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] Reply Supporting FRCP Rule 60 Motions for: • FRCP Rule 15(a)(2) Leave to Submit Second Amended Complaint, • Due Process Corrections to Court Rules, • And Expedited Decisions for Motions

Reply Supporting FRCP Rule 60 Motions for:

- **FRCP Rule 15(a)(2) Leave to Submit Second Amended Complaint,**
- **Due Process Corrections to Court Rules, and**
- **Expedited Decisions for Motions**

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Introduction

Court and Defendants Misconstrue Appeal Options and Relief Requested

Both the court and defendants have concluded that the due process right of appeal is eliminated as the exceedingly short period for objections (14 days) has passed. Actually the fundamental requirement for appeal from this court is that any objections must be presented to the trial court before the matter is submitted for appeal and not that objections must be submitted to the trial court within 14 days.

Fortunately, FRCP Rule 60 Motions for Relief can correct delays in raising objections (FRCP Rule 72(b) 14 days) if there is some explanation for why the objections were delayed. In particular, I made a mistake in not reading the inconspicuous FRCP Rule 72(b) 14 day notice and instead treated the FCR (ECF 67) as an ordinary interlocutory decision and was preparing a Motion to Reconsider. This was an inadvertent error and, as such, qualifies for the FRCP Rule 60(b)(1) inadvertence justification. In addition, all the FRCP Rule 60 Motions for Relief in this series (of which this, ECF 76, is the last) have been filed within the time for filing a notice of appeal which is an important criteria for acceptable FRCP Rule 60 motions.

As numerous and well founded objections have been properly brought before the court under this series of FRCP Rule 60 Motions for Relief and there are numerous

errors and false statements identified in the FCR (ECF 61), the court is asked to rescind the previous orders and decisions (ECF 59, ECF 60, ECF 61, ECF 62, and ECF 63), direct the clerk to file ECF 76-1, the proposed complaint as the 2nd Amended Complaint, and direct the defendants to answer the new complaint (not another MTD) within 14 days as specified in FRCP Rule 15(a)(2).

Further, as there are numerous demonstrably false statements in the FCR (ECF 67) which are prima facie evidence of 18 USC § 1001 federal crimes, the court is asked to promptly correct the errors to demonstrate that they were mistakes rather than crimes.

Further, as the FRCP Rule 72(b) Notice in the FCR (ECF 67) was particularly inconspicuous and LR 7.1 is unusually confusing, the court is asked to revise local rules as appropriate for improved clarity.

Rule 72(b) Notice Provided by Magistrate Was Inadequate

Rule 72(b) Notice Is Required by 5th Circuit Court

The court cited Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996) which revised the 5th Circuit Court's rule for magistrate recommendations to be:

> failure to object timely to a magistrate judge's report and recommendation bars a party, except upon grounds of plain error ..., from attacking on appeal not only the proposed factual findings ..., but also the proposed legal conclusions, accepted ... by the district court, **provided that the party has been served with notice** that such consequences will result from a failure to object …[2]

Mindful of Thomas v. Arn 's reminder that a failure to object to a magistrate

2 The parenthetical comments about the previous rule's text have been removed to leave only the current rule.

> judge's report and recommendation may be excused in the "**interests of justice**", 474 U.S. at 155, 106 S.Ct. at 475[3]

Citing Thomas v. Arn, 474 U.S. 140 (1985) which states:

> the Court of Appeals may excuse the default in the interests of justice

Required Rule 72(b) Notice Was Intentionally Inconspicuous

The magistrate's Findings, Conclusions, and Recommendation (FCR, ECF 61) had the following text as an end note which was intended to meet 5th Circuit Court mandated notice requirements above while at the same time being deceptively inconspicuous.

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district judge, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

This required notice was placed in an end note below the signature block which leads the reader to conclude that it is not important. Further it is single spaced which would violate the court's local rules LR 7.2 (for briefs) which states:

> The text must be double-spaced...

To place place this sole block of single spaced text below the signature clearly

3 Bold added by Plaintiffs.

encourages the reader to conclude that the block is irrelevant legal boilerplate text.

Further, the block is 13 lines long with many irrelevant and confusing references. Single spacing such a large block of text has the effect of further discouraging the reader from reading that section. The section header starts with the misleading 'INSTRUCTIONS FOR SERVICE' which also suggests the block is unimportant.

In addition, according to the cardinal rule of deceptive presentation, the critical information is buried in the middle (after the irrelevant instructions for service and among the pedantic explanations of what specific means).

As Notice Was Successfully Hidden, Plaintiffs did not see or Read Notice

As a result, I never read the critical notice until I received the Defendants Response (ECF 74) on 14 Jul 2025. This is readily apparent as in the original FRCP Rule 60 Motions for Relief (ECF 67) of 7 Apr 2025 there is a section titled 'Order of 21 Mar 2025 (ECF 62) Was Premature' on page 6 where I complained that the delay of only 22 days from the FCR of 27 Feb 2025 (ECF 61) to the acceptance Order (ECF 62) was inadequate.

As ECF 67 was a verified motion, it is clear that on 7 Apr 2025 I was unaware of the 14 day requirement for objections. The notice was obviously insufficient in this case.

FRCP Rule 60(b)(1) Inadvertence Justification Satisfied by Hidden Notice

AUSA Parker describes the justifications for a FRCP Rule 60 Motions under (b)(1) or (b)(6) rather extensively in multiple places but then concludes without any analysis that there is no support for either justification (ECF 78, page 8, end of II.

A).[4] However, as FRCP Rule 60(b)(1) includes inadvertence, it is obvious that my failure to read the notice was an inadvertent error and exactly the sort of error which can be corrected through FRCP Rule 60 Motions under (b)(1).

Thoroughness of Hidden Rule 72(b) Notice Suggests Widespread Problem

As the required Rule 72(b) Notice was so thoroughly made inconspicuous without overt ethical violations[5] it is clear that the court has refined the notice to reduce bothersome objections. However, this is a violation of the intent of the 5th Circuit Courts' notice requirement as well as due process. As such the changes to local rules are suggested for each court considering this matter to insure that local courts do not discard due process and a fair hearing for the sake of expediency. The British colonial martial courts were very efficient but their expedient procedures were a substantial cause of the American revolution and certainly an important consideration for the framers of the constitution and their insistence on due process for all persons.

Fifth Circuit Court FRCP Rule 60 Standards Satisfied

Federal Deposit Ins. Corp. v. Castle, 781 F.2d 1101 (5th Cir. 1986) states:

> While this motion was not filed as promptly as it might have been, **the error was brought to the Court's attention before any party had detrimentally relied on the judgment or sustained any loss by reason of it** ... Under these circumstances and the compelling policies of basic fairness and equity reflected by 60(b), the [District] Court had a duty to conform its judgment to the law ...
>
> Moreover, in the instant case, other factors suggested in Seven Elves lean

4 This conclusion without any analysis is actually a logical fallacy and obviously false. AUSA Parker is not omniscient and can not know all possible circumstances which would support such a motion and, hence, can not conclude that there are no such circumstances. Indeed one such circumstance is mentioned right here along with several others later.

5 The only apparent additions to make it more 'inconspicuous' would be single point type (just dots and completely illegible) and the programmer's favorite, white on white so it is completely indiscernible to humans.

> toward consideration of the FDIC's statutory and common law protections. There is no contention here that the FDIC seeks to use "the Rule 60(b) motion ... as a substitute for appeal." Seven Elves, 635 F.2d at 402 (factor (2)). Rather, the motion was not only "made within a reasonable time" but also was **made within the time for filing a notice of appeal**. See Seven Elves, at 402 (factor (4)); McDowell v. Celebrezze, 310 F.2d 43 (5th Cir.1962) (Rule 60(b) motion may be granted when made within time for appeal). Further, as in Meadows, the party raised its statutory and common law protections "before any party [had sufficient time to] detrimentally rel[y] on the judgment." Meadows, 409 F.2d at 753. Thus, we detect **no "intervening equities that would make it inequitable to grant relief**." Seven Elves, 635 F.2d at 402 (factor (7)).[6]

It is clear that the Fifth Circuit Court standards for justified FRCP Rule 60 Motions were met by the original motion (ECF 67) which laid out the template for the following motions (these being the last of the family of motions).

Original FRCP Rule 60 Motion (ECF 67) Unopposed

The Certificate of Conference for our first consolidated motions (ECF 67) explained that AUSA Owen's response on 10 Mar 2025 and 28 Mar 2025 was OPPOSED. However, even though she had said she was opposed (see ECF 75-1) she did not submit any Response.

As a result, on 9 Jun 2025 I submitted a motion (ECF 71) to note that the prior motion (ECF 67) was actually UNOPPOSED as Defendants had not responded. Further, in ECF 75-1 there is the email interchange I had with AUSA Owen concerning her intention to submit a Response and on 6 May 2025 she stated 'I am not filing any response **unless otherwise requested/ordered by the Court**'[7] in reference to ECF 67, ECF 71 and the anticipated two more motions described in

6 Bold added by Plaintiffs.
7 Bold added by plaintiffs.

ECF 67 which were ECF 73 and these motions ECF 76.

The cryptic condition for future responses by USATXN of 'unless otherwise requested/ordered by the Court' remains ambiguous as I can not imagine ordinary circumstances where a court would order USATXN to submit any response. Responses opposing any motion are generally optional and it would be inappropriate judicial bias for the court to request or order any party to file an opposing response (though it does suggest some level of collusion and back channel communications, possibly through the clerks in various offices).

USATXN Improperly Claims that Our Objections Were Not Timely

In USATXN's Response (ECF 74) of 14 Jul 2025 there is a claim that the Judge's Order of 21 Mar 2025 (ECF 62) was not premature[8] which raises the question of why USATXN did not make this contrary claim with respect to ECF 67 where the opposing Response was due by 28 Apr 2025. Indeed ECF 67 was amended to be UNOPPOSED on 9 Jun 2025 with ECF 71.[9] Why wait until 14 Jul 2025 to make this contrary claim?

Failure to Timely Respond or Object Precludes Later Objections

In accordance to the Laches doctrine, by not raising timely objections to the claim that the Judge's Order dismissing this matter (ECF 63) of 21 Mar 2025 was premature as claimed in ECF 67 of 7 Apr 2025, USATXN lost the right to object to

8 In ECF 74 AUSA Parker claimed that we did not raise any objections within 14 days which is the inverse of our claim that the Order (ECF 62) was premature. The actual text from ECF 74 is:

Here, the Magistrate Judge specifically explained that Plaintiffs had 14 days to object to any part of the FCR. (Doc. 61 at 8.) The Magistrate Judge also explained that failure to object would bar Plaintiffs from appealing the factual findings and legal conclusions reached by the court, except upon grounds of plain error. (Id.) Plaintiffs did not file objections within 14 days, and did not seek an extension of that deadline. Thus, review of the FCR was for plain error. Serrano, 975 F.3d at 502. This Court undertook that review and properly found no error in the FRC. (Doc. 62.)

9 ECF 71 itself was listed as UNOPPOSED and was indeed UNOPPOSED as no opposing response was filed by 30 Jun 2025.

the claim. Further, ECF 67 also asked for relief from various local rules and specifically asked that parties be granted an automatic 30 day extension for any deadline when any party is outside the country at any time during the period as was the case for my wife's sister, Buakhao, when the FCR (ECF 61) was filed. As ECF 67 was UNOPPOSED (no Response opposing the motion), it would make our objections to the FCR timely as ECF 67 included numerous and specific objections to the FCR and was timely submitted when the requested 30 day extension is included (39 days after FCR, adequately within the 14 days with a 30 day extension).

USATXN Response Contrary to Prior Conference, No Justification

In ECF 75-1 there are the emails exchanged between myself and AUSA Owen (form 9 Mar 2025 to 13 May 2025) in which AUSA Owen on 6 May 2025 stated 'I am not filing any response unless otherwise requested/ordered by the Court' which in context clearly states she would not be filing any response for these motions (ECF 76).

AUSA Parker admits that she received notice of these conference results on 13 Jun 2025 but falsely alleges that the email only referred to past motions. Perhaps she did not actually read the email addressed to her or the several preceding emails (shown in ECF 75-1) where the four FRCP Rule 60 Motions for Relief after the original (ECF 67) are discussed in detail.

AUSA Parker goes on to claim to have 'inadvertently' not responded to my email (ECF 74 Response) even though she has still not responded. In truth, she could have responded at any time and certainly should have responded before submitting the Response, ECF 74, where she claims the failure was inadvertent.

Why didn't she send a responding email before she typed the claim of inadvertent error? Then she at least could have stated the date when she corrected the error. Perhaps she 'inadvertently' decided to not send an email to me to maximize my surprise when she violated the agreed upon conference results and filed an unexpected opposing response.

It is also possible she has not responded to the email because her email response would be a government record where it would be a crime (18 USC § 1001) to conceal a material fact such as what AUSA Owen meant when she claimed that USATXN would not file any opposing responses 'unless otherwise requested/ordered by the Court'.

In conclusion, in the email of 13 Jun 2025 I informed AUSA Parker that AUSA Owen had stated USATXN would not file any responses to the three FRCP Rule 60 Motions that we had discussed and that I was preparing. I had offered that AUSA Parker could alter USATXN's position at any time by just responding to the email. To date she was not responded to that email, but in response to a later email AUSA Parker did alter that position but she has never explained why AUSA Owen did not submit a Response opposing ECF 67 and claimed that she would not file any opposing responses 'unless otherwise requested/ordered by the Court'.

The Court and USATXN Falsely Claim Mr. Carr Representing Plaintiffs

In AUSA Parker's Response of 18 Sep 2025 (ECF 78), she starts with:

> Plaintiff Brian P. Carr, pro se and ostensibly representing his wife, Rueangrong Carr (hereinafter Mrs. Carr), and Mrs. Carr's sister, Buakhao Von Kramer

which is simply and blatantly false. However, it is the result of the court's blatant effort to conceal a material fact, an apparent federal crime violating 18 USC § 1001, falsification of a government record.

The Court Ignores Clear Qualifiers in the Complaint, Conceals Material Fact

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 the Complaints (ECF 3, 29 and 76-1) 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 ...[10]

In each complaint it is clear that each of us is 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 ...
> (1) falsifies, conceals, or covers up by any trick, scheme, or device a

10 Bold added by Plaintiffs.

> 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. The primary question is intent which can be ameliorated if the court promptly resolves the outstanding motions and addresses the numerous errors before the matter is referred to other forums where such crimes can be considered.

ECF 18-1, ECF 29 and ECF 76-1 Were Correctly Signed By Mr. Carr

I have properly sign the current Amended Complaint (ECF 18-1 , ECF 29) as well as the proposed Second Amended Complaint (ECF 76-1).

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, ECF 18-1, ECF 29, ECF 76 (this motion), and the proposed Second Amended Complaint (ECF 76-1) were all submitted electronically by myself via my ECF account and have my signature block. See ECF 29 page 56. As such, I have signed each document on submitting them to ECF.

The Court and USATXN Falsely Challenge Signatures on Complaints

In the FCR (ECF 61), the court states:

> Rueangrong and Buakhao did not personally sign the Amended Complaint, which is the live pleading in this matter. Rather, they purportedly gave Brian permission to sign the Amended Complaint "electronically on their behalf" ... But Brian, who is not an attorney, is not authorized to ... sign pleadings on behalf of others.

This is a demonstrably false statement and an apparent federal crime under 18 USC § 1001 as the actual certification of signatures read:

> 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

which is a precisely correct method of representing the electronic signature of another person.

The Other Plaintiffs Also Correctly Signed ECF 29 And ECF 76-1

Local Rule LR 1.1 Expands Meaning of Attorney

There is a confusing definition of terms with TXND Local Civil Rules LR 1.1 stating:

> Definitions. Unless the context indicates a contrary intention, the following definitions apply in these rules: …
> (c) Attorney. The word "attorney" means either:
> (1) a person licensed to practice law ... or
> (2) a party proceeding pro se in any civil action.

According to the court's rules, each of the plaintiffs are considered attorneys within the scope of this civil action (unless the context indicates a contrary intention).[11]

11 This motion (ECF 76) was the first motion where I have referenced LR 1.1. I apologize to the court and other parties for this omission and the new arguments which are being raised for the first time, but this is the first

LR 11.1 Allows Certification of Signature of Another Person Electronically

In this context, LR 11.1 states:

> (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 ... must:
> (1) ... or **represent the consent of the other person** in a manner permitted or required by the presiding judge; ...[12]

Based on LR 1.1, LR 11.1 can be restated as:

> By submitting a document by electronic means and representing the consent of another person on the document, a… [pro se party] who submits the document certifies that the document has been properly signed.
>
> ... A ... [pro se party] who submits a document by electronic means that is signed by another person ... must:
> ... or **represent the consent of the other person** in a manner **permitted** or required by the presiding judge; …

ECF 29 and ECF 76-1 Are Correctly Signed By All Plaintiffs

So, as I (an attorney within this matter it seems) submitted ECF 29 and ECF 76-1 electronically I needed to certify that the document was properly signed and represent the consent of the other person(s). Each document has a section with:

> CERTIFICATION OF ELECTRONIC SIGNATURES
> 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

motion I have submitted since I read LR 1.1. It is also possible that the court and USATXN were unaware of LR 1.1 and its unusual inference that pro se parties are recognized as attorneys by the court within the limited scope of the civil matter in which they are parties.

12 Bold added by Plaintiffs.

electronically on their behalf ...

This is a precise and correct certification that 'the document was properly signed' and does indeed 'represent the consent of the other person'.

Court Apparently Agreed That Signatures Were Valid

I believed that I had fully complied with LR 11.1(d) and that the court agreed when it ordered that we 'should file **this same** proposed Amended Complaint'[13] (ECF 26 dated 22 Apr 2024).

Court's Expanded Definition of Attorney Presents an Enigma

The definition of attorney in LR 1.1 to include 'a party proceeding pro se in any civil action' is certainly counter intuitive and presents an enigma as to its purpose and proper interpretation. However, as that definition seems to pre date the appointment of every judge in NDTX it is unlikely that any definitive answer will be available. My own suspicion is that it was added in recognition of the requirement that pro se parties must be provided with due process and a fair hearing. If significant capabilities were denied to pro se parties then they would not get a fair hearing.

However, in the context of representing the consent of the other person, the 'permitted by' clause gives the court latitude to restrict egregious violations of the spirit of the rule while also precluding the court from explicitly discriminating against pro se parties. Sadly, it appears that judges in NDTX are not generally aware of the expanded definitions in LR 1.1 and so any anti 'pro se' and pro government biases are expressed through flawed decisions.

13 Bold added by Plaintiffs.

Considering LR 1.1, Court's Decision is Demonstrably False

While it is clear from a careful review of local rules, that I am an attorney (for the purposes of certifying signatures in this matter) and that my wife and her sister actually did personally sign ECF 29 and ECF 76-1 as there are the correct certifications of their electronic signatures, the court's decision is particularly perplexing with:

> Rueangrong and Buakhao did not personally sign the Amended Complaint, which is the live pleading in this matter. Rather, they purportedly gave Brian permission to sign the Amended Complaint "electronically on their behalf" ... **But Brian, who is not an attorney, is not authorized to ... sign pleadings on behalf of others**.[14]

The bolded comment about not being an attorney is clearly from an incomplete reading of LR 11.1 (ignoring LR 1.1) but also represents an inadequate understanding of due process and the requirement of a fair hearing for pro se parties.

As filing documents electronically is now an intrinsic part of presenting evidence, pro se parties **must** have a timely, reliable, and convenient method to represent the consent of other persons for their electronic signatures.[15] However, a judge who is not focused on prompt and just decisions based on due process and fair hearings may use incorrect readings of LR 11.1 to dismiss troubling and annoying cases as above.

The court is asked to promptly decide outstanding motions and correct the demonstrably false statements thereby ameliorating the apparent federal crime

14 Bold added by Plaintiffs.

15 Indeed I only recently found the LR 1.1 definition by checking all occurrences of the word 'attorney' as I knew there had to be some method for pro se parties certify the signatures of other persons.

under 18 USC § 1001, e.g. ignoring the meaning of attorney within the context of local rules to support a false statement.

Physical Signatures Provided to Court In Compliance ECF 26

As the prior court's order (ECF 26 dated 22 Apr 2024) stated:

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

and the court's recent FCR expressed concern about the personal signatures for my wife and her sister, they each submitted this same proposed Amended Complaint with their physical signatures to the clerks who filed them as ECF 64 (for my wife) on 28 Mar 2025 and ECF 66 (for her sister) on 7 Apr 2025. The court is asked to forgive the delay due to 'surprise' as it seems exceedingly prejudicial for the court to raise such concerns on its own (no concerns raised by USATXN) at this late date.

USPS Claim Not Precluded By Sovereign Immunity

USPS Can Offer Refunds for Select Services

It is a simple well known fact that USPS offers a select few services under various names where refunds are available if the package is not delivered within the 'Guaranteed Delivery' time. At the time of the disputed delivery such refunds were available for 'Overnight Express' packages, but not First Class mail or Priority Express mail.

FCR had Plain Error Dismissing USPS Claim

It was a 'plain error' for the court to dismiss this claim due to sovereign immunity (whether properly briefed or not). In USATXN's Response (ECF 78, 18 Sep 2025, pg 7), she states:

> these claims are barred by sovereign immunity or were improperly briefed. (Doc. 61 at 6-7). Carr has not, and cannot, show plain error in these

conclusions. That is because sovereign immunity does bar his claim for damages for negligent transmission of the mail. Dolan v. U.S. Postal Serv., 546 U.S. 481, 483-84, 489 (2006).

USPS Does Offer Guaranteed Delivery with Potential Refunds

Any adult in the U.S. has heard numerous advertisements and seen fliers at the Post Office where 'Guaranteed Delivery' is offered for select services with a refund for failed delivery times. It is not reasonable to presume that all these claims of refunds are actually fraudulent as the USPS has never been authorized by Congress to make any such refunds. This simple observation requires the court to actually read decision in Dolan.

Dolan Explicitly Affirms USPS Ability to Offer Refunds

Dolan is not easy reading, but the essence is that even before the FTCA, Congress had authorized the USPS to offer refunds for select services in 39 USC § 245 (1940 ed. and Supp. V). When Congress opened many government agencies to common tort and contract law claims through the FTCA, Congress explicitly did not open USPS to additional claims for delivery problems beyond those already provided for in 39 USC § 245 (1940 ed. and Supp. V).

To restate more simply, any USPS delivery guarantees and refunds before the FTCA would continue but the FTCA did not add any new relief. If First Class mail and Priority Express did not have refund options before the FTCA then they didn't gain anything but likewise those services which already had refund options such as 'Guaranteed Delivery' and 'Overnight Express' continued to have the same refund options. This is further clarified in the proposed Second Amended Complaint (ECF 76-1)

USPS Follows Good Practices and Clearly States When Refunds Available

It is also worth noting that USPS is careful in its advertisements and clearly specifies that normal delivery times for First Class and Priority Express mail are estimates and not guaranteed (i.e. no refunds) and in such services as Overnight Express and Guaranteed Delivery the guarantee is limited to a refund of the initial charges. This is just good business practice as USPS does not wish to cheat its customers with false promises. Angry customers are not good customers but those customers are also voters and USPS depends on good standing with Congress and the voters.

By Not Reading Dolan The Court Made Plain Error

Dolan clarified that the FTCA did not increase the USPS exposure to tort and contract law claims, but also did not reduce the existing ability of USPS to offer refunds for specific services. It was a Plain Error for the court to find in its FCR (ECF 61) that USPS was protected via sovereign immunity from the affirmed refund claims as both common sense and the actual decision in Dolan say the reverse.

It Was Plain Error To Dismiss Based on Inadvertent Error

Cases Cited Did Not Justify Dismissal of Cause of Action

It seems that a majority of the causes of action were dismissed without proper consideration based on:

> With respect to Brian's causes of action regarding various agencies' alleged failure to investigate crime, 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")[16]

First it is important to note that there are no causes of action to investigate crimes. There are causes of actions to report federal crimes (IGs and CIGIE (5 USC § 404 or the IG Act of 1978) as well as DoJ to enforce the law (28 USC Part II - Department Of Justice), but nothing to investigate crimes. The court then cited several cases where legal arguments were raised referring to previous papers but in each case the reference was treated as an inadvertent error and the offending party was given the opportunity to correct the error, the matter was not dismissed based solely on what was presumably an inadvertent error.

In the sole case where a matter was dismissed it was because the plaintiff failed to submit any response to a MTD (no response is not the same as the court rejecting a response because it was a reference to another brief).

Dismissing Causes of Action Not Sanction Available to Court

In the FCR (ECF 61) dated 27 Feb 2025, the court stated:

> 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.

citing obscure court cases to impose unconstitutional sanctions of dismissing matters due to an inadvertent error; the court can not deny the opportunity to be heard based on simple errors. The court can impose sanctions from admonishing the offending party to even imprisonment but it can not deny the right to due process and a fair hearing which is guaranteed by the constitution and beyond the reach of any branch of the government including the courts.

16 This excerpt is from the FCR (ECF 61) page 7.

Separate Briefs Added to 2nd Amended Complaint (ECF 76-1)

To avoid violating local rules and legitimate sanctions, I have incorporated into the proposed 2nd Amended Complaint (ECF 76-1) all the standard replies to the standard defenses of:

- failure to state a claim,
- sovereign immunity,
- executive discretion and
- the Doctrine of Consular Non Reviewability (DoCNR)

These 'written instruments' are incorporated into the complaint in accordance with FRCP Rule 10(c).

Unfounded Conclusory Claims by USATXN Justify Need to Answer

AUSA Parker states in her Response opposing these motions (ECF 78, 18 Sep 2025):

> Plaintiff, in his 87-page proposed complaint, incorporates by reference several of these briefs, including briefs with Plaintiff's arguments attempting to overcome sovereign immunity. See, e.g., (Doc. 76-1 at 12-13 (Doc. 75-2, 67-3).) Nothing in those briefs provide a plausible waiver of sovereign immunity in this case.

However, it is presumptuous of AUSA Parker to summarily evaluate those briefs as it is up to the court to provide an unbiased evaluation of the merits presented in each such brief.

Indeed, the tendency of USATXN to make unfounded and conclusory summary statements is the main justification for requesting that the defendants actually answer the complaint.

Further, AUSA Parker appears to complain of the length of ECF 76-1 (87 pages).

However, considering that there are 11 defendants and 11 counts (and more than 20 distinct causes of action) that is fairly concise, 8 pages per defendant.

USATXN Falsely Claims Defects in Proposed Complaint (ECF 76-1)

AUSA Parker continues with (ECF 78, 18 Sep 2025):

> In short, Plaintiff, who bears the burden of demonstrating an applicable waiver of sovereign immunity, wholly fails to do so. ... To address that concern, Plaintiff lists a number of federal statutes in the proposed amended complaint. ...[footnote listing 30 statutes, acts, and CFRs as well as the 5th amendment] But it is not sufficient for Plaintiffs to merely lists federal statutes that may contain a waiver of sovereign immunity. Plaintiff must allege facts sufficient to state a plausible claim that a waiver exists. **Plaintiffs' proposed ... amended complaint [ECF 76-1] fails to meet this burden.**[17]

The claim by AUSA Parker that 'Plaintiffs' proposed ... amended complaint [ECF 76-1] fails to meet this burden.' is simply false. She is trying to distract the court from actually reading the complaint which does in fact have affirmed statements which conclusively demonstrate that 'a plausible claim that a waiver exists' for every single cause of action. Every one of those 30 statutes, acts, and CFRs listed in the court's jurisdiction section is also listed elsewhere in the complaint along with the appropriate facts and circumstances. This is true for all of the more than 20 causes of action which results in a complaint of 87 pages. For the sake of brevity only two particular causes of action will be discussed in detail but, in truth, all of the more than 20 causes of action are similarly documented.

USCIS Example of Properly Pled Claim

A particularly egregious example of USCIS mistreating permanent residents and ignoring their statutory duties as well as the constitution is the dire circumstances

17 Bold added by Plaintiffs.

which USCIS and the court left my wife in.

Mrs. Carr Left In Dire Circumstances As Apparent Illegal Alien

Even though USCIS informed my wife on 31 Jan **2023** (more than 2.5 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), she was actually left as an apparent 'undocumented alien' (a.k.a. an 'illegal'). Without any documentation of her legal status, she was terrified that immigration police (a.k.a. I.C.E.) would deport her without cause or notice, perhaps to a high security prison in El Salvador.

The Proposed Amended Complaint (76-1) Fully Pleads This Cause of Action

The violations of USCIS are most numerous and egregious and dominate the complaint as a whole. The different USCIS affirmed statements in ECF 76-1 start with paragraph 166 on page 32 and go to paragraph 270 on page 54. However, this covers more than the primary cause of action (apparent illegal alien) but also a secondary cause of action (stranded in Thailand unable to return home) as well as about eight other ancillary causes of action. The record includes copies of numerous applications, notices, and decisions to document each step culminating in the approval ECF 10-5 on 31 Jan 2023, as well as the expired documentation of her legal status as ECF 20-1 a copy of Air's green card which 'expired' on 13 Nov 2020, ECF 18-6 a USCIS green card extension letter which 'expired' on 13 Nov 2022, and ECF 20-2 a temporary I-551 stamp in passport 'evidencing permanent residency' from 3 Jan 2023 to 2 Jan 2024.

There are also later falsified documents by USCIS to continue her plight as an apparent illegal alien which appears to have been 'whistleblower' retaliation for the complaints we made to the IG, Congress, and DoJ when she was stranded in

Thailand unable to return home.

The two claims are very well supported in detail in the complaint itself (ECF 76-1). However, it can be hard to identify the specific elements of each claim from this very detailed time line of events and documents.

Brief Supporting Claims Against USCIS (76-2) Concise Statement of Claim

To alleviate the confusion which can result from 22 pages and 96 paragraphs of detailed affirmed statements, the complaint itself (ECF 76-1) refers to separate briefs which present the primary claims in a more clear and concise document. For USCIS this brief is ECF 76-2.

ECF 76-2 explains that 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.

Mrs. Carr Was Left Stranded in Thailand

As to duty to perform ECF 76-2 cites INA 264 which is 8 USC § 1304 which requires USCIS to provide every legal alien with 'a certificate of alien registration' (e.g. 10 year green card) but goes on to require that every alien... shall at all times carry with him and have in his personal possession any certificate of alien registration.

To summarize, USCIS was required to issue my wife a green card and she was required to have it with her at all times which is particularly important as all her

documents were expired and under Texas SB4 (which is still pending after having been in effect for four hours while my wife was an apparent illegal) vigilantes could arrest her for not having a valid green card and deport her without due process for the crime of not having a valid green card in her possession. Of course the underlying problem was USCIS failing for over two years to provide her with a valid green card.

Clearly USCIS had a duty to issue a valid green card and they failed to issue such card. We were damaged specifically when she was stranded in Thailand and had to make other arrangements to return. The initial relief sought was simply that USCIS provide the required green card. All elements of that claim were present at the time of the initial complaint and USATXN implausibly argued that we had failed to state a claim or that USCIS was protected by sovereign immunity.

Sovereign immunity does not apply as it only limits the court's ability to order a government agency to do something not authorized by Congress, but given 8 USC § 1304 and ECF 10-5, it is clear that the court could have simply ordered USCIS to provide my wife with the 10 year green card which had been approved over a year before and never provided as 8 USC § 1304 already required USCIS to provide the green card and the court can certainly order USCIS to obey the statute.

This was exactly the relief sought in the two Motions for Partial Summary Judgment (MfPSJ, ECF 18 and ECF 33) which were denied as they were 'premature' (ECF 26, ECF 43) without addressing the dire circumstances or the compelling evidence and statutes in the record. Instead, the court delayed any decisions in the matter for almost a year without any concern for my wife's

circumstances.

There was a Valid Claim for a Certificate of Naturalization

This was a much simpler claim. After approving my wife's N-400 application for citizenship (ECF 10-5), USCIS had a duty under 8 USC § 1448 to schedule her oath ceremony which must be 'conducted frequently and at regular intervals' and 8 CFR 337.2 which specifies they must be 'at least once monthly where it is required to minimize unreasonable delays' though at the current USCIS office in Irving, TX, there are several such ceremonies each month. The Certificate of Naturalization is issued at the Oath Ceremony.

My wife was damaged by over two years of being denied the privileges of citizenship and the initial relief was simple. The court could have simply ordered USCIS schedule to oath ceremony and issue the promised Certificate of Naturalization as required by statute.

This relief was sought in the same two Motions for Partial Summary Judgment (MfPSJ, ECF 18 and ECF 33) which were denied as they were ‘premature’ (ECF 26, ECF 43) without addressing the compelling evidence and statutes in the record. Instead, the court delayed any decisions in the matter for almost a year without any concern for my wife’s circumstances.

Apparent Collusion Between USATXN and the Court Cause Delays

Due to my wife’s dire circumstances as an apparent illegal alien and being the denied the benefits of citizenship, and the courts choosing to delay any relief for almost a year and the unusual circumstances of the court approving the Amended Complaint (ECF 29) only to later declare the signatures of my wife and her sister

invalid almost a year later, we submitted a Motion for Sanctions (ECF 79, 27 Sep 2025) which complains of apparent collusion between AUSA Padis and the court under FRCP Rule 11(c)(2) as the court appears to have given USCIS a delay of almost a year to correct its errors.

Every motion paper I submitted to the court highlighted my wife's plight but in no cases did USATXN or the court ever address ECF 10-5 and my wife's plight. They simply made broad claims of sovereign immunity and failure to state a claim without addressing the specifics of any claim or my wife's plight.

Excessive Delays Require Changes to USCIS Claims

The delays required changes to the complaint as my wife became a citizen the day after the court issued its FCR (ECF 67). As such, this claim has been revised in ECF 76 to provide relief which the court can provide through valid orders (as the court can not restore the right to vote in now completed elections and such).

As my wife has three immediate relatives (her two sons and her sister) who have applied for immigration visas based on my wife's recent citizenship, we can seek alternative relief. Each relative has an 'application date' which determines their position in the queue for immigration visas (several years normal delay for their categories). We have requested that the court order USCIS to adjust the application date for each relative to correct for the improper delay in my wife's citizenship. This adjustment is a normal process for USCIS to correct for errors in application processing.

Again sovereign immunity does not apply as the court is only directing USCIS to do something it is already mandated to do, maintain proper 'application dates'

based on its records and correcting for any errors and impropriety. The court can not directly order the issuance of an immigration visa as such visas are only available by congressional statutes which strictly regulate the number of such visas; that would be a violation of sovereign immunity. However, the court can require USCIS to maintain the queue in a constitutionally valid fashion with due process corrections for errors.

Each Cause of Action is Proper and Fully Stated

While AUSA Parker makes the false statement that none of the more than 20 causes of action have a validly stated claim even when sovereign immunity is considered, that statement is simply wrong. Every one of the claims has clear and specific 'duty to perform' (listing specific statutes which apply) as well damages which resulted from the failure to perform and relief sought in the form of valid orders that would ameliorate the damages.

USCIS is the most dramatic of the claims (apparent illegal alien instead of citizen) and also the most complex, but every cause of action is fully specified in the complaint (ECF 76-1); that is why it is 87 pages and there are 12 referenced briefs dealing with specific claims and issues of interest.

Some causes of action such as FOIA requests are trivially simple. They simply indicate that I requested certain information, the agency has a duty to provide the information under the FOIA statutes, they did not provide the requested information, and the court has the ability to order the release of information as it determines proper (the court has the explicit ability to restrict access to the results determining what information should remain confidential and restricted as the FOIA statutes give the court that role).

Most of the causes of action are less complex than USCIS but more complex than FOIA requests. However, they are all properly stated and warrant being properly answered so that the court can actually determine where there is actual dispute and then determine a just result.

FOIA Requests Ignored Though Court Has Clear Jurisdiction

As stated in this motion (ECF 73), there are several affirmations of outstanding FOIA requests which I initiated and where there is a clear and uncontested duty to perform with specific relief sought. None of the defendants specifically addressed any of the FOIA claims and the court simply ignored these causes of action. This alone is Plain Error which justifies rescinding the Order (ECF 62), but these FOIA are critical matters which should be promptly answered. There could well be dozens or even thousands of similarly damaged individuals with respect to USPS, DoS, USCIS, and the IRS. These FOIA requests warrant prompt answers and for USPS, DoS, and USCIS the court should order immediate answers.

Conclusion

The court is asked to direct the clerk to file ECF 76-1 as the 2nd Amended Complaint, to revise its **FRCP Rule 72** procedures and its relevant Local Rules to provide better and more accurate notice, and expeditiously resolve all pending motions in this matter.

Respectfully submitted,

Verification of Motion

I, the undersigned Plaintiff, hereby affirm under penalty of perjury in both the United States and Thailand that:

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 identified 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: 1. Oct. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

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

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061