to a high security prison in El Salvador.

DHS OIG Had Clear Duty to Perform

DHS OIG has clear statutory mandates to work with USCIS to resolve these problems and to report federal crimes to DoJ which it failed to do. The duties of

OIGs and DoJ to support the constitution (protect individual constitutional rights and insure compliance with lawful statutes in their respective domains) and report federal crimes (OIG) and enforce the law (DoJ) is discussed in ECF 75-7, a brief on the duties of OIGs and DoJ.

Relief, DHS OIG and DoJ Work With USCIS to Correct Problems

The relief we are seeking is an order from the court for DHS OIG to work with USCIS and DoJ to correct these serious problems and assist in development of new processes and procedures which prevent illegal delays in adjudicating issues and provide due process and fair hearings in all USCIS immigrant and naturalization applications.

We were harmed by the inaction of USCIS OIG addressing these problems with duplicate N-400 citizenship application fees as well as delays in citizenship benefits (ability of my wife to vote) and delays in immigration applications for my wife's two sons (new plaintiffs) and her sister. The ancillary relief we are seeking will ameliorate future difficulties for my wife's two sons (new plaintiffs) and her sister as they are expected to need to make the same applications.

Conclusion

We should be granted the relief sought from USCIS as USCIS had a duty to provide documentation of my wife's status as a permanent resident and later citizen which were not provided as required by statute. Further, in compensation for the direct damages in the form of excess fees (second DoS visa application and second N-400 citizenship application) we seek a credit for future services.

We are also seeking ancillary relief of USCIS working with DHS IG and DoJ to

revise the immigration application process to insure it complies with due process as required by the Fifth Amendment and that USCIS does not criminally falsify government records but instead corrects incorrect records under the guidance of DoJ. This is actually greater importance to us than the nominal credit for future services as we have a strong belief in good governance.

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

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

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

/s *Brian P. Carr*

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Date: 7. Aug. 2025
Location: Irving, Texas

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