United States Department of State

Washington, D.C. 20520

October 19, 2023

Brian P. Carr
1201 Brady Dr.
Irving, TX 75061

Email: carrbp@gmail.com

Case Control Number: F-2023-10679
Subject of Request: Rueangrong Carr

Dear Mr. Carr:

This is in response to your request under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, dated June 20, 2023, in which you requested visa records. The Department of State's (the "Department") Bureau of Consular Affairs, Visa Office has searched its records, located, and reviewed 16 documents, totaling 45 pages, relevant to your request.

Visa records are confidential under section 222(f) of the Immigration and Nationality Act, 8 U.S.C. § 1202(f). Consistent with this authority, the Department may disclose certain visa-related records, such as a visa application, to the person who provided the record to, or has already received the record from, the Department of State. Such records also may be disclosed to a duly authorized representative. Those records are included herewith, with any confidential portions redacted. Thus, we are releasing to you are releasing to you two documents in part, as these documents originated from or were sent to individuals who provided written authorizations and release would therefore not breach confidentiality.

Any information about other visa records responsive to your request, including whether other records exist and, if so, the quantity of such records, is confidential under Section 222(f) and therefore exempt from release under Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3). Consequently, the Department is unable to disclose any further information in response to your request.

You may contact our FOIA Requester Service Center or our FOIA Public Liaison for any further assistance and to discuss any aspect of your request via email at foiastatus@state.gov or telephone at (202) 261-8484. Please be sure to refer to the case control number shown above in all correspondence about this case.

If you are not satisfied with the Department's determination in response to your FOIA request, you may administratively appeal by writing to: U.S. Department of State, Appeals Officer, HST Room B266, 2201 C Street, NW, Washington, D.C. 20520, or faxed to (202) 485-1718. Appeals must be postmarked within 90 calendar days of the date of this initial agency decision letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

Additionally, if you are not satisfied with the Department's determination in response to your request, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for

OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email address: ogis@nara.gov; telephone: (202) 741-5770; toll free number: 1-877-684-6448; facsimile: (202) 741-5769.

Sincerely,

Laura Stein

Laura Stein, Deputy Director
Office of Domestic Operations
Directorate for Visa Services

LS:kl
Enclosure:
As stated

United States Department of State

Washington, D.C. 20520

October 19, 2023

Brian P. Carr
1201 Brady Dr.
Irving, TX 75061

Email: carrbp@gmail.com

Case Control Number: F-2023-10679
Subject of Request: Buakhao Von Kramer

Dear Mr. Carr:

This is in response to your request under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, dated June 20, 2023, in which you requested visa records.

We are unable to provide any information in response to your request. Visa records are confidential under section 222(f) of the Immigration and Nationality Act, 8 U.S.C. § 1202(f). Consequently, disclosing the existence or absence of such records in response to your request would reveal information exempt from disclosure under Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3). In addition, disclosing the existence or absence of such records would reveal information in which the individual's privacy interest outweighs any public interest in disclosure, making that information exempt from disclosure under Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6).

Consistent with section 222(f) certain limited information may be provided to the subject of the visa records. You may submit another request with one of the following valid forms of authorization from the subject of the request: (1) a completed and signed DS-4240, Certification of Identity (available at the following web address: https://foia.state.gov/_docs/DS-4240.pdf), (2) a request that includes a notarized signature of the subject of the request, or (3) a valid signed and dated penalty of perjury statement that declares the following: "I declare, certify, state, or affirm under the laws of the United States of America, that the foregoing is true and correct." For additional information concerning requests for visa records, please refer to the following web address: https://foia.state.gov/Request/Visa.aspx. Please note, however, that even if you provide such authorization, the Department would still be required by section 222(f) of the Immigration and Nationality Act (8 U.S.C. § 1202(f)) to keep confidential any visa records that were not previously received from or sent to the subject of the request.

You may contact our FOIA Requester Service Center or our FOIA Public Liaison for any further assistance and to discuss any aspect of your request via email at Foiastatus@state.gov or telephone at (202) 261-8484. Please be sure to refer to the case control number shown above in all correspondence about this case.

If you are not satisfied with the Department's determination in response to your FOIA request, you may administratively appeal by writing to: U.S. Department of State, Appeals Officer, HST Room B266, 2201 C Street, NW, Washington, D.C. 20520, or faxed to (202) 485-1718. Appeals must be postmarked

within 90 calendar days of the date of this initial agency decision letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

Additionally, if you are not satisfied with the Department's determination in response to your request, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email address: ogis@nara.gov; telephone: (202) 741-5770; toll free number: 1-877-684-6448; facsimile: (202) 741-5769.

Sincerely,

Laura Stein

Laura Stein, Deputy Director
Office of Domestic Operations
Directorate for Visa Services

LS:kl

Gmail

Brian Carr <carrbp@gmail.com>

Ref: F-2024-04752, Freedom of Information Act Acknowledgement

1 message

FOIAstatus@state.gov <FOIAstatus@state.gov> Mon, Jan 8, 2024 at 1:10 PM
To: carrbp@gmail.com

THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.

Mr. Carr:

This email acknowledges receipt of your December 20, 2023, Freedom of Information Act (FOIA) (5 U.S.C. § 552) request received by the U.S. Department of State, Office of Information Programs and Services on December 20, 2023, regarding seeking data about the processing of non-immigrant B1 or B2 visas by the Department of State (DoS) Visa Services (VS). It is cumulative data without information concerning any particular candidate. This Office assigned your request the subject reference number and placed it in the complex processing track where it will be processed as quickly as possible. See 22 CFR § 171.11(h). If you have any questions regarding your request, please contact our FOIA Requester Service Center or our FOIA Public Liaison by email at FOIAstatus@state.gov or telephone at 202-261-8484.

THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.

6. Error on PAL FOIA submission.msg
113K

Gmail **Brian Carr <carrbp@gmail.com>**

RE: Privacy Act Release Forms for FP-2023-00325

1 message

FOIA Status <FOIAStatus@state.gov> Mon, Feb 5, 2024 at 9:05 AM
To: Brian Carr <carrbp@gmail.com>

Mr. Carr,

The Office of Information Programs and Services is in receipt of your email below. Please note that requests regarding passport records are processed by the Department of State's Bureau of Consular Affairs, Office of Passport Services, Law Enforcement Liaison Division. Therefore, your inquiry has been forwarded to that office for a response.

For all future inquiries regarding this request, please contact the Office of Passport Services, Law Enforcement Liaison Division at 202-485-6550 or send an email to PPT-Public-FOIARequests@state.gov.

Regards,

U.S. Department of State
FOIA Requester Service Center

-----Original Message-----
From: Brian Carr <carrbp@gmail.com>
Sent: Friday, February 2, 2024 10:48 PM
To: FOIA Status <FOIAStatus@state.gov>
Subject: Privacy Act Release Forms for FP-2023-00325

Dear Sir / Madam:

I recently received a written response to FP-2023-00325 in the mail insisting that I provide a notarized release form else the matter would be closed. However, I believe this response is in error.

It appears that FP-2023-00325 was an early request and there were a series of later requests, one of which is still pending and due for a response. See:

Request	Submitted	LastDate	Status
F-2023-08493	10 May 2023	23 Jun 2023	Closed
FP-2023-00325	23 May 2023	23 Jun 2023	On Hold
F-2023-10679	21 Jun 2023	8 Aug 2023	Responded
F-2023-12502	28 Jun 2023	8 Aug 2023	Closed
F-2023-13477	31 Jul 2023	6 Feb 2024	InProcess

I never received the required acknowledgment for FP-2023-00325 and so am not familiar with the actual content of the request. Can you send me a copy of the original request for FP-2023-00325? I suspect that this request has been duplicated by the later requests and so no response is required, but I would like to confirm this.

The letter I got also insists on a notarized consent form, but that is in error. 22 USC 171.4 states that a declaration under penalty of perjury is sufficient as described in 28 USC 1746. I had previously attached just such DS-5505 privacy act release forms in DoSpaBC.pdf, DoSpaBVK.pdf, and DoSpaRC.pdf, also attached to this email for your convenience.

I ask that you promptly complete the FOIA request FP-2023-00325 if it is not a duplicate of another request.

Thanks for your attention to this matter.
Brian

--

Gmail

Brian Carr <carrbp@gmail.com>

Ref: FP-2023-00325, Freedom of Information Act Acknowledgement

1 message

A_FOIAacknowledgement@groups.state.gov <A_FOIAacknowledgement@groups.state.gov>
Fri, Feb 28, 2025 at 12:32 PM

To: carrbp@gmail.com

THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.

Dear Mr. Carr:

This email correspondence acknowledges receipt of your May 10, 2023, Freedom of Information Act (FOIA) (5 U.S.C. § 552) request received by the U.S. Department of State, Information Access Programs Directorate (A/SKS/IAP) on February 5, 2024.

You are requesting records related to Rueangrong Carr, a Thai national, including:

visa application records (B1/B2) from July 1, 2018 – Present, including:

Interviews: August 29, 2018 (Chiang Mai, AA00843QZW) & December 12, 2022 (Chiang Mai, AA00BH32QT)

Flight ticketed: December 19, 2022

Audio/video recordings (if available)

Email correspondence referencing applications/passports to or from:

support@ustravelodocs.com, CONSChiangmai@state.gov, visasbkk@state.gov

AG requests related to the above, including: H20190052 (2018) & H20231749 (2023)

A/SKS/IAP assigned your request the subject reference number and placed it in the complex processing track where it will be processed as quickly as possible. See 22 CFR § 171.12(b). The Department will not be able to respond within the 20 days provided by the statute due to "unusual circumstances." See 5 U.S.C. § 552(a)(6)(B)(i)-(iii). In this instance, the unusual circumstances include the need to search for and collect requested records from other Department offices or Foreign Service posts.

26-10025.1626

If you have any questions regarding your request, would like to narrow the scope or arrange an alternative time frame to speed its processing, or would like an estimated date of completion, please contact our FOIA Requester Service Center or our FOIA Public Liaison by email at FOIAstatus@state.gov or telephone at 202-261-8484.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov ; telephone at 202-741-5770; or toll free at 1-877-684-6448.

Sincerely,

Brooke Nicholas
Supervisory Government Information Specialist
Information Access Liaison Office
U.S. Department of State

****THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.****

26-10025.1627

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

September 9, 2023

Control Number: NRC2023277190

RUEANGRONG CARR
1201 BRADY DR
IRVING, TX 75061

Dear RUEANGRONG CARR:

We received your request for information on September 1, 2023.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: NRC2023277190. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the complex track. You specifically requested a copy of your I-751 and N-400.

Based on the information you provided, we have determined that expedited processing of your request is not warranted. The Department of Homeland Security Freedom of Information Act regulation at 6 C.F.R. § 5.5(e)(1) requires that you demonstrate that your request warrants expedited treatment because it involves:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;
(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information;
(iii) The loss of substantial due process rights;
(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

Additionally, 6 C.F.R. § 5.5(e)(3) requires that a requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. Furthermore, requests for expedited processing that are based on paragraph (e)(1)(iv) of this section must be submitted to the Senior Director of FOIA Operations, the Privacy Office, U.S. Department of Homeland Security, 245 Murray Lane SW STOP-0655, Washington, D.C. 20598-0655. If you can demonstrate any further showing as to the nature and degree of (i), (ii), or (iii) of the above categories, please submit this additional information to this office for reconsideration.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal to USCIS at: USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our USCIS FOIA Public Liaison at U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010, or by email at FOIAPAQuestions@uscis.dhs.gov.

A USCIS FOIA Public Liaison is an agency official to whom FOIA requesters can raise concerns about the service the requester has received from the agency's FOIA Office. USCIS FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency, understanding of the status of requests, and assisting in the resolution of disputes.

If you are unable to resolve your FOIA dispute through our USCIS FOIA Public Liaison, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email ogis@nara.gov; telephone 202-741-5770; toll free 877-684-6448; or facsimile 202-741-5769.

Consistent with 6 C.F.R. § 5.5(a) of the Department of Homeland Security (DHS) FOIA regulations, USCIS processes FOIA requests according to their order of receipt. Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). Please contact our office if you would like to limit the scope of your request or to agree on a different timetable for the processing of your request. We will make every effort to comply with your request in a timely manner.

Some of the agency records you have requested are always available to you via your myUSCIS account in an un-redacted format. For immediate access to electronic records associated with your FOIA request, please log into your account located at my.uscis.gov and view/download them today. USCIS's response to your FOIA request will not include redundant copies of documents readily available to you in your account.

Agreement to Pay Fees

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.11), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to $25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of $4.00/$7.00/$10.25 per quarter hour, and for duplication of copies at the rate of $.10 per copy. The first 100 copies and two hours of search time are not charged, and the remaining combined charges for search and duplication must exceed $14.00 before we will charge you any fees. Most requests do not require any fees; however, if fees in excess of $25.00 are required, we will notify you beforehand.

Personally Identifiable Information

USCIS no longer collects Social Security Numbers in connection with FOIA or PA requests. When forwarding to us any documents related to your request, please ensure any Social Security Numbers on the documents are blanked out or removed.

The National Records Center (NRC) has the responsibility to ensure that personally identifiable information (PII) pertaining to U.S. Citizenship and Immigration Services (USCIS) clients is protected. In our efforts to safeguard this information, we may request that additional information be provided to facilitate and correctly identify records responsive to your request. Though submission of this information is voluntary, without this information, your request may be delayed while additional steps are taken to

ensure the correct responsive records are located and processed. Further, if we are unable to positively identify the subject of the record we may be unable to provide records responsive to your FOIA request.

How to Check the Status of Your Request

You may check the status of your FOIA request online at first.uscis.gov/#/check-status. If you have any questions concerning your pending FOIA/PA request, or to check the status of a pending application or petition, please call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

How to Submit Questions or Changes

Questions concerning this FOIA/PA request may be mailed to U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010 or emailed to FOIAPAQuestions@uscis.dhs.gov. All FOIA/PA related requests, including address changes must be submitted in writing, and signed by the requester. Please include the control number listed above on all correspondence. For more information regarding the USCIS FOIA Program, please visit the USCIS website at www.uscis.gov/FOIA.

Sincerely,

Jarrod T Panter
Acting Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

Brian Carr
1201 Brady Drive
Irving, TX 75061
carrbp@gmail.com
518-227-0129

Dear Sir / Madam:

I was surprised and disappointed that my original 'Freedom of Information' (FOI) request of 01 Sep 2023 returned only the original I-751 and N-400 applications. As such, I am submitting another FOI request to get the records which I am seeking.

General

Government ID for all Redacted Identification Information

Whenever a record is redacted to remove personally identifiable information (such as email address) I ask that the redaction include the government ID of the employee or contractor and that there is a table of ID's with the matching job title and job description (could be a link to a publicly available document).

While this may appear to be a request that you generate new records which is not permitted, database records are electronic records which are subject to FOIA and these records are almost certainly available in the payroll and personnel databases. While almost all of the information in these databases is privileged, the employee ID and job title should not be. This should be a simple database query without need to redact the results as only the requested information should be returned. Also, in cases where there are only a small number of entries, it is possible that the responding administrative person would prefer to generate a new document with the requested information, but that is their option rather than doing an excerpt of existing databases records to fulfill the request.

See the 9th Circuit Decision in THE CENTER FOR INVESTIGATIVE REPORTING, v. UNITED STATES DEPARTMENT OF JUSTICE, Case: 18-17356, 12/03/2020, ID: 11913401, DktEntry: 64-1 which can be retrieved from https://www.eff.org/document/cir-v-doj-9th-cir-opinion and states 'the use of a query to search for and extract a particular arrangement or subset of existing data from the ... [department] database does not require the creation of a "new" agency record under FOIA.'

General

Explanation of Redaction and Withheld Documents

In the event that any responsive documents are found, I ask that you do not redact or withhold documents based on '5 U.S.C. Section 552 (b)(5) and (b)(6)', but rather specify which section is applicable.

If (b)(6) is applied to a government employee or contractor, I ask that you identify the individual by government ID along with job title. If the record includes information concerning another private individual, all identifying information should be redacted with '(b) (6) private individual'.

If (b)(5) is applied, I ask that you specify if it was due to executive privilege. If so, please identify the executive who is familiar with the matter and made the determination invoking 'deliberative process privilege' and include the document where the rationale for claiming executive privilege is explained to include the policy which was under deliberation.

If (b)(5) is applied, I ask that you specify if it was due to attorney client privilege. If so, please identify the client and attorney. For each document so withheld, please include a description of the document with the general contents of the document so that a determination can be made whether attorney client privilege is actually applicable to the document.

If any documents need to be withheld because of active OIG or DoJ investigations it is only necessary to identify the reference number for the investigation and the contact information for the status of the investigation (to allow notice when the investigation is completed).

General

Maintain as electronic documents when redacting documents

I would prefer that any electronic documents be retained in their machine readable format (easier to read and search) so ask that you edit them in their machine readable format (perhaps rich text format rather than pdf) to preserve the privacy of individuals, replacing their names and email / text addresses with their IDs.

In addition, I would like copies of any and all attachments to emails except for those which were originally provided by myself. For the excepted attachments, it would be fine to just refer to the name of the PDF file. There is also no need to provide multiple copies of a redacted attachment if they are attached to multiple documents as long as same name is used for each redacted attachment.

Records Being Sought

* All emails, messages, and other records to or from USCIS referencing alien registration number A-056137568 or receipts MSC2091582908 or IOE9752855294 from 1 Nov 2018 to present. This also includes all audio and video recordings made concerning this matter, particularly interactions between the applicant and USCIS.

* The original online G-639 as submitted for NRC2023277190 on 01 Sep 2023.

* All emails, messages and other records to and from the FOI office concerning NRC2023277190 from 01 Sep 2023 to the present.

Thanks for your help with this.
Brian

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

November 20, 2023

Control Number: NRC2023371972

RUEANGRONG CARR
1201 BRADY DR
IRVING, TX 75061

Dear RUEANGRONG CARR:

We received your request for information on November 12, 2023.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: NRC2023371972. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the complex track. You specifically requested a copy of your All records related to the 2 receipts as well as any records related to the A-file since 1 Nov 2018 including all audio and video recordings as well as any emails, messages, and other records related to the previous FOI request NRC2023277190., I-751, N-400, and Proof of LPR status.

Consistent with 6 C.F.R. § 5.5(a) of the Department of Homeland Security (DHS) FOIA regulations, USCIS processes FOIA requests according to their order of receipt. Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). Please contact our office if you would like to limit the scope of your request or to agree on a different timetable for the processing of your request. We will make every effort to comply with your request in a timely manner.

Some of the agency records you have requested are always available to you via your myUSCIS account in an un-redacted format. For immediate access to electronic records associated with your FOIA request, please log into your account located at my.uscis.gov and view/download them today. USCIS's response to your FOIA request will not include redundant copies of documents readily available to you in your account.

Agreement to Pay Fees

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.11), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to $25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of $4.00/$7.00/$10.25 per quarter hour, and for duplication of copies at the rate of $.10 per copy. The first 100 copies and two hours of search time are not charged, and the remaining combined charges for search and duplication must exceed $14.00 before we will charge you any fees. Most requests do not require any fees; however, if fees in excess of $25.00 are required, we will notify you beforehand.

Personally Identifiable Information

USCIS no longer collects Social Security Numbers in connection with FOIA or PA requests. When forwarding to us any documents related to your request, please ensure any Social Security Numbers on the documents are blanked out or removed.

The National Records Center (NRC) has the responsibility to ensure that personally identifiable information (PII) pertaining to U.S. Citizenship and Immigration Services (USCIS) clients is protected. In our efforts to safeguard this information, we may request that additional information be provided to facilitate and correctly identify records responsive to your request. Though submission of this information is voluntary, without this information, your request may be delayed while additional steps are taken to ensure the correct responsive records are located and processed. Further, if we are unable to positively identify the subject of the record we may be unable to provide records responsive to your FOIA request.

How to Check the Status of Your Request

You may check the status of your FOIA request online at first.uscis.gov/#/check-status. If you have any questions concerning your pending FOIA/PA request, or to check the status of a pending application or petition, please call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

How to Submit Questions or Changes

Questions concerning this FOIA/PA request may be mailed to U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010 or emailed to FOIAPAQuestions@uscis.dhs.gov. All FOIA/PA related requests, including address changes must be submitted in writing, and signed by the requester. Please include the control number listed above on all correspondence. For more information regarding the USCIS FOIA Program, please visit the USCIS website at www.uscis.gov/FOIA.

Sincerely,

Jarrod T Panter
Acting Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

January 2, 2024

Control Number: NRC2023371972

RUEANGRONG CARR
1201 BRADY DR
IRVING, TX 75061

Dear RUEANGRONG CARR:

This letter is in response to your request for records under the Freedom of Information Act (FOIA) or Privacy Act (PA), which was received in this office on November 12, 2023, regarding your All records related to the 2 receipts as well as any records related to the A-file since 1 Nov 2018 including all audio and video recordings as well as any emails, messages, and other records related to the previous FOI request NRC2023277190., I-751, N-400, and Proof of LPR status.

We have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance. We have completed the review of all documents and have identified 256 pages that are responsive to your request. Enclosed are 235 pages released in their entirety and 21 pages released in part. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552a (j)(2) and (k)(2) of the Privacy Act and 5 U.S.C. § 552 (b)(7)(C) and (b)(7)(E) of the FOIA.

The following exemptions are applicable:

Exemption (b)(7)(E) of the FOIA provides protection for records or information for law enforcement purposes which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The types of documents and/or information we have withheld could consist of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques, and various other documents.

Exemption (j)(2) of the PA permits the government to withhold information in files which originated from an agency primarily concerned with the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities. The types of documents and/or information withheld in conjunction with (b)(7) could consist of information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

Exemption (b)(7)(C) provides protection for personal information in law enforcement records, which could reasonably be expected to constitute an unwarranted invasion of personal privacy. We have withheld information relating to third-party individuals. The types of documents and/or information that we have withheld could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents that are considered personal.

Exemption (k)(2) of the PA provides protection to investigatory material compiled for law enforcement purposes. The types of documents and/or information we have withheld in conjunction with (b)(7)(C) of the FOIA could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents relating to third party individuals that are considered personal.

Exemption (k)(2) of the PA provides protection to investigatory material compiled for law enforcement purposes. The types of documents and/or information we have withheld in conjunction with (b)(7)(E) of the FOIA could consist of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques and various other documents.

There may be additional documents that contain discretionary releases of exempt information. If made, these releases are specifically identified in the responsive record. These discretionary releases do not waive our ability to invoke applicable FOIA exemptions for similar or related information in the future.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal by mail to USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our USCIS FOIA Public Liaison at U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010, or by email at FOIAPAQuestions@uscis.dhs.gov.

A USCIS FOIA Public Liaison is an agency official to whom FOIA requesters can raise concerns about the service the requester has received from the agency's FOIA Office. USCIS FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency, and understanding of the status of requests, and assisting in the resolution of disputes.

If you are unable to resolve your FOIA dispute through our USCIS FOIA Public Liaison, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email ogis@nara.gov; telephone 202-741-5770; toll free 877-684-6448; or facsimile 202-741-5769.

The National Records Center does not process petitions, applications, or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with USCIS, please visit the Contact Us page at www.uscis.gov or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

How to Submit Questions or Changes

Questions concerning this FOIA/PA request may be mailed to U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010 or emailed to FOIAPAQuestions@uscis.dhs.gov. All FOIA/PA related requests, including address changes must be submitted in writing, and signed by the requester. Please include the control number listed above on all correspondence. For more information regarding the USCIS FOIA Program, please visit the USCIS website at www.uscis.gov/FOIA.

Sincerely,

Jarrod T Panter
Acting Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

Enclosure(s)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

December 26, 2023

Control Number: OPQ2023000040

Brian Carr
1201 Brady Dr
Irving, TX 75061

Dear Brian Carr:

We received your request for information relating to the processing of N-400 applications by USCIS. It is cumulative data without information concerning any particular applicant. All queries will be annual totals for the period from 1 Jan 2018 to 31 Dec 2023 (six years). 1. Please provide the yearly number of permanent residents who were elegible to apply for citizenship via the N-400 application during the particular year. while a precise total could be quite cumbersome to compute, it is acceptable to give approximate totals. For example, the total for a particular year could include all Alien ID / numbers which were assigned / activated before the end of year and had not been terminated (through granting citizenship, voluntarily gave up status, deported, deceased, etc.) by the end of the year. If it is possible to distinguish between I-130 petitions (for spouse of U.S. citizen to immigrate), the I-130 based Alien numbers should be separated out and to qualify, the resident must also have been issued the alien number at least three years before the end of the particular year. There should be a separate total for I-130 aliens. If it is not possible to separate out the I-130 applications aliens then they should be included with all other alien numbers. For the general category of alien numbers, to be considered for a particular year, the alien number must have been issued at least five years before the end of the particular year. It is understood that there are other requirements to file an N-400 citizenship application, specifically the periods of actual residence in the U.S., but it is felt that is not significant enough factor to warrant the cumbersome summing of periods of actual residence prior to the end of the particular year. As the actual residence requirement is generally only half of the period with a valid resident ID it is expected that over 95% of potential applicants will meet the residency requirement.

Your request was received in this office on December 22, 2023. We may need to contact you at a later date to discuss the scope of your request.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: OPQ2023000040. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the simple track (Track 1).

Consistent with 6 C.F.R. § 5.5(a) of the Department of Homeland Security (DHS) FOIA regulations, USCIS processes FOIA requests according to their order of receipt. Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive

information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). Please contact our office if you would like to limit the scope of your request or to agree on a different timetable for the processing of your request. We will make every effort to comply with your request in a timely manner.

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.3(c)), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to $25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of $4.00/$7.00/$10.25 per quarter hour, and for duplication of copies at the rate of $.10 per copy. The first 100 copies and two hours of search time are not charged, and the remaining combined charges for search and duplication must exceed $14.00 before we will charge you any fees. Most requests do not require any fees; however, if fees in excess of $25.00 are required, we will notify you beforehand.

The National Records Center (NRC) has the responsibility to ensure that personally identifiable information (PII) pertaining to U.S. Citizenship and Immigration Services (USCIS) clients is protected. In our efforts to safeguard this information, we may request that additional information be provided to facilitate and correctly identify records responsive to your request. Though submission of this information is voluntary, without this information, your request may be delayed while additional steps are taken to ensure the correct responsive records are located and processed. Further, if we are unable to positively identify the subject of the record we may be unable to provide records responsive to your FOIA request.

How to Check the Status of Your Request

You may check the status of your FOIA request online at first.uscis.gov/#/check-status. If you have any questions concerning your pending FOIA/PA request, or to check the status of a pending application or petition, please call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

How to Submit Questions or Changes

Questions concerning this FOIA/PA request may be mailed to U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010 or emailed to FOIAPAQuestions@uscis.dhs.gov. All FOIA/PA related requests, including address changes must be submitted in writing, and signed by the requester. Please include the control number listed above on all correspondence. For more information regarding the USCIS FOIA Program, please visit the USCIS website at www.uscis.gov/FOIA.

Sincerely,

Jarrod T Panter
Acting Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

April 24, 2025

Control Number: OPQ2023000041

Brian Carr
1201 Brady Dr
Irving, TX 75061

Dear Brian Carr:

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office on December 22, 2023 regarding data about the processing of I-751 applications by USCIS.

We are unable to provide I-751, N-400, interview and green card data as it is not correlated in the system of records. It would require us to create a new record, which is not required under the FOIA.

We have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's Guidance. We have completed the review of all documents and have identified 1 spreadsheet responsive to your request. We are releasing 1 spreadsheet in its entirety.

There may be additional documents that contain discretionary releases of exempt information. If made, these releases are specifically identified in the responsive record. These discretionary releases do not waive our ability to invoke applicable FOIA exemptions for similar or related information in the future.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal by mail to USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our USCIS FOIA Public Liaison at U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010, or by email at FOIAPAQuestions@uscis.dhs.gov.

A USCIS FOIA Public Liaison is an agency official to whom FOIA requesters can raise concerns about the service the requester has received from the agency's FOIA Office. USCIS FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency, and understanding of the status of requests, and assisting in the resolution of disputes.

If you are unable to resolve your FOIA dispute through our USCIS FOIA Public Liaison, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email ogis@nara.gov; telephone 202-741-5770; toll free 877-684-6448; or facsimile 202-741-5769.

The National Records Center does not process petitions, applications, or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with USCIS, please visit the Contact Us page at www.uscis.gov or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

Sincerely,

James A Baxley
Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

Enclosure(s)

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] FRCP Rule 60 Motion to Amend Motions for Relief (ECF 67) As UNOPPOSED Certificate of Conference - UNOPPOSED

FRCP Rule 60 Motion to Amend Consolidated Rule 60 Motions for Relief (ECF 67) As UNOPPOSED

Table of Contents

FRCP Rule 60 Motion to Amend Consolidated Rule 60 Motions for Relief (ECF 67) As UNOPPOSED 1
Table of Contents 1
Summary 2
This FRCP Rule 60 Motion to Amend is Timely 2
Original Rule 60 Motions (ECF 67) Within FRCP Rule 59 Time Requirements 2
Court Closed Case, No Effect on Rule 60 Motions or Responses 3
Defendants Improperly Claimed Opposition to ECF 67 Motions for Relief 4
No Timely Response by Defendants 4
Meaning of 'Opposed to a Motion' in Local Rules 4
Defendants Stated That No Opposing Response Will be Filed 5
Conclusion 5
Verification of Motion 6
Index of References 7
Certificate of Conference 8

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

CERTIFICATE OF SERVICE.....8

Summary

This FRCP Rule 60 Motion to Amend requests that the court recognize that the original FRCP Rule 60 Motions for Relief (ECF 67) is UNOPPOSED due to the failure of the Defendants to file a timely response as required by LR 7.1.

This FRCP Rule 60 Motion to Amend 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.

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.

This motion (ECF 71) is timely as it is filed well within a year of the orders on 21 Mar 2025 (ECF 62 and ECF 63).

Original Rule 60 Motions (ECF 67) Within FRCP Rule 59 Time Requirements

The original FRCP Rule 60 Motion for LR 7.2 Relief (ECF 67) was timely being filed on 7 Apr 2025 as were the responses of the my wife (Mrs. Carr), ECF 64 and ECF 65 on 28 Mar 2025 and Buakhao (my sister-in-law, Mrs. Von Kramer), ECF 66 on 7 Apr 2025 as well the prior Motion to Amend (ECF 69) of 13 Apr 2025. They all meet the more stringent timeliness requirement of FRCP Rule 59.

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.

All of the prior filings cited above were 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**.[2]

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 resolved, making this Motion for Relief timely.

Court Closed Case, No Effect on Rule 60 Motions or Responses

At this time, this matter is listed in ECF as closed. However, while the court certainly may close matters after final orders at its discretion, this has no effect on the constitutional due process right of any party to file timely FRCP Rule 60 motions for relief. Similarly, defendants had an absolute constitutional right to file timely responses to these motions but did not do so.

2 Bold added by Plaintiffs.

Defendants Improperly Claimed Opposition to ECF 67 Motions for Relief

In the email exchange prior to submission of ECF 67, defendants stated on 28 Mar 2025 'I am opposed.' which was the basis of classifying ECF 67 as OPPOSED.

No Timely Response by Defendants

However, any opposition to ECF 67 was due on 28 Apr, but has not been filed yet.

TXND Local Civil Rules LR 7.1 states:

> (e) Time for Response and Brief. A response and brief to an opposed motion must be filed within 21 days from the date the motion is filed.

21 days after 7 Apr 2025 is 28 Apr 2025. No opposing response has been received to date.

The use of 'A response' in the rule instead of 'Any response' is indicative that a response is required by the opposing party if they stated that they are opposed to the motion. To claim opposition without the intent to file an opposing response could be construed as intentionally misleading the court and attempting to delay the matter.[3]

Meaning of 'Opposed to a Motion' in Local Rules.

Being opposed to a motion is not about having general, non specific concerns or misgivings but instead about having clear and specific issues which will be raised in an opposing response. General concerns and misgivings are not sufficient.

For example, I am opposed to slavery, mass shootings, burning of widows on their husband's funeral pyre, and terrorism. However, in the context of local rules,

3 If a motion is assumed to be opposed because of no ability to get a response from the adversely affected party, then the lack of response within the required time frame will demonstrate that the motion is, in fact, unopposed and no reply is required or authorized.

'opposed' means having a legal basis for objecting to specific relief(s) requested in the motion and the intent to file a response opposing the motion with the legal basis for the objections.

Defendants Stated That No Opposing Response Will be Filed

On 6 May 2025 via email AUSA Owen stated 'I am not filing any response' making it clear the ECF 67 is 'UNOPPOSED' and the court is justified in considering ECF 67 'UNOPPOSED'.

That intention to not file any response was made broadly with respect to this Motion to Amend as well as the expected next three Rule 60 Motions for Relief (as described in the Consolidated Rule 60 Motions for Relief, ECF 67). All such motions will be listed as 'UNOPPOSED' based on that email response. The court does not need to delay any decisions waiting for an opposing response.

Conclusion

As there is no adverse response or opposition to the Consolidated Rule 60 Motions for Relief (ECF 67) the court is asked to grant all the relief sought as well as such other and further relief that the court deems proper.

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 to remove sensitive personal information 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*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 10. Jun. 2025
Location: Irving, Texas

Index of References

ECF 61 2
ECF 62 2
ECF 63 2
ECF 64 2
ECF 65 2
ECF 66 2
ECF 67 ..... 1 ff., 8
ECF 69 2
ECF 71 2
FRAP Rule 3 3
FRAP Rule 4 3
FRCP Rule 59 2
FRCP Rule 60 ..... 1 ff., 5
LR 7.1 ..... 2, 4
LR 7.2 2
TXND Local Civil Rules 4

Certificate of Conference

This Motion for Relief Amending ECF 67 is UNOPPOSED

The conference was held via an email discussion and on 6 May 2025 via email AUSA Owen stated 'I am not filing any response'.

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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

ฉันชื่อ ธนพล ศรีชัย ขอยืนยันภายใต้บทลงโทษฐานสาบานเท็จทั้งในสหรัฐอเมริกา และประเทศไทยว่า

1. ฉันได้ยื่นคำร้องเรียนกับนายไบรอัน พี คาร์ (ต่อไปนี้จะเรียกนายคาร์) ผู้อำนวยการของฉัน และได้แจ้งความประสงค์ที่จะเข้าร่วมคดีฐานะโจทก์เพิ่มเติม

2. ฉันต้องการให้ดำเนินการและอนุมัติคำร้องขอวีซ่าเข้าเมืองของฉันโดยเร็วที่สุด

3. ฉันขอให้คุณคาร์เป็นตัวแทนผลประโยชน์ฉันในเรื่องนี้เท่าที่กฎหมายอนุญาต และขอให้ส่งเอกสารใด ๆ ตอบในเรื่องนี้ถึงคุณคาร์ทางอิเล็กทรอนิกส์ผ่าน ECF หรือ c/o Brian P Carr, 1201 Brady Dr, Irving, TX 75061

ฉันขอยืนยันว่าข้อความข้างต้นเป็นความจริงเท่าที่ทราบภายใต้บทลงโทษฐานให้การเท็จทั้งในสหรัฐอเมริกา และประเทศไทย

ธนพล ศรีชัย
บ้านท่าศาลา 1 หมู่ 7
ศรีเมืองชุม
แม่สาย เชียงราย 57130 ประเทศไทย
วันที่ 7 พฤษภาคม พ.ศ. 2568
สถานที่: ประเทศไทย

Notice of Naturalization Oath Ceremony

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form N-445
OMB No. 1615-0054
Expires 11/30/2025

A-Number
A056 137 568
RUEANGRONG CARR

Date
02/10/2025

RUEANGRONG CARR
1201 BRADY DR
IRVING TX 75061

U.S. Citizenship and Immigration Services (USCIS) thanks you for your interest in becoming a United States citizen. You must now appear at a Naturalization Oath Ceremony to complete the naturalization process.

You are scheduled to appear for a Naturalization Oath Ceremony on:	**Please bring the following with you:**
Date and Time: Friday, February 28, 2025 at 09:00AM Location: 6500 Campus Circle Drive East Irving TX 75063	• This notice with Page 4 completed. Please refer to instructions below. • All Permanent Resident Cards ("green card") that you may have, valid or expired. • All Reentry Permits or Refugee Travel Documents that you may have, valid or expired. • Any other documents USCIS issued to you that you may have, such as employment authorization cards, valid or expired.

The naturalization ceremony is a solemn and meaningful event. USCIS asks that you dress in proper attire to respect the dignity of this event.

If you cannot come to this ceremony, call the U.S. Citizenship and Immigration Services (USCIS) Contact Center at 1-800-375-5283 (TTY 1-800-767-1833) as soon as possible to reschedule your ceremony.

If you are in the military, you may contact the USCIS Military Help Line for assistance, at **877-247-4645**.

To request a disability accommodation, go to **www.uscis.gov/accommodations** or call the USCIS Contact Center at **1-800-375-5283 (TTY:1-800-767-1833) as soon as possible, even if you indicated on your application that you require an accommodation.**

Instructions

You MUST bring the completed questionnaire on Page 4 with you to the Naturalization Oath Ceremony, along with the documents listed above. You are required to give these items to an employee of USCIS at the oath ceremony.

Print clearly in black ink. Please read these instructions before answering the questions, which concern events that may have occurred since your interview. Answer the following questions on the day of your Naturalization Oath Ceremony, before you attend the ceremony. Please note that these questions do not refer to any events that happened ***before*** your naturalization interview. These questions refer to the time period ***after*** your interview at the USCIS office. For example, if you were married at the time of your interview and there has been no change in your marital status since your interview, select "NO" to **Item Number 1** below. If you traveled outside the United States ***after*** your interview, select "YES" to **Item Number 2** below. Additionally, if you answer "YES" to any of the questions, bring documents to support your answers. For example, if you married or divorced after your interview, bring your marriage certificate or divorce decree. If you traveled outside of the United States, bring travel related documents. If you were arrested after your interview, bring your arrest records and court dispositions. If you were serving in the military and have been discharged, bring your DD214 or other discharge papers.

After you have answered each question, print the date and the location (city and state) where you completed the questionnaire. The date when you completed the questionnaire should be the same as the date of your Naturalization Oath Ceremony. Also, sign the questionnaire and print your current address. If you used anyone as an interpreter to read the Instructions and questions on this form to you in a language in which you are fluent, the interpreter must fill out the section titled "Interpreter's Contact Information, Certification, and Signature," provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the form.

THE UNITED STATES OF AMERICA

No. [redacted]

CERTIFICATE OF NATURALIZATION

Personal description of holder as of date of naturalization:

Date of birth [redacted] 1961

Sex: FEMALE

Height: 5 *feet* 02 *inches*

Marital status: MARRIED

Country of former nationality: THAILAND

USCIS Registration No. [redacted]

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

AR CArr

(Complete and true signature of holder)

Be it known that, pursuant to an application filed with the Secretary of Homeland Security

at: IRVING, TEXAS

The Secretary having found that:

RUEANGRONG CARR

residing at:

IRVING, TEXAS

having complied in all respects with all of the applicable provisions of the naturalization laws of the United States, being entitled to be admitted as a citizen of the United States, and having taken the oath of allegiance at a ceremony conducted by

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

at: IRVING, TEXAS *on:* FEBRUARY 28, 2025

such person is admitted as a citizen of the United States of America.

Kika Scott

U. S. Citizenship and Immigration Services

ALTERATION OR MISUSE OF THIS DOCUMENT IS A FEDERAL OFFENSE AND PUNISHABLE BY LAW

DEPARTMENT OF HOMELAND SECURITY

Receipt Number		Case Type
IOE9273026376		I130 - PETITION FOR ALIEN RELATIVE
Received Date 05/02/2025	**Priority Date** 05/02/2025	**Petitioner** A056 137 568 CARR, RUEANGRONG
Notice Date 05/02/2025	**Page** 1 of 1	**Beneficiary** LAWICHAI, RUJIPAS

CARR, RUEANGRONG
1201 BRADY DR
IRVING TX 75061-4749

Notice Type: Receipt Notice
Amount received: $625.00 U.S.
Section: Unmarried son or daughter (21 or older) of USC, 203(a)(1) INA

This notice confirms that USCIS received your application or petition ("this case") as shown above.
If any of the information in your notice is incorrect or you have any questions about your case, you can connect with the USCIS Contact Center at www.uscis.gov/contactcenter or ask about your case online at www.uscis.gov/e-request. You will need your Alien Registration Number (A-Number) and/or the receipt number shown above.

You can receive updates on your case by visiting www.uscis.gov/casestatus to get the latest status or you can create an account at my.uscis.gov/account and receive email updates for your case.

This notice does not grant any immigration status or benefit, nor is it evidence that this case is still pending. It only shows that the application or petition was receipted on the date shown.
Processing time - Processing times vary by form type.

- Visit www.uscis.gov/processingtimes to see the current processing times by form type and field office or service center.
- If you do not receive an initial decision or update within our current processing time, you can try our online tools available at www.uscis.gov/tools or ask about your case online at www.uscis.gov/e-request.
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.

If this case is an I-130 Petition - Filing and approval of a Form I-130, Petition for Alien Relative, is only the first step in helping a relative immigrate to the United States. The beneficiaries of a petition must wait until a visa number is available before they can take the next step to apply for an immigrant visa or adjustment of status to lawful permanent residence. To best allocate resources, USCIS may wait to process I-130 forms until closer to the time when a visa number will become available, which may be years after the petition was filed. Nevertheless, USCIS processes I-130 forms in time not to delay relatives' ability to take the next step toward permanent residence once a visa number does become available. If, before final action on the petition, you decide to withdraw your petition, your family relationship with the beneficiary ends, or you become a U.S. citizen, call 800-375-5283.
If your address changes - If you move while your case is pending, please visit www.uscis.gov/addresschange for information on how to update your address. Remember to update your address for all your receipt numbers.

Return of Original Documents - Use Form G-884, Request for the Return of Original Documents, to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. You only need to submit one Form G-884 if you are requesting multiple documents contained in a single USCIS file. However, if the requested documentation is in more than one USCIS file, you must submit a separate request for each file. (For example: If you wish to obtain your mother's birth certificate and your mother's/father's marriage certificate, both of which are in the USCIS file that pertains to her, submit one Form G-884 with your mother's information.)

NOTICE: The information you provide on and in support of applications and petitions is submitted under the penalty of perjury. USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

California Service Center
U.S. CITIZENSHIP & IMMIGRATION SVC
PO Box 30113
Tustin CA 92781

USCIS Contact Center: www.uscis.gov/contactcenter

Receipt Number		Case Type
IOE9143696338		I130 - PETITION FOR ALIEN RELATIVE
Received Date 05/13/2025	**Priority Date** 05/13/2025	**Petitioner** A056 137 568 CARR, RUEANGRONG
Notice Date 05/13/2025	**Page** 1 of 1	**Beneficiary** LAWICHAI, TANAPON

CARR, RUEANGRONG
1201 BRADY DR
IRVING TX 75061-4749

Notice Type: Receipt Notice
Amount received: $625.00 U.S.
Section: Unmarried son or daughter (21 or older) of USC, 203(a)(1) INA

This notice confirms that USCIS received your application or petition ("this case") as shown above.
If any of the information in your notice is incorrect or you have any questions about your case, you can connect with the USCIS Contact Center at www.uscis.gov/contactcenter or ask about your case online at www.uscis.gov/e-request. You will need your Alien Registration Number (A-Number) and/or the receipt number shown above.

You can receive updates on your case by visiting www.uscis.gov/casestatus to get the latest status or you can create an account at my.uscis.gov/account and receive email updates for your case.

This notice does not grant any immigration status or benefit, nor is it evidence that this case is still pending. It only shows that the application or petition was receipted on the date shown.
Processing time - Processing times vary by form type.

- Visit www.uscis.gov/processingtimes to see the current processing times by form type and field office or service center.
- If you do not receive an initial decision or update within our current processing time, you can try our online tools available at www.uscis.gov/tools or ask about your case online at www.uscis.gov/e-request.
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.

If this case is an I-130 Petition - Filing and approval of a Form I-130, Petition for Alien Relative, is only the first step in helping a relative immigrate to the United States. The beneficiaries of a petition must wait until a visa number is available before they can take the next step to apply for an immigrant visa or adjustment of status to lawful permanent residence. To best allocate resources, USCIS may wait to process I-130 forms until closer to the time when a visa number will become available, which may be years after the petition was filed. Nevertheless, USCIS processes I-130 forms in time not to delay relatives' ability to take the next step toward permanent residence once a visa number does become available. If, before final action on the petition, you decide to withdraw your petition, your family relationship with the beneficiary ends, or you become a U.S. citizen, call 800-375-5283.
If your address changes - If you move while your case is pending, please visit www.uscis.gov/addresschange for information on how to update your address. Remember to update your address for all your receipt numbers.

Return of Original Documents - Use Form G-884, Request for the Return of Original Documents, to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. You only need to submit one Form G-884 if you are requesting multiple documents contained in a single USCIS file. However, if the requested documentation is in more than one USCIS file, you must submit a separate request for each file. (For example: If you wish to obtain your mother's birth certificate and your mother's/father's marriage certificate, both of which are in the USCIS file that pertains to her, submit one Form G-884 with your mother's information.)

NOTICE: The information you provide on and in support of applications and petitions is submitted under the penalty of perjury. USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

USCIS TSC
U.S. CITIZENSHIP & IMMIGRATION SVC
6046 N Belt Line Rd. STE 114
Irving TX 75038-0015

USCIS Contact Center: www.uscis.gov/contactcenter

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 government, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Defendants	Civil No. 3-23CV2875 - S Affirmation of Rujipas Lawichai Joining Suit

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

1. I have discussed the complaint with Mr. Brian P Carr (hereafter Mr. Carr), my step-father and have stated my desire to join the complaint as an additional Plaintiff.

2. I would like for my immigration visa application to be processed and granted as soon as possible.

3. I ask that Mr. Carr represent my interests in this matter to the degree that this is permitted by law and that correspondence in this matter be addressed to Mr. Carr electronically via the ECF or C/O Brian P Carr, 1201 Brady Dr, Irving, TX 75061.

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

Dated: 15.06.25

Location: Phuket, Thailand.

Rujipas Lawichai
Ban Tha Sala 1 Moo 7, Si Mueang Chum,
Maesai, Chiang Rai 57130 Thailand
THAILAND

Receipt Number		Case Type
IOE9888845604		I130 - PETITION FOR ALIEN RELATIVE
Received Date 05/30/2025	**Priority Date** 05/30/2025	**Petitioner** A056 137 568 CARR, RUEANGRONG
Notice Date 05/30/2025	**Page** 1 of 1	**Beneficiary** VON KRAMER, BUAKHAO

CARR, RUEANGRONG
1201 BRADY DR
IRVING TX 75061-4749

Notice Type: Receipt Notice
Amount received: $625.00 U.S.
Section: Sister or brother of U.S. Citizen, 203(a)(4) INA

This notice confirms that USCIS received your application or petition ("this case") as shown above.
If any of the information in your notice is incorrect or you have any questions about your case, you can connect with the USCIS Contact Center at www.uscis.gov/contactcenter or ask about your case online at www.uscis.gov/e-request. You will need your Alien Registration Number (A-Number) and/or the receipt number shown above.

You can receive updates on your case by visiting www.uscis.gov/casestatus to get the latest status or you can create an account at my.uscis.gov/account and receive email updates for your case.

This notice does not grant any immigration status or benefit, nor is it evidence that this case is still pending. It only shows that the application or petition was receipted on the date shown.
Processing time - Processing times vary by form type.

- Visit www.uscis.gov/processingtimes to see the current processing times by form type and field office or service center.
- If you do not receive an initial decision or update within our current processing time, you can try our online tools available at www.uscis.gov/tools or ask about your case online at www.uscis.gov/e-request.
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.

If this case is an I-130 Petition - Filing and approval of a Form I-130, Petition for Alien Relative, is only the first step in helping a relative immigrate to the United States. The beneficiaries of a petition must wait until a visa number is available before they can take the next step to apply for an immigrant visa or adjustment of status to lawful permanent residence. To best allocate resources, USCIS may wait to process I-130 forms until closer to the time when a visa number will become available, which may be years after the petition was filed. Nevertheless, USCIS processes I-130 forms in time not to delay relatives' ability to take the next step toward permanent residence once a visa number does become available. If, before final action on the petition, you decide to withdraw your petition, your family relationship with the beneficiary ends, or you become a U.S. citizen, call 800-375-5283.
If your address changes - If you move while your case is pending, please visit www.uscis.gov/addresschange for information on how to update your address. Remember to update your address for all your receipt numbers.

Return of Original Documents - Use Form G-884, Request for the Return of Original Documents, to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. You only need to submit one Form G-884 if you are requesting multiple documents contained in a single USCIS file. However, if the requested documentation is in more than one USCIS file, you must submit a separate request for each file. (For example: If you wish to obtain your mother's birth certificate and your mother's/father's marriage certificate, both of which are in the USCIS file that pertains to her, submit one Form G-884 with your mother's information.)

NOTICE: The information you provide on and in support of applications and petitions is submitted under the penalty of perjury. USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

California Service Center
U.S. CITIZENSHIP & IMMIGRATION SVC
PO Box 30113
Tustin CA 92781

USCIS Contact Center: www.uscis.gov/contactcenter

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] Brief of Mr. Carr Due Process Facets to Include Pro Se Representation

Table of Contents

Table of Contents....1
Due Process Facets to Include Pro Se Representation....1
Introduction....1
This Court Erred, Contradicted Monroe's Actual Text....3
Quote is Just a Paraphrase of Martin which Quoted Iannaccone....4
Iannaccone Provides Excellent History to Pro Se and Due Process....5
Due Process Restricts the Government's Ability Deprive Any Person....7
Congress Can Not Simply Ban Non Attorneys as Representatives....9
Summary....10
Reference Index....12

Due Process Facets to Include Pro Se Representation

Introduction

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

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

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

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

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

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

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

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

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

This Court Erred, Contradicted Monroe's Actual Text

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

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

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

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

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

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

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

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

Quote is Just a Paraphrase of Martin which Quoted Iannaccone

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

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

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

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

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

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

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

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

Iannaccone Provides Excellent History to Pro Se and Due Process

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

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

2 Fifth Circuit Court Local Rules 47.5.4 states:
Unpublished opinions issued on or after January 1, 1996, are not precedent, except under the doctrine of res judicata, collateral estoppel or law of the case (or similarly to show double jeopardy, notice, sanctionable conduct, entitlement to attorney's fees, or the like). An unpublished opinion may be cited pursuant to FED. R. APP. P. 32.1(a)....

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

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

in reference to pro se representation states:

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

1329.

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

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

Due Process Restricts the Government's Ability Deprive Any Person

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

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

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

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

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

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

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

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

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

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

Congress Can Not Simply Ban Non Attorneys as Representatives

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

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

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

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

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

Summary

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

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

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

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

Respectfully submitted,

Verification of Document

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

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

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

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 7. Jun. 2025

Location: Irving, Texas

Reference Index

28 USC § 1654.....10
ECF 18.....4
ECF 18-1.....4
ECF 3.....4
ECF 61.....3
Fifth Circuit Court Local Rules 47.5.....4 f.
FRCP Rule 11.....5
Iannaccone v. Law, 142 F.3d 553, 558 (2nd Cir. 1998).....2 ff., 7, 10
LR 7.2.....7
Magna Carta.....5, 7 f., 10
Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006).....4 f., 10
Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011).....1, 3 ff., 10

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] Brief of Mr. Carr IRS Must Provide Estimated Tax Payment Penalty Relief And Better Tools

Table of Contents

Table of Contents....1
IRS Must Provide Estimated Tax Payment Penalty Relief And Better Tools....2
Introduction....2
History of Estimated Tax Payments for Income Tax....2
'Pay as You Go' Introduced to Income Taxes....2
Estimated Tax Payment Date for Fourth Quarter Moved To After Quarter....3
Estimated Tax Payment Date for First Quarter Moved To After Quarter....3
Penalties for Failure to Make Required Estimated Payments Added....3
First Income Worksheets Introduced....4
Basic Estimated Tax Payment Requirement Increased From 80% To 90%....6
Form 2210 Annualized Income Worksheet Too Complex....6
Long Term Capital Gains and Qualified Dividends Not Addressed....7
The IRS Must Provide Relief To Ameliorate Defects in Current Tax Law....7
IRS Commissioner Has Authority to Forgive Penalties....7
Infringing on Executive Discretion Better Than Discarding Statute....8
IRS Must Automatically Grant Relief for Short 2nd Tax Period....9
Technology Available Not Used in Existing IRS Tools....10
Technology Availability to Support Annualized Income Worksheets....10
A Series of IRS Tools and Forms Could Be Developed to Resolve Problems....11
Summary....13
Verification of Document....13
Reference Index....14

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

IRS Must Provide Estimated Tax Payment Penalty Relief And Better Tools

Introduction

At first appearance, the Internal Revenue Code for penalties for failure to make timely estimated tax payments[2] is unconstitutional as it is too complex and there is not sufficient help for the individual taxpayer to comply without hiring a professional. Fortunately, the IRS Commissioner is also given broad authority to make revisions. As the IRS must abide by the constitution and due process for individual taxpayers that discretion must be applied as requested (reducing normal executive discretion to preserve constitutionality of the statutes themselves).

The IRS must grant forgiveness of penalties in problematic circumstances and better taxpayer support until better tools can be provided to taxpayers. I will suggest possible tools which could be developed using existing IRS staff.

History of Estimated Tax Payments for Income Tax

'Pay as You Go' Introduced to Income Taxes

Estimated Tax Payment Due Date Before End of Quarter

'The Current Tax Payment Act of 1943' extended the employer withholding from the preceding social security taxes and Victory Tax (1942) and added estimated tax payment dates of 15 Mar, 15 Jun, 15 Sep, and 15 Dec. All estimated payments were before the end of the quarter with the tax year ending on 31 Dec and 'tax day' was 15 Mar when the final payment and tax forms were required. There was no systematic enforcement of estimated tax payments so these payment dates were largely symbolic. It was suggested that there be four equal payments.

2 Internal Revenue Code 6654 is 26 USC § 6654 - Failure by individual to pay estimated income tax

Estimated Tax Payment Date for Fourth Quarter Moved To After Quarter

Individual Income Tax Act of 1944 : P.L. 315, Ch. 210, May 29, 1944 moved the last estimated tax payment date to 15 Jan, 15 days after the end of the quarter and tax year. This was an obvious requirement of due process as it allowed the taxpayer to make the final estimated tax payment after the total income was known and the tax payment could be based known facts rather than conjecture.

Estimated Tax Payment Date for First Quarter Moved To After Quarter

2nd And 3rd Quarter Estimated Tax Payment Still Before Quarter End

The Internal Revenue Code of 1954 moved tax day from 15 Mar to 15 Apr but it also moved the estimated tax payment date for the first quarter to 15 Apr, 15 days after the end of the first quarter of the new tax year. This change allowed more time for the preparation of last years tax forms and allowed the first estimated tax payment to be based on the results of last years filing as well as the actual income from the first quarter. However, it left second and third tax payment before the end of their respective quarters with the inherent problems that brings up. Of course, estimated income tax payments were still substantially voluntary beyond wage withholding so there was little cause for concern.

Penalties for Failure to Make Required Estimated Payments Added

No Provisions for Income Not Distributed Evenly Through the Year

A review of previous IRS forms and instructions shows that until the 1958 tax year, the IRS would send 1040-ES forms to any taxpayers who should pay estimated taxes (no standardized penalties).

However, with the Technical Amendments Act of 1958, form 2210 for 1959 tax year was introduced to include penalties for insufficient estimated tax payments

and unequal payments through the year. There were no formal provisions in the early form 2210 for how to process substantial income payments which were not evenly distributed through the year.

It is presumed that the IRS informally handled such discrepancies between the law requiring equal payments and the reality that taxpayers are not prescient and can not make estimated payments before they had or even knew future income. It is likely the IRS simply forgave any such penalties once it learned of the unequal income distribution.

Similarly, unexpected income after the estimated tax payment date for the 2nd and 3rd quarters must have been routinely forgiven by the IRS as individual taxpayers are not prescient and can not be penalized for that lack.

First Income Worksheets Introduced

No Provisions for the Short Second Quarter

The Tax Reform Act of 1984 dealt with the absurdity of insisting that individuals pay estimated tax payments in four equal payments even when the income was not received or even known until late in the tax year, possibly the fourth quarter. It introduced the annualized income formulas though the required estimated payments were only 80% rather than the current 90% giving taxpayers a larger buffer (20%) to get it right without penalties.

This 20% buffer is important as the formulas for the 2nd tax period which was now only two months long, insist on estimated payments of 40% (1/2 of the annual estimated tax requirement of 80%) but that annualized income at the end of the second tax period is only 5 / 12 ths, which is almost 42%. Only a 2% buffer but

still not a guaranteed penalty if the taxpayer paid the full 5 / 12 ths of tax due on actual income as annualized.

W-2 Employees Granted Explicit Exception from 2nd Quarter Penalties

The Tax Reform Act of 1984 also added the provision that:

> (g) APPLICATION OF SECTION IN CASE OF TAX WITHHELD ON WAGES...
>
> For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year

This is an overt acknowledgment of the problem with the short second tax period (only 2 months long) being assigned the full 3 months of required payment. Were it applied strictly to withheld tax payments then W-2 employees would incur a penalty for the second and third tax periods even if they paid 97% of the pro-rated amount due. Further, W-2 employees have no real ability to increase their tax payments for the short two month tax period to cover the required three months payment.

1099 Workers and Family Farmers Not Protected from 2nd Quarter Penalties

Sadly there was no such relief for family farmers or 1099 workers such as cleaning ladies and gardeners (e.g. periodic and seasonal lawn maintenance work) who are often the bottom rung of workers (paid wages below W-2 employees especially when benefits are considered) and so have even less ability to compute the required additional payment (no tax professional to assist them) or even make the payment (less excess funds to pay the government taxes early, before they have received the

income to support the payment). How are they supposed to borrow the excess tax payment for six months if they don't have it?

Basic Estimated Tax Payment Requirement Increased From 80% To 90%

Tax Penalty Almost Guaranteed for Low End 1099 Workers

The Tax Reform Act of 1986 (TRA) increased the basic requirement for estimated taxes to 90% but the implementation was delayed until the Technical Corrections Act of 1987 for the 1988 tax year.

W-2 employees were protected from the injustice of the requirement of pre-payment of taxes for the short second tax period, but family farmers and 1099 service workers such as cleaning ladies and gardeners had no buffer. If they reliably paid their estimated taxes at the 100% rate each month on the 5th of the month (as they received the money and could make the payment), then they would have a penalty due that would accrue until the long fourth quarter tax period. For the short second tax period they would have paid 5 months of estimated payments (almost 42%) but the law required that they pay one half (or six months worth which would be 45%) by June 15th.

Form 2210 Annualized Income Worksheet Too Complex

It appears that the IRS responded to the annualized income in the 1988 tax year with a complex worksheet in the form 2210 instructions (not available from the IRS at this time). However, in 1992 tax forms the IRS added the annualized income schedule to 2210 (not present in 1991 version).

This annualized income schedule and worksheet are so tedious and complex as to requires a PC and software spreadsheet to compute the required estimated tax

payments. Such devices were available at the time for high income 1099 workers who had access to PC's and spreadsheets as well as professional assistance, but for low end 1099 workers there was no such relief, only the hope of being ignored by the IRS because of their low income.

Long Term Capital Gains and Qualified Dividends Not Addressed

Form 2210 Deficient, Does Not Support Proper Calculation of Penalty

The Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) of 2003 created qualified dividends and restored somewhat standardized long term capital gains. The existing Form 2210 does not address the required allocation of long term capital gains or qualified dividends. It simply directs the taxpayer to compute the tax on the annualized amount but this computation is not possible unless the preceding computations preserved long term capital gains and qualified dividends as separate categories of income, each annualized separately. Further, the individual taxpayer can not know the amount of qualified dividends (a subset of the ordinary dividends paid on a periodic basis) until after the end of the tax year when the paying corporation can properly determine how much were qualified dividends.

The IRS Must Provide Relief To Ameliorate Defects in Current Tax Law

IRS Commissioner Has Authority to Forgive Penalties

As discussed above, estimated tax payments with the Annualized Income Tax Schedule is so complex that family farmers and low end 1099 workers have little hope of consistently avoiding penalties. In the separate brief concerning Due Process and its historical development (ECF 71-8) constitutional due process prevents the government from requiring the average taxpayer being prescient (knowing the future), omniscient (all knowing) or omnipotent (all powerful) to

avoid being penalized. The existing publications, tools, and tax assistance are not up to the requirement of informing the low end 1099 workers how much they need to pay as their estimated tax payments. It is not reasonable to exempt W-2 employees from these insurmountable hurdles without also granting relief to low end 1099 workers.

Fortunately 26 USC § 6654 states:

> (e) Exceptions …
> (3) Waiver in certain cases
> (A) In general
> No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience…
> (n) Regulations
> The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

The IRS has executive discretion to correct problems with the statute.

Infringing on Executive Discretion Better Than Discarding Statute

IRS Must Grant Forgiveness of Penalties and Better Taxpayer Support

The IRS has the ability to forgive these penalties as necessary to support 'equity and good conscience' for 'unusual circumstances' such as Congress passing statutes which would otherwise be unconstitutional violations of individuals taxpayers right to due process. It is preferable to infringe on the IRS's normal 'Executive Discretion' rather than discarding the entire estimated tax payment statute as unconstitutional.

To correct the explicit failings in the statute, the IRS must:
1. grant first time forgiveness to individual taxpayers who paid the nominal estimated taxes (commonly 90%) but where the estimated tax payments were predominantly later in the year (unequal estimated tax payments) and
2. provide extensive support (individual advisers assigned to each taxpayer with past estimated tax problems to help taxpayers compute the required estimated tax payments throughout the tax year until better tools or simpler requirements are available.[3]

The initial first time forgiveness would be extended to each taxpayer who was not provided with sufficient advice in a subsequent tax year.

IRS Must Automatically Grant Relief for Short 2nd Tax Period

Similarly, the IRS must prescribe that enforced tax penalties for the second tax period are reduced to required payments of 5/12ths (of 90%) rather than the listed 25% (of 90%) and the third tax period required payments are reduced to 2/3rds (of 90%) from the current 75% (of 90%). The fourth tax period payments will remain at 100% (of 90%). Again these adjustments are better than discarding the estimated tax payments penalties in their entirety and they could be considered as an automated forgiving of those portion of the penalties which would violate due process.

The individual tax payer can not know the income for the entirety of June on 15 June and the may not have enough money to pay taxes on income they have not yet received.

3 Realistically, the IRS could simply decide to not pursue penalty notices in those cases where it does not have sufficient resources to provide advice in the coming tax years.

Technology Available Not Used in Existing IRS Tools

Technology Availability to Support Annualized Income Worksheets

Appropriate tools for annualized income schedule computations were available on PC's since 1983 with Lotus 1-2-3 (based on 1979 VisiCalc technology) which were widely available to high end 1099 workers, tax professionals, and specialized IRS employees.

It is important to note that in this early phase of computer spreadsheets many spreadsheet experts would program their spreadsheets to act as limited word processors but with vastly improved programability and underlying computation capabilities. At this time most IRS forms were likely developed in Word Perfect and later Microsoft Word with output in PostScript for specific printers. PostScript was later supplanted with the more generic pdf files.

The IRS released a withholding calculator on the web in 2001 to help W-2 employees avoid estimated tax payment penalties, but they were already protected from the 'equal payment' or annualized income penalties as all withheld taxes were automatically attributed as four equal payments.

The now standard document format of pdf files were first available in 1993 as a proprietary document exchange format that was made available as an open standard in 2006.

In 1998, the World Wide Web Consortium introduced the first specification of the Extensible Markup Language (XML) which became the internet standard for the saving, exchanging, and restoring computer data over the internet.

In 2002 OpenOffice offered a free open source spreadsheet application for numerous platforms and the spreadsheet files (.ods) were adopted as a public standard in 2005 with google sheets (a cloud based free spreadsheet application) supporting these files in 2006 (on even more platforms). At this time most libraries offered computers with internet access and often had Microsoft Office (with Word and Excel) installed.

In 2007 Apple introduced the iPhone which was instrumental in making smart phones a common consumer commodity so that now a majority of adults in even poor and developing countries have access to a basic function smart phone.

With LibreOffice (the free open source branch from OpenOffice) Calc (their spreadsheet application) available on smart phones and Google Sheets as a cloud spreadsheet application the time is right to develop IRS forms as ODS files with widespread availability and vastly improved computation and program-ability.

A Series of IRS Tools and Forms Could Be Developed to Resolve Problems

Estimated Tax Payment Tool

I personally estimate that with a team of six spreadsheet experts (which are distinct from normal software engineers) an estimated tax tool could be developed in six months that would require only the input:

1. estimated income for the year (could be based on last years income) and
2. specific known income for particular dates with specific types separating out long term capital gains and anticipated qualified dividends from general income

It could then compute the required estimated tax payment for each tax period.

It could also produce an XML file to preserve the input income and dates for reuse with the next tax period.

Form 2210 and Annualized Income Schedule as ODS Form

The same team could then enhance this tool to produce a Form 2210 which would automatically compute any penalties listing the penalties and their accrual from the different estimated tax payments based on the same income inputs (carried forward from the tool's XML files). As an added benefit it could compute the Schedule D Income Tax Worksheet tax as needed and the total tax due as well.

This would be another six month effort by my estimates.

Form 1040 and all Common Schedules as ODS Form

This same team could then enhance this form to support all the common 1040 forms and common schedules. The team would need to be expanded as necessary to include experts from different forms and schedules as well as from online filing support.

This would be a full year development effort by my estimates.

Assistance Sought From Commercial Partners

The IRS could solicit contributions from LibreOffice and Google (two common supporters of open source development projects) to insure easy integration with their platforms. Similarly, other commercial enterprises could be invited to participate, e.g. Microsoft, Turbotax, H & R Block, and others though they have less familiarity with open source projects and their development style. However, their participation could improve integration with their various products.

Summary

While estimated tax payments were a reasonable addition to the 'pay as you go' concept introduced with employer withholding, they were not well thought out or adequately supported. The ad hoc adjustment of the length of the tax periods and the insistence on equal tax payments for unequal tax periods made these estimated tax payments untenable in light of income not distributed through out the year.

Fortunately the IRS has the authority through executive discretion to resolve these problems[4] until it can provide adequate tools to correct the current defects.

Respectfully submitted,

Verification of Document

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

1. I have reviewed the above affirmation and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to

4 Sadly, as the IRS has not used its executive discretion to resolve these serious problems, the courts will need to usurp the executive discretion using judicial discretion until Congress chooses to make the necessary corrections.

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

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 7. Jun. 2025

Location: Irving, Texas

Reference Index

26 USC § 6654.....1, 7
Individual Income Tax Act of 1944 : P.L. 315, Ch. 210, May 29, 1944.....2
Internal Revenue Code 6654.....1
Technical Amendments Act of 1958.....3
Technical Corrections Act of 1987.....5
The Current Tax Payment Act of 1943.....2
The Internal Revenue Code of 1954.....2
The Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) of 2003.....6
The Tax Reform Act of 1984.....4
The Tax Reform Act of 1986 (TRA).....5

Gmail **Brian Carr <carrbp@gmail.com>**

Appeal of FOIA Case No. 2025-FPRO-01666 - Revised Results

1 message

Brian Carr <carrbp@gmail.com> Wed, May 14, 2025 at 6:06 PM
To: USPS FOIA Appeals <FOIAAppeal@usps.gov>
Cc: "Williams, Rashonda - Washington, DC" <Rashonda.C.Williams@usps.gov>, FOIA - PA <FOIA12@usps.gov>

Dear Sir / Madam:

I would like to appeal two aspects of the results returned in this action. The results for the specific tracking number cited, 9405 5301 0935 5122 4328 47, did not fully specify whether there was a banking record indicating that refund was actually paid. Also, the redaction of the results concerning approved refunds which do not have records of actual payment is not justified as they are not commercial in nature.

Specific Transaction Record Required to Demonstrate Payment

My FOIA request inquired about a specific refund where 'no transaction for the refund has been located to date'. There were several records returned with this FOIA request for that refund which indicated that the refund was approved and then, purportedly, paid, but there was no record returned with the actual payment via a bank transfer or cash payment (presumably with a cashier ID and ID check for the recipient).

I ask that FOIA office determine whether that refund qualified for 'No Record of Bank Transfer' which would require that the office look for:
* A transaction ID for credit card refund,
* A check deposited transaction in a specific account with a specific bank , or
* Cash payment by a specific clerk and the ID which was verified via a payment ID
The FOIA request is asked to respond with any record which was found and, if no record was found, respond with the data source where the office looked and a statement that no record was found.

It is also possible that a refund was paid to the wrong party, but the way to correct that is to first find the actual record of payment and then determine who received the payment. There could have been a error or even fraud so the wrong person was paid, but we first need the transaction ID to find out who was paid and then correct the error.

Not Redact Count of Unpaid Refunds

I understand your concerns about information which is 'commercial in nature', but the number of refunds which have not been properly paid is not really commercial in nature. It is more about proper accounting practices and accurate reporting of results (noting liabilities which are still pending). For current results can you redact all columns except for the column listing the count and value of pending refunds.

Summary

Thanks for your help with this. I hope that we can resolve all these differences promptly without further appeals.

Wishing you all the best,

Brian

On 5/13/2025 1:13 PM, FOIA - PA wrote:

> Good afternoon Mr. Carr,
>
> Unfortunately, the Controller's Office does not preserve the data you sought prior to 2021. I apologize that this was not addressed in your response letter. Moreover, your fee estimate was accurate as it took 10 hours to retrieve all the records you sought. The fee estimate may have been more if that office did have the records prior to 2021.

If you are unsatisfied with your response in any way, you can follow the appeal rights provided in your response.

Thank you,

Eboni Francis

Senior, Government Information Specialist

Privacy & Records Management Office

United States Postal Service

From: Brian Carr <carrbp@gmail.com>
Sent: Monday, May 12, 2025 9:06 PM
To: FOIA - PA <FOIA12@usps.gov>
Cc: Williams, Rashonda - Washington, DC <Rashonda.C.Williams@usps.gov>
Subject: Re: [EXTERNAL] Re: Response to FOIA Case No. 2025-FPRO-01666 - Revised

CAUTION: This email originated from outside USPS. **STOP and CONSIDER** before responding, clicking on links, or opening attachments.

Good evening Ms. Francis,

Thanks for checking with Rashonda about the follow up questions. I am wondering if we can sort out any differences without resorting to an appeal. I have three points for you to consider.

Specific Transaction Record Required to Demonstrate Payment

First, my FOIA request did in fact ask about the transaction ID with 'but no transaction for the refund has been located to date'. As all the people I talked to back then said that I would get a refund to my credit card, that is the transaction for the refund I was asking about. However, on reflection the precise request was for 'No Record of Bank Transfer' when you looked for:
* A transaction ID for credit card refund or
* A check deposited transaction in a specific account with a specific bank
(both of which are externally verifiable).

In the case of a cash refund at the Post Office where the postage was paid, the logical equivalent would be a debit in the Post Office's receipts for the day to demonstrate that some person was actually paid the refund. Presumably there would have been an ID check to make sure the right person was paid and some record of the ID which was presented.

So, can you answer my FOIA request as to whether you looked in the appropriate place for a record demonstrating that some person was actually paid the refund. You mention checks being the default, but a record requesting a check to be sent is insufficient as that would not be a record of a bank transfer. Only a deposit being paid to an external bank would qualify and I am pretty sure that you won't find any such deposit (no such check was deposited to my account).

In the specific refund request for that tracking number, can you say where you looked for the refund payment and what you found (to answer the actual question of whether you found the requested record of a bank transfer).

It is also possible that a refund was paid to the wrong party, but the way to correct that is to first find the actual record of payment and then determine who received the payment. There could have been a error or even fraud so the wrong person was paid, but you first need the transaction ID to find out who was paid and then correct the error.

Retain Cumulative Results, Not Redact Count of Unpaid Refunds

I understand your concerns about information which is 'commercial in nature', but the number of refunds which have not been properly paid is not really commercial in nature. It is more about proper accounting practices and accurate reporting of results (noting liabilities which are still pending). For current results can you redact all columns except for the column listing the count and value of pending refunds.

I also ask you retain the other rows for possible release of the data of a confidential nature to another trusted party which is interested in correcting any defects and paying pending refunds (e.g. the courts or Congress). The courts and Congress routinely get access to confidential data and maintain the confidentiality as required.

Continue to Analysis Back to 2017

My original FOIA request asked for cumulative results back to 2017 but the redacted results only went back to 2021. I believe the original estimate was for analysis back to 2017 and I have paid the full amount (I believe) so can you collect those results. I would be especially interested in tracking pending refunds over time and suspect that the results back to 2017 will be interesting as policies have changed over time.

Summary

Thanks again for your help with this. I hope that we can resolve all these differences without needing to appeal, but it would be great if we could resolve even one or two before an appeal.

Wishing you all the best,

Brian

On 5/6/2025 9:33 AM, FOIA - PA wrote:

> Good morning Mr. Carr,
>
> Rashonda and I spoke about your request and your follow-up question. You did not request transaction ID information in your initial request. If you seek transaction ID records, please submit a new FOIA request.
>
> As information, refunds for service mail delivery failures are sent to customers via check. However, there are a few exceptions to this rule. Thus, the Postal Service would not have records of banking routing information of its customers regarding issuing refunds for mail delivery failures.
>
> I hope this answers your question. Thank you for your interest in the Postal Service.

Eboni Francis

Senior, Government Information Specialist

Privacy & Records Management Office

United States Postal Service

From: Brian Carr <carrbp@gmail.com>
Sent: Friday, May 2, 2025 8:44 AM
To: Williams, Rashonda - Washington, DC <Rashonda.C.Williams@usps.gov>
Cc: FOIA - PA <FOIA12@usps.gov>
Subject: Re: [EXTERNAL] Re: Response to FOIA Case No. 2025-FPRO-01666 - Revised

CAUTION: This email originated from outside USPS. **STOP and CONSIDER** before responding, clicking on links, or opening attachments.

Hi Ms. Williams,

Thanks for defining the new terms. Can you please confirm that you did not provide the requested bank transaction ID for that 'Dispute approved notification' because you could not find any matching transaction ID. As such, the record would be 'No Record of Bank Transfer' in the cumulative results.

Thanks again for your help with this and wishing you all the best,

Brian

On 5/1/2025 8:02 PM, Williams, Rashonda - Washington, DC wrote:

> Hi Mr. Carr -
>
> ptr_call_back is the automated username that sent the product tracking system the Dispute approved notification (paid).
>
> **Rashonda C. Williams, MBA**
> Manager, Business Support
> Office of the VP, Controller
> United States Postal Service
> **rashonda.c.williams@usps.gov**
>
> ---
>
> **From:** Brian Carr <carrbp@gmail.com>
> **Sent:** Thursday, May 1, 2025 7:37:34 PM
> **To:** Williams, Rashonda - Washington, DC
> <Rashonda.C.Williams@usps.gov>
> **Cc:** FOIA - PA <FOIA12@usps.gov>
> **Subject:** [EXTERNAL] Re: Response to FOIA Case No. 2025-FPRO-01666 -

26-10025.1686

Revised

CAUTION: This email originated from outside USPS. **STOP and CONSIDER** before responding, clicking on links, or opening attachments.

Good afternoon,

Thanks for putting together the data I requested. Needless to say I was disappointed when I learned that most of the interesting data was redacted. Oh well, I suspected there would be a catch. The best we can hope for is learning from our experiences.

I mailed the required payment today and the original payment went through fine so we should be all set in a few days.

I was happy that I got the specific tracking number results. Is it possible for you to elaborate on what 'ptr_call_back' means as a user for 'PTR Dispute Approve Notified'? Does that mean that you couldn't find any banking transaction ID to track which, if any, account was credited?

Thanks again for your help with this.

Brian

On Thu, May 1, 2025 at 10:48 AM Williams, Rashonda - Washington, DC <Rashonda.C.Williams@usps.gov> wrote:

> Good morning – Please see the attached response to FOIA Case No. 2025-FPRO-01666.
>
> Please ignore prior email received as I inadvertently left out the outstanding fee language.
>
> Thanks,
>
> **Rashonda C. Williams, MBA**
>
> Manager, Business Support
>
> Office of the VP, Controller
>
> United States Postal Service
>
> **rashonda.c.williams@usps.gov**

26-10025.1687

Gmail

Brian Carr <carrbp@gmail.com>

USCIS FOIA cumulative request OPQ2023000041 (and likely OPQ2023000040)

Brian Carr <carrbp@gmail.com> Wed, May 14, 2025 at 9:43 PM
To: FOIAPAQuestions <FOIAPAQuestions@uscis.dhs.gov>

Dear Sir / Madam:

Thanks for responding to my FOIA request OPQ2023000041. I was a little surprised you claimed you were unable to 'create a new record' within your 'systems' (which are clearly standard relational databases) as I had cited contrary decisions in my request.

I stated:

> See the 9th Circuit Decision in THE CENTER FOR INVESTIGATIVE REPORTING, v. UNITED STATES DEPARTMENT OF JUSTICE, Case: 18-17356, 12/03/2020, ID: 11913401, DktEntry: 64-1 ... [which] states '**the use of a query to search for and extract a particular arrangement or subset of existing data from the ... [agency] database does not require the creation of a "new" agency record under FOIA.**'

That particular decision is also distributed by the Justice Department (DoJ) Office of Information Policy (OIP) to encourage and oversee agency compliance with the Freedom of Information Act (FOIA). OIP is responsible for developing government-wide policy guidance on all aspects of FOIA administration. The link is:

https://www.justice.gov/oip/ctr-investigative-reporting-v-doj-no-18-17356-2021-wl-4314789-9th-cir-sept-23-2021-wardlaw-j

I ask that you review that decision published by DoJ and you will see that my conclusion that you can (and must) provide the requested cumulative and statistical data I requested. It is not the creation of new records.

I hope we can resolve this disagreement without the need of a formal appeal.

Thanks for your attention to this matter.
Brian

United States Department of State
Bureau of Consular Affairs

VISA BULLETIN

Number 3 Volume XI **Washington, D.C.**

IMMIGRANT NUMBERS FOR JUNE 2025

A. STATUTORY NUMBERS FOR PREFERENCE IMMIGRANT VISAS

This bulletin summarizes the availability of immigrant numbers during June for "Final Action Dates" and "Dates for Filing Applications," indicating when immigrant visa applicants should be notified to assemble and submit required documentation to the National Visa Center.

Unless otherwise indicated on the U.S. Citizenship and Immigration Services (USCIS) website at www.uscis.gov/visabulletininfo, individuals seeking to file applications for adjustment of status with USCIS must use the "Final Action Dates" charts below for determining when they can file such applications. When USCIS determines that there are more immigrant visas available for the fiscal year than there are known applicants for such visas, USCIS will state on its website that applicants may instead use the "Dates for Filing Visa Applications" charts in this Bulletin.

1. Procedures for determining dates. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; USCIS reports applicants for adjustment of status. Allocations in the charts below were made, to the extent possible, in chronological order of reported priority dates, for demand received by May 2nd. If all reported demand could not be satisfied, the category or foreign state in which demand was excessive was deemed oversubscribed. The final action date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. If it becomes necessary during the monthly allocation process to retrogress a final action date, supplemental requests for numbers will be honored only if the priority date falls within the new final action date announced in this bulletin. If at any time an annual limit were reached, it would be necessary to immediately make the preference category "unavailable", and no further requests for numbers would be honored.

2. The fiscal year 2025 limit for family-sponsored preference immigrants determined in accordance with Section 201 of the Immigration and Nationality Act (INA) is 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition on behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa issuances will exceed the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

4. Section 203(a) of the INA prescribes preference classes for allotment of Family-sponsored immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: (**F1**) Unmarried Sons and Daughters of U.S. Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, plus any unused first preference numbers:

A. (**F2A**) Spouses and Children of Permanent Residents: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit.

B. (**F2B**) Unmarried Sons and Daughters (21 years of age or older) of Permanent Residents: 23% of the overall second preference limitation.

Third: (**F3**) Married Sons and Daughters of U.S. Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: (**F4**) Brothers and Sisters of Adult U.S. Citizens: 65,000, plus any numbers not required by first three preferences.

A. FINAL ACTION DATES FOR FAMILY-SPONSORED PREFERENCE CASES

On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	08JUN16	08JUN16	08JUN16	22APR05	15JUL12
F2A	01JAN22	01JAN22	01JAN22	15MAY21	01JAN22
F2B	22SEP16	22SEP16	22SEP16	01JAN06	08FEB12
F3	22JUN11	22JUN11	22JUN11	15JAN01	22SEP03
F4	01JAN08	01JAN08	15JUN06	15MAR01	01JUN05

For June, F2A numbers EXEMPT from per-country limit are authorized for issuance to applicants from all countries with priority dates earlier than 15MAY21. F2A numbers SUBJECT to per-country limit are authorized for issuance to applicants chargeable to all countries EXCEPT MEXICO, with priority dates beginning 15MAY21 and earlier than 01JAN22. All F2A numbers provided for MEXICO are exempt from the per-country limit.

B. DATES FOR FILING FAMILY-SPONSORED VISA APPLICATIONS

The chart below reflects dates for filing visa applications within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the application date in the chart below may assemble and submit required documents to the Department of State's National Visa Center, following receipt of notification from the National Visa Center containing detailed instructions. The application date for an oversubscribed category is the priority date of the first applicant who cannot submit documentation to the National Visa Center for an immigrant visa. If a category is designated "current," all applicants in the relevant category may file applications, regardless of priority date.

A "C" listing indicates that the category is current, and that applications may be filed regardless of the applicant's priority date. The listing of a date for any category indicates that only applicants with a priority date which is **earlier** than the listed date may file their application.

Visit www.uscis.gov/visabulletininfo for information on whether USCIS has determined that this chart can be used (in lieu of the chart in paragraph 4.A.) this month for filing applications for adjustment of status with USCIS.

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01SEP17	01SEP17	01SEP17	01APR06	22APR15
F2A	01FEB25	01FEB25	01FEB25	01FEB25	01FEB25
F2B	01JAN17	01JAN17	01JAN17	01APR07	01OCT13
F3	22JUL12	22JUL12	22JUL12	15JUN01	22SEP04
F4	01JUN08	01JUN08	01DEC06	30APR01	01JAN08

5. Section 203(b) of the INA prescribes preference classes for allotment of Employment-based immigrant visas as follows:

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, of which not more than 10,000 may be provided to "*Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, of which 32% are reserved as follows: 20% reserved for qualified immigrants who invest in a rural area; 10% reserved for qualified immigrants who invest in a high unemployment area; and 2% reserved for qualified immigrants who invest in infrastructure projects. The remaining 68% are unreserved and are allotted for all other qualified immigrants.

A. FINAL ACTION DATES FOR EMPLOYMENT-BASED PREFERENCE CASES

On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)

	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
Employment-Based					
1st	C	08NOV22	15FEB22	C	C
2nd	15OCT23	01DEC20	01JAN13	15OCT23	15OCT23
3rd	08FEB23	22NOV20	15APR13	08FEB23	08FEB23
Other Workers	22JUN21	01APR17	15APR13	22JUN21	22JUN21
4th	U	U	U	U	U
Certain Religious Workers	U	U	U	U	U
5th Unreserved (including C5, T5, I5, R5, NU, RU)	C	22JAN14	01MAY19	C	C
5th Set Asides:					
Rural (20%) (including NR, RR)	C	C	C	C	C
High Unemployment (10%) (including NH, RH)	C	C	C	C	C
Infra-structure (2%) (including RI)	C	C	C	C	C

*Employment Third Preference Other Workers Category: Section 203(e) of the Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997, as amended by Section 1(e) of Pub. L. 105–139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW final action date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002. For Fiscal Year 2025 this reduction will be limited to approximately 150.

B. DATES FOR FILING OF EMPLOYMENT-BASED VISA APPLICATIONS

The chart below reflects dates for filing visa applications within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the application date in the chart may assemble and submit required documents to the Department of State's National Visa Center, following receipt of notification from the National Visa Center containing detailed instructions. The application date for an oversubscribed category is the priority date of the first applicant who cannot submit documentation to the National Visa Center for an immigrant visa. If a category is designated "current," all applicants in the relevant category may file, regardless of priority date.

The "C" listing indicates that the category is current, and that applications may be filed regardless of the applicant's priority date. The listing of a date for any category indicates that only applicants with a priority date which is **earlier** than the listed date may file their application.

Visit www.uscis.gov/visabulletininfo for information on whether USCIS has determined that this chart can be used (in lieu of the chart in paragraph 5.A.) this month for filing applications for adjustment of status with USCIS.

Employment- Based	**All Charge-ability Areas Except Those Listed**	**CHINA - mainland born**	**INDIA**	**MEXICO**	**PHILIPPINES**
1st	C	01JAN23	15APR22	C	C
2nd	15NOV23	01JAN21	01FEB13	15NOV23	15NOV23
3rd	01MAR23	22DEC20	08JUN13	01MAR23	01MAR23
Other Workers	22JUL21	01JAN18	08JUN13	22JUL21	22JUL21
4th	01FEB21	01FEB21	01FEB21	01FEB21	01FEB21
Certain Religious Workers	01FEB21	01FEB21	01FEB21	01FEB21	01FEB21
5th Unreserved (including C5, T5, I5, R5, NU, and RU)	C	01OCT16	01APR22	C	C

(Chart B. DATES FOR FILING OF EMPLOYMENT-BASED VISA APPLICATIONS, continued)

Employment- Based	All Charge-ability Areas Except Those Listed	CHINA - mainland born	INDIA	MEXICO	PHILIPPINES
5th Set Aside: (Rural: NR, RR – 20%)	C	C	C	C	C
5th Set Aside: (High Unemployment: NH, RH – 10%)	C	C	C	C	C
5th Set Aside: (Infrastructure: RI – 2%)	C	C	C	C	C

B. DIVERSITY IMMIGRANT (DV) CATEGORY FOR THE MONTH OF JUNE

Section 203(c) of the INA provides up to 55,000 immigrant visas each fiscal year to permit additional immigration opportunities for persons from countries with low admissions during the previous five years. The NACARA stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually allocated diversity visas will be made available for use under the NACARA program. Visa numbers made available to NACARA applicants in FY 2024 will result in reduction of the DV-2025 annual limit to approximately 54,850. Section 5104 of the National Defense Authorization Act (NDAA) for Fiscal Year 2024 amended the NACARA's provisions on the DV program such that the number of visas made available under the NDAA each fiscal year will be deducted from the 55,000 DVs annually allocated. These amendments will further reduce the DV-2025 annual limit to approximately 52,000. DVs are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For June, immigrant numbers in the DV category are available to qualified DV-2025 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately		
AFRICA	42,500	Except: Algeria	42,250
		Egypt	36,250
		Morocco	30,000
ASIA	8,250	Except: Iran	8,000
		Nepal	8,000
EUROPE	17,500	Except: Russia	17,450
		Uzbekistan	10,250
NORTH AMERICA (BAHAMAS)	20		
OCEANIA	1,550		
SOUTH AMERICA, and the CARIBBEAN	2,300		

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2025 program ends as of September 30, 2025. DVs may not be issued to DV-2025 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2025 principals are only entitled to derivative DV status until September 30, 2025. DV availability through the end of FY-2025 cannot be taken for granted. Numbers could be exhausted prior to September 30.

C. DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN JULY

For July, immigrant numbers in the DV category are available to qualified DV-2025 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately			
AFRICA	45,000	Except:	Algeria	44,950
			Egypt	40,000
			Morocco	34,500
ASIA	9,000	Except:	Iran	8,950
			Nepal	8,950
EUROPE	19,000	Except:	Russia	18,950
			Uzbekistan	12,000
NORTH AMERICA (BAHAMAS)	20			
OCEANIA	1,650			
SOUTH AMERICA, and the CARIBBEAN	2,450			

D. U.S. GOVERNMENT EMPLOYEE SPECIAL IMMIGRANT VISAS (SIVs)

The National Defense Authorization Act (NDAA) for Fiscal Year 2024, signed into law on December 22, 2023, may affect certain current and former employees of the U.S. Government abroad, as well as certain surviving spouses and children of deceased employees of the U.S. government abroad, applying for SIVs or adjustment of status, as described in section 101(a)(27)(D) of the INA. This does not affect certain Iraqis and Afghans applying for SQ and SI SIVs. Applicants should contact the consular section at which they filed their Form DS-1884 for further information on the impact of that law on their case.

E. FOR THE LATEST INFORMATION ON VISA PROCESSING AT U.S. EMBASSIES AND CONSULATES, PLEASE VISIT THE BUREAU OF CONSULAR AFFAIRS WEBSITE AT TRAVEL.STATE.GOV

Department of State Publication 9514
CA/VO: May 2, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S-BT

NOTICE OF SUBSTITUTION OF COUNSEL

Pursuant to Local Civil Rule 83.12(b), the undersigned Assistant U.S. Attorney Tami C. Parker substitutes as lead counsel of record for Defendant, replacing Assistant U.S. Attorney Emily H. Owen.

Respectfully submitted,

NANCY E. LARSON
ACTING UNITED STATES ATTORNEY

/s/ Tami C. Parker
Tami C. Parker
Assistant United States Attorney
Texas Bar No. 24003946
801 Cherry Street, Suite 1700, Unit #4
Fort Worth, Texas 76102
Telephone: 817-252-5200
Facsimile: 817-252-5458
E-mail: tami.parker@usdoj.gov

Attorneys for Defendant

CERTIFICATE OF SERVICE

On June 13, 2025, I electronically filed the above Notice with the clerk of court for the U.S. District Court, Northern District of Texas. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Tami C. Parker
Tami C. Parker
Assistant United States Attorney

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

Table of Contents

FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal....1
Table of Contents....1
Introduction....4
Reverse Dismissal....4
Motion to Recuse....4
Identity of the Plaintiffs, Who We Are....4
LR 7.2 Page Limitations Relief....5
Overview....6
Order of 21 Mar 2025 (ECF 62) Was Premature....6
Findings (ECF 61) Misapplied Statutes and Case Law....6
FRCP Rule 11(a) Completely Misunderstood....6
Monroe Cited Actually Refutes Removal Of Spouse....7

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.

The Court Dismissed Most Counts Because It Improperly Removed Parties....7
Count One Dismissed Through a Misreading of Dolan....7
Each Count Will Be Discussed Individually....7
Two New Counts, Two New Defendants, Two New Plaintiffs....8
Independent Arguments to Recuse....8
FRCP Rule 60 Motions for Relief Reversing Dismissal is Timely....9
Order of 21 Mar 2025 (ECF 62) Was Premature....10
Mrs. Carr's Response (ECF 64) Opposing Removal (ECF 61) Was Timely....11
Mrs. Carr Clearly Sought to Remain in this Suit....11
Mrs. Von Kramer Also Responded Opposing Removal (ECF 61)....11
Mrs. Von Kramer Clearly Sought to Remain in this Suit....11
Physical Signatures Above Demonstrate Status As Active Plaintiffs....12
Improper Removal of Plaintiffs Without Due Process....12
FRCP Rule 11(a) Does Not Apply....12
Mr. Carr Properly Signed the Amended Complaint Electronically....13
Mrs. Von Kramer and Mrs. Carr Signed the Amended Complaint....14
Mr. Carr Ordered to File the Amended Complaint Violating Local Rules....15
FRCP Rule 11 Remedy Not Applied....16
The Court Removes Plaintiffs Without Proper Cause....17
The Court Ignores Clear Qualifiers in the Complaint....17
Possible Federal Crime by Court....17
Making False or Misleading Statements Violates 18 USC § 1001....17
Court Incorrectly Cites Restrictions on Spousal Representation....18
Monroe Cited Refutes Removal Of Spouse....18
Monroe Text Based On Long History of Pro Se Rulings....19
Pro Se Parties Can Join Together in A Single Complaint....20
Marriage is Legal Union Which Permits Representation with Consent....21
Close Family Members Can Represent Each Other With Consent....22
Sovereign Immunity Does Not Apply to USPS....23
Dolan Clearly Permits Refunds for 'Guaranteed Delivery' Failures....23
The FTCA Supports Simple Tort Claim Against USPS....24
Credit for Future Services Not Protected By Sovereign Immunity....25
Plaintiff Denied Due Process From Misapplication of LR 7.2....25
The Court Can Not Dismiss Pro Se Claims Based on Inadvertent Errors....27
LR 7.2 Does Not Authorize Dismissal of Claim From Simple Error....28
Plaintiff Informally Requested Relief from LR 7.2....28
Court Ignores Mrs. Carr's Plight as an Apparent Illegal Alien....29
LR 7.2 Does Not Mention Any Restrictions on Referring To Other Motions....30
Obscure Case Law Relied on to Improperly Justify Dismissal....32
Court Cites Unknown Authority For Inexplicable Reasons....33

No Response is Different From A Response Which is Ignored By the Court....34
Each Generic Challenge Addressed for Each Count....36
Updates to the Complaint....37
New Defendants IRS and TIGTA....37
Explicitly Add FOIA Requests....38
The Court Did Not Address FOIA Requests in Amended Complaint....38
Recuse Because of Apparent Collusion of Court With DoJ....40
FOIA Non Responses Made During the February 2025 Blitz....40
Court Ignores Mrs. Carr's Dire Circumstances for Over a Year....40
Court Recommends Dismissal The Day Before Mrs. Carr Becomes Citizen....40
Apparent Collusion by the Court with Defendants....41
Potential Class Action Suits Delayed Unnecessarily....41
Outstanding FOIA Requests to be Added to Future Amended Complaint....41
Provides Potential for Class Action Expansions....41
The Court's Violations Create Appearance of Bias, Must Recuse....42
The Court's False and Misleading Findings Used to Justify Dismissal....42
The Court Rejected Plaintiffs' Second Amended Complaint to Correct Errors....43
The Court Relies on Those Errors to Conceal False Findings....43
The Court Criminally Falsifies Findings to Justify Dismissal....44
Litigants Have Lesser Standard of Truthfulness in Their Papers....44
The Court is Held to the Higher Standard of 18 USC § 1001....44
The Court Falsifies Visas Denials To Conceal DoCNR Challenges....45
Four Non-Immigrant Visas Denied Without Due Process, Contrary to INA....45
Denial Without Considering Evidence Violates Statutes and Due Process....45
Verbal Justification of Denial Not Based on Statute, Was a Federal Crime....46
Novel Challenges to DoCNR Not Considered By Court....46
Sovereign Immunity Does Not Apply to DoS Claims....47
Plaintiffs Have Novel Legal Challenges to DoCNR....48
Social Security Administration Declaratory Relief Ignored....48
The Court Omits and Misconstrues USCIS Failures....49
USCIS Violated Statutes and Left Mrs. Carr Stranded in Thailand....49
Mrs. Carr was left an Apparent Undocumented Alien (a.k.a. an 'illegal')....50
Mrs. Carr Unlawfully Denied the Privileges of Citizenship....50
Court Assists USATXN in Concealing Mrs. Carr's Plight....51
Defendants' FRCP Rule 56(d) Affidavit Woefully Inadequate....51
The Court Conceals Serious Violations....54
The Court's Efforts to Conceal Are Crimes Under 18 USC § 1001....55
USCIS Citizenship Denial was Improper....56
Material Facts about the Denial Concealed By Court....57
Refusal to Consider Sanctions Creates Appearance of Bias....58

AUSA Padis Lies in Email, Tries to Delay Case....58
Mrs. Carr Left as An Apparent Illegal Alien....58
Court Continues Delay, Creates Appearance of Bias....59
Conclusion....60
Verification of Motion....60
CERTIFICATION OF ELECTRONIC SIGNATURES....61
Alphabetical Index....61
Certificate of Conference....65
CERTIFICATE OF SERVICE....65

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

Alphabetical Index

18 USC § 1001.....17, 36 f., 44, 46, 55 ff., 59
19th Amendment.....22
28 USC § 455.....4
28 USC Chapter 171.....24
39 CFR § 111.1.....23 f.
39 USC § 245 (1940 ed. and Supp. V).....7, 23
8 CFR 216.....49
8 USC § 1304.....50
Access Telecom, Inc. v. MCI Telecomm. Corp., 197 F.3d 694, 720 (5th Cir. 1999).....53
Areizaga v. ADW Corp., No. 3:14-cv-2899-B (N.D. Tex. Jun 28, 2016).....52
Bearden v. United States Department of Agriculture Rural Housing Service et al, No. 3:2023cv01204 - Document 11 (N.D. Tex. 2023).....26, 34, 36
Black Cat Expl. & Prod., LLC v. MWW Cap. Ltd., 2015 WL 12731751 (N.D. Tex. Apr. 29, 2015).....32 f.
C.B. Trucking, Inc. v. Waste Management Inc., 137 F.3d 41, 44 (1st Cir. 1998).....53
Department of State v. Munoz (S. Ct. 2024).....48
Doctrine of Consular Non Reviewabiilty (DoCNR).....36, 42
Dolan v. Postal Service, 546 U.S. 481 (2006).....7, 23 f.
Domestic Mail Manual 604 9.2.3.....24
ECF 10-10.....56 f.
ECF 10-5.....29, 31, 50 f., 53, 56, 58
ECF 10-6.....56
ECF 10-7.....56
ECF 10-8.....57
ECF 15.....8, 16, 29, 31
ECF 16-1,.....56
ECF 18.....13 ff., 26, 28, 31, 35
ECF 18-1.....13 ff.
ECF 18-3.....24
ECF 18-6.....50, 53
ECF 18-8.....24
ECF 19.....51, 54
ECF 20-2.....50, 53
ECF 22.....51, 54
ECF 23.....51 f.
ECF 24-1.....50, 53
ECF 26.....11, 15 f., 31, 53
ECF 27.....53

ECF 28-1....51
ECF 29....11 ff., 16 f., 19, 45, 49, 57
ECF 3....14, 16 f., 19, 44
ECF 30....16 f., 59
ECF 30-2....59
ECF 30-7....57
ECF 31....28, 47
ECF 32....53
ECF 33....54
ECF 34....19, 22, 26 ff., 33, 35 f., 47, 49, 57
ECF 34-1....36
ECF 34-2....36
ECF 34-3....36, 49
ECF 34-4....36
ECF 49....43
ECF 49-1....43 f.
ECF 53....43
ECF 59....4, 58 ff.
ECF 60....4
ECF 61....4, 6 ff., 10 ff., 17 f., 23, 25, 40, 45, 54
ECF 62....4, 6, 8, 10, 44, 56, 60
ECF 63....4 f., 12, 16
ECF 64....11 f.
ECF 65....5, 11 f.
ECF 66....11 f.
ECF 67....5 f., 9 f.
ECF 67-1....38
ECF 67-11....37
ECF 67-12....37
ECF 67-15....37
ECF 67-16....37
ECF 67-2....38, 40
ECF 67-3....25, 31
ECF 67-4....12
ECF 67-5....12
ECF 67-7....37
ECF 68....5
ECF 69-1....37
ECF 69-3....40
ECF 69-4....40

ECF 71-3....40
ECF 71-8....38
ECF 71-9....38
ECF 72....65
ECF 73-1....11
Faretta v. California, 422 U.S. 806 (1975)....20
FRAP Rule 3....9
FRAP Rule 4....5 f., 9 f.
FRCP Rule 10....33
FRCP Rule 11....6, 12 f., 16
FRCP Rule 5....13
FRCP Rule 54....53
FRCP Rule 56....51 ff.
FRCP Rule 56(c)....54
FRCP Rule 59....9 f.
FRCP Rule 60....1, 5 f., 9, 65
FTCA tort claims....7, 23 ff.
Hale v. USA, No. 22-20426 (5th Cir. 2023)....23
Hudson Specialty Ins. Co. v. Talex Enterprises, LLC, 5:17-cv-00137 (S.D. Miss. Mar. 20, 2020, Doc 267)....33
Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998)....19 f., 27
INA 214(b)....45
INA 264....50
Kleindienst v. Mandel, 408 U.S. 753 (1972)....47 f.
Kosak v. United States, 465 U.S. 848 (1984)....23
LR 11.1....5, 14 f., 61
LR 15.1....15
LR 40.1....14
LR 7.1....5, 10
LR 7.2....5, 25 f., 28 ff.
LR 83.8....59
Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006)....19
Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011)....7, 18 ff.
Plessy v. Ferguson, 163 U.S. 537 (1896)....21
Saffran v. Boston Sci. Corp, No. 2-05-cv-547 (E.D. Tex. July 9, 2008, ECF 195)....30 f.
Sandra Munoz v. State Department (9th Cir. 2022, 21-55365)....48
SEC v. Spence & Green Chem. Co., 612 F.2d 896, 901 (5th Cir. 1980)....52
TDRPC Rule 4.01....59
Texas Disciplinary Rules of Professional Conduct....59
TXND....59, 61

TXND Local Civil Rules.....14 f., 30
Wichita Falls Office Assocs. v. Banc One Corp., 978 F.2d 915, 919 (5th Cir. 1992).....53

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

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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

ALERT: SEVERE WEATHER AND FLOODING THAT IS MOVING FROM TEXAS THROUGH THE...

USPS Tracking®

FAQs >

Remove ×

Tracking Number:

9405530109355122432847

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to the front desk, reception area, or mail room at 12:52 pm on March 27, 2025 in DALLAS, TX 75242.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Front Desk/Reception/Mail Room

DALLAS, TX 75242
March 27, 2025, 12:52 pm

Arrived at Post Office

DALLAS, TX 75201
March 27, 2025, 10:20 am

Out for Delivery

DALLAS, TX 75242
March 27, 2025, 6:54 am

Arrived at USPS Facility

DALLAS, TX 75201
March 27, 2025, 6:22 am

Departed USPS Regional Facility

DALLAS TX DISTRIBUTION CENTER

Feedback

26-10025.1766

March 27, 2025, 6:07 am

Arrived at USPS Regional Facility
DALLAS TX DISTRIBUTION CENTER
March 26, 2025, 9:43 am

Departed USPS Regional Facility
DALLAS TX DISTRIBUTION CENTER
March 26, 2025, 8:46 am

Arrived at USPS Regional Facility
DALLAS TX DISTRIBUTION CENTER
March 26, 2025, 3:00 am

USPS picked up item
IRVING, TX 75038
March 25, 2025, 5:29 pm

Shipping Label Created, USPS Awaiting Item
IRVING, TX 75061
March 24, 2025, 10:00 pm

Hide Tracking History

What Do USPS Tracking Statuses Mean? (https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates

USPS Tracking Plus®

Product Information

Feedback

See Less

Track Another Package

Enter tracking or barcode numbers

26-10025.1767

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Feedback

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

DEFENDANTS' OBJECTION TO PLAINTIFF'S "FRCP RULE 60 MOTIONS TO REVERSE DISMISSAL OF MATTER AND RECUSAL"

Plaintiff Brian P. Carr, pro se and ostensibly representing his wife, Rueangrong Carr (hereinafter Mrs. Carr), and Mrs. Carr's sister, Buakhao Von Kramer, continues to press claims that their complaint was improperly dismissed by this Court on March 21, 2025. (Doc. 62.) In what they explain is a "consolidate[ion] of 12 motions," Plaintiffs ask this Court to set aside its judgment and authorize an amended complaint to "correct all cited defects and add two new counts as well as two new defendants." (Doc. 73 at 4.)[1] For the reasons set forth below, this motion should be denied.

I. Procedural Background

Plaintiffs' Amended Complaint in this action sought damages from the United States Postal Service (USPS) for an allegedly delayed delivery of a package. (Doc. 29 at 2, 7-9). Plaintiffs also sought an order from the Court mandating that various federal

[1] For ease, Defendants refer to Carr, his wife, and Mrs. Von Kramer collectively as the "Plaintiffs," although for reasons explained by the Magistrate Judge and herein, only Mr. Carr is a proper plaintiff.

agencies, including the U.S. Department of Justice, initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer. (Doc. 29 at 9-45.) But as set forth in Defendants' motion to dismiss, Plaintiffs did not meet their initial burden to identify an applicable waiver of the federal government's sovereign immunity for any of their claims. (Doc. 31.) Moreover, as the Magistrate Judge determined, Mr. Carr, proceeding pro se, was essentially and impermissibly representing his wife and sister-in-law. (Doc. 61 at 1-3.) For those reasons, the Magistrate Judge issued Findings, Conclusions, and Recommendation of the United States Magistrate Judge (FCR) recommending dismissal of the complaint. (Doc. 61.) When Plaintiffs did not object to the recommendation, this Court reviewed the FCR for plain error and, finding none, accepted the recommendation and dismissed the complaint. (Doc. 62.)

Within days of the Court's decision, Plaintiffs began filing pleadings and various motions for reconsideration of this Court's decision. (*See* Docs. 64-68, 70, 71, 73.) Mrs. Carr, ostensibly, filed two pleadings explaining that she did not understand that Mr. Carr could not sign pleadings on her behalf and that she wished to continue in the litigation. (Docs. 64, 65.)[2] On April 7, 2025, the Plaintiffs filed an amended complaint and a motion pursuant to Fed. R. Civ. P. 60 asking the Court to "rescind its order" dismissing the claims in this case and to allow the amended complaint. (Docs. 66, 67.) The proposed amended complaint contained same "electronic" signature blocks and dates as

[2] Mr. Carr has indicated that neither Mrs. Carr nor Mrs. Von Kramer understand English. *See* Doc. 29 at 58 (explaining that he provided "relevant sections" of the amended complaint to Mrs. Carr and Mrs. Von Kramer in English and Thai, using Good Translate, and then discussed them in English using Google Translate); *see also* Doc. 67 at 7 (explaining that the two requests filed by Mrs. Carr were completed with his "clerical assistance in translating".)

the dismissed complaint, as well as the same language regarding Mr. Carr signing the document on behalf of his wife and sister-in-law. (*See* Doc. 66 at 56-58; *see also* Doc. 29 at 56-58), although a handwritten signature was added for Von Kramer. (Doc. 66 at 56.) The motion for reconsideration explained that Plaintiffs had not had sufficient time to draft their objections to the FRC and raised a host of new claims. (*See generally* Doc. 67.)

On June 10, 2025, Plaintiffs filed a motion to amend the pending motion for reconsideration. (Doc. 71.) Therein, they argued that because Defendants indicated that it was opposed to their motion for reconsideration, but did not file a brief, the motion for reconsideration should be deemed unopposed. (*Id*.) Based on a May 6, 2025, email from a former AUSA that she would not be responding to pending motions, Plaintiffs did not confer with the AUSA on this motion. (*Id*. at 8.)

The undersigned AUSA entered an appearance in this case on June 13, 2025. (Doc. 72.) Mr. Carr emailed the undersigned that same day inquiring whether she would take the same position of "no response" as the former AUSA. The undersigned inadvertently failed to respond to that email. Plaintiffs filed the instant omnibus motion for reconsideration on ten days later, on June 23, 2025. (*Id*.) Mr. Carr did not seek to confer on this specific motion but indicated in the certificate of conference that the motion was "unopposed" based on the correspondence with the former AUSA and the nonresponse to the June 13th email. (*Id*. at 65.)

II. Legal Standards

Plaintiffs presumably seek to have their consolidated motions considered under Federal Rules of Civil Procedure 59(e) and 60. (Doc. 73 at 9.) To prevail under Rule 59(e), a motion "must clearly establish either a manifest error of law or fact or must

present newly discovered evidence and cannot be used to raise arguments which could, and should, have been made before the judgment issued." *See Matter of Life Partners Holdings, Inc.*, 926 F.3d 103, 128 (5th Cir. 2019) (internal citation omitted). "The purpose of Rule 60(b) is to balance the principle of finality of a judgment with the interest of the court in seeing that justice is done in light of all the facts." *Hesling v. CSX Transp., Inc.,* 396 F.3d 632, 638 (5th Cir. 2005). Under Rule 60(b)(1), a court may relieve a party from a final judgment for mistake, inadvertence, surprise, or excusable neglect. Fed. R. Civ. P. 60(b)(1). Under Rule 60(b)(6), a party may seek relief "any other reason justifying relief from the operation of the judgment." Relief under Rule 60(b)(6), however, is appropriate only in an "extraordinary situation" or when "extraordinary circumstances are present." *U.S. ex rel. Garibaldi v. Orleans Parish Sch. Bd.,* 397 F.3d 334, 337 (5th Cir. 2005) (internal citations and quotation marks omitted).[3]

III. Argument

A party may serve and file objections to a non-dispositive magistrate judge's order "within 14 days after being served with a copy." Fed. R. Civ. P. 72(a). If objections are not filed within the 14-day period, the Court reviews the Magistrate Judge's findings and recommendations only for plain error. *Serrano v. Customs & Border Patrol, U.S. Customs & Border Prot.*, 975 F.3d 488, 502 (5th Cir. 2020).

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

[3] Plaintiff's various motions for reconsideration do not specify any specific clause under Rule 60(b), but these are the only two clauses in Rule 60(b) that might pertain to their arguments.

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.)

To the extent Plaintiffs seek to set aside this Court's judgment, they were required to establish that the decision finding no plain error in the FCR was either a manifest error of law (Rule 59(e)), a mistake, inadvertence, surprise or excusable neglect (Rule 60(b)(1), or an extraordinary situation compelling relief. Fed. R. Civ. P. 60(b)(6). Their consolidated motion fails to do so. Indeed, Plaintiffs fail to demonstrate this this Court erred in *any* manner by accepting the FCR. As the Magistrate Judge explained, Mr. Carr cannot represent his wife and sister-in-law in any manner in this litigation. (Doc. 61 at 1-2.) But that is exactly what Carr has been, and indeed continues undeterred, to do. (Doc. 73 at 61 (explaining that he received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf).) Carr's belief that the Constitution or common law of the United States or Thailand bestows upon "any immediate family [the right to] represent other family members (even family members extended through marriage) with their consent" (Doc. 73 at 17-23) is not an accurate statement of the law. *See* 28 U.S.C. § 1654. For that reason, dismissal of claims that Carr could not bring on behalf of his wife and sister-in-law was not error.[4]

The same is true with respect to the only claims Carr alleged on his own behalf, namely the late arrival of his package and alleged failures to properly investigate a refund he claims he did not receive. As the Magistrate Judge explained, these claims are barred by sovereign immunity or were improperly briefed. (Doc. 61 at 6-7). Carr has not, and

[4] Plaintiffs argue that the dismissal of Mrs. Carr and Mrs. Van Kramer's claims was a "sanction" for failing to sign the pleadings. (Doc. 72 at 12-14.) This is simply incorrect. The claims were dismissed because Mr. Carr could not legally bring them on behalf of his family members.

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). And the Federal Rules only permit the incorporation by reference of contents from specified pleadings, not earlier motions or other papers. (Doc. 61 at 7.) Mr. Carr's attempt to incorporate by reference a response to earlier filed motion to dismiss, one dismissed as moot because he chose to file an amended complaint, was improper.[5]

IV. Conclusion

Plaintiffs cannot show any error, much less plain error, in the Magistrate Judge's RFC, or any basis under Rule 59(e) or Rule 60 for setting aside this Court's judgment. Their omnibus motion for reconsideration should be denied.

Respectfully submitted,

NANCY E. LAWSON
ACTING UNITED STATES ATTORNEY

s/ Tami C. Parker
Tami C. Parker
Assistant United States Attorney
801 Cherry Street, Suite 1700
Fort Worth, Texas 76102
Texas Bar No. 24003946
Telephone: 817-252-5200
Facsimile: 817-252-5458
Email: tami.parker@usdoj.gov
Attorneys for Defendants

[5] Although his complaint has been dismissed, Mr. Carr's request for reconsideration raises new immigration and FOIA claims, and seeks to add two new defendants. (Doc. 73 at 37-42). He also seeks to raise complaints about the Court and the U.S. Attorney's Office. (*Id*. at 42-45, 45-48.) These requests and arguments are misplaced in a Rule 60 motion and should be rejected.

CERTIFICATE OF SERVICE

On July 14, 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, the foregoing document was served via U.S. mail to the Plaintiff, pro se, listed below:

s/ Tami C. Parker
Tami C. Parker

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 Consolidated[2] FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal (ECF 71)

Reply Supporting FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal

Table of Contents

Reply Supporting FRCP Rule 60 Motions To Reverse Dismissal of Matter And Recusal.....1
Table of Contents.....1
Introduction.....3
Court and Defendants Misconstrue Appeal Options and Relief Requested.....3
Court's Acceptance of Recommendations was Premature.....4
Notice Provided by Magistrate Was Inadequate.....4
Proper Notice Required by 5th Circuit Court.....4
Required Notice Was Intentionally Inconspicuous.....5
Plaintiffs Not Given Adequate Notice of the 14 Day Requirement.....6

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

2 The consolidated motions were 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. This Reply supports each of the separate motions. There is a pending FRCP Rule 60 Motion for LR 7.2 relief from page limit restrictions (ECF 67) for any motion which addresses more than two counts, but the court has not ruled on that request for relief so that it is necessary to consolidate separate motions (one for each count) to remain in compliance with the LR 7.2. For this Reply the page limit restriction is 10 pages per motion which is 110 pages.

As Notice Was Successfully Hidden, Plaintiffs did not see or Read Notice....6
Court Rules for 72(b) Deprive Pro Se Parties From Due Process....6
Due Process is a Complex Multi-Faceted Requirement for a Fair Hearing....6
For Efficiency and Expedience Courts Deprive Pro Se Parties of Due Process....7
Due Process Requirements for 72(b) Notices....8
Requirements for Providing Due Process to Pro Se Parties....9
Motion For Relief to Rescind Order and Recuse Unopposed....13
For the First Time USATXN Claims that Our Objections Were Not Timely....14
Failure to Timely Respond or Object Precludes Later Objections....15
USATXN Response Contrary to Prior Conference, No Justification....15
Sanctions Requested for Violations of LR 7.1(a) Motion Practice Conference....17
AUSA Owen No Longer in Government Service....17
AUSA Padis On Extended Leave....18
The Notice Incorrectly Claims Appeals is Barred....18
Preservation Rule, Must Raise Objections to Trial Court Before Appeal....19
FRCP Rule 60 Motion for Relief Can Correct FRCP Rule 72(b) Errors....20
Numerous Justifications Listed in FRCP Rule 60....20
Original FRCP Rule 60 Included Several Valid Justifications....20
There Was No Res Judicata As Motions Were Timely....21
ECF 67 Requested Leave to Amend the Complaint....21
The Court Left Mrs. Carr An Apparent Illegal for Over 2 Years....21
Mrs. Carr Became Citizen The Day After the FCR....22
New Circumstances Require Additional Plaintiffs....22
All Defects in ECF 29 Will Be Addressed in the Amended Complaint....22
Numerous Errors to Warrant FRCP Rule 60 Motion for Relief....23
Plaintiff Failed to Read Hidden End Note....23
The Court Misapplied Rule 11 to Remove Parties, Not Strike Documents....23
The Amended Complaint (ECF 29) Was Approved By The Court....23
ECF 18-1 and ECF 29 Were Correctly Signed By Mr. Carr....23
The Other Plaintiffs Also Correctly Signed ECF 18-1 and ECF 29....24
FRCP Rule 11 Application By Court is Nonsense....25
Recusal and Criminal Investigation Warranted....26
Physical Signatures Provided to Court In Compliance....26
USPS Claim Not Precluded By Sovereign Immunity....27
USPS Can Offer Refunds for Select Services....27
FCR had Plain Error Dismissing USPS Claim....27
USPS Does Offer Guaranteed Delivery with Potential Refunds....27
Dolan Explicitly Affirms USPS Ability to Offer Refunds....28
USPS Follows Good Practices and Clearly States When Refunds Available....28
By Not Reading Dolan The Court Made Plain Error....29

It Was Plain Error To Dismiss Based on Inadvertent Error....29
No Cases Cited Warranted Refusal to Consider Arguments....29
Inadvertent Error Caused By Dire Circumstances....30
1st FRCP Rule 60 Motion (ECF 67) Was Timely And Unopposed....30
The Court Removes Plaintiffs Without Proper Cause....31
The Court Ignores Clear Qualifiers in the Complaint....31
Possible Federal Crime by Court....32
Making False or Misleading Statements Violates 18 USC § 1001....32
Three Causes of Action Simply Ignored by Court....32
FOIA Requests Ignored Though Court Has Clear Jurisdiction....33
DoS and Doctrine of Consular Non Reviewability Ignored....33
Fees Paid Warrants Continuation of All Counts....34
Court Attempts to Undermine Marriage and Family Irrelevant....34
Pro Se Parties Can Join Together in A Single Complaint....35
Preservation Rule Justifies Arguments About Representation....36
Conclusion....37
Verification of Motion....38
CERTIFICATION OF ELECTRONIC SIGNATURES....39
Case, Statute, and Other Alphabetical Index....40
CERTIFICATE OF SERVICE....41

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) presuming some explanation for why the objections were delayed.

There were several errors which contributed to this forgivable error. The first is

that I failed to read the 'end note' under the title 'Instructions for Service'. This is clearly an excusable error as all humans make mistakes and the appropriate objections were made in the subsequent FRCP Rule 60 Motions for Relief with full explanations for the delay.

Further, the court and defendants seem to have confused constitutionally protected free speech (explanations and advice) with representation (speaking or submitting briefs on their behalf without their explicit consent) and practicing law without a license, a criminal offense. One of the result of these errors is that my wife's sister, Buakhao still has not been properly notified of the magistrate's recommendations and the 14 day requirement for objections, making the judge's adoption of the recommendations premature (the 14 days hasn't started).

Court's Acceptance of Recommendations was Premature

Notice Provided by Magistrate Was Inadequate

Proper Notice 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 …[3]
>
> Mindful of Thomas v. Arn 's reminder that a failure to object to a magistrate judge's report and recommendation may be excused in the "**interests of**

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

justice", 474 U.S. at 155, 106 S.Ct. at 475[4]

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 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 below the signature block which leads the reader to unconsciously conclude that it is not important. Further it is single spaced which would violate the courts 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

4 Bold added by Plaintiffs.

suggests to the reader 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).

Plaintiffs Not Given Adequate Notice of the 14 Day Requirement

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.

Court Rules for 72(b) Deprive Pro Se Parties From Due Process

Due Process is a Complex Multi-Faceted Requirement for a Fair Hearing

Due process is a concise statement of the rights that had been developed in English

law over centuries before and during colonization. In has numerous facets which can be summarized as a requirement that every individual be given a fair hearing for any matter that impacts their life, liberty or property. Individuals can not be required to do the impossible and, inversely, can not be punished for failing to do that which is impossible. There is a separate brief in ECF 71-8 on due process and pro se representation with a section "Due Process Restricts the Government's Ability Deprive Any Person" (page 7) which develops this theme in depth. The conclusion is that no aspect of the government can deprive individuals of a fair hearing and the courts can not create rules which don't support a fair hearing.

For Efficiency and Expedience Courts Deprive Pro Se Parties of Due Process

The actual text of FRCP Rule 72(b) is:

> Rule 72. Magistrate Judges: Pretrial Order …
> (b) Dispositive Motions…
> (2) Objections. Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.

The rule itself only guarantees the right of parties to submit objections within 14 days (with permissive language using 'may'). There is no statement barring appeal if objections are not raised within 14 days. Nor does it prevent parties from raising objections to the trial court after 14 days presuming some simple explanation for the delay. This does not intrinsically prevent a fair hearing as the courts can liberally accept objections after 14 days.

However, 5th Circuit Court rules and this courts apparent requirements that detailed and specific objections must be submitted to the judge within 14 days are unrealistic. There is no guidance from the local court on how to apply for

additional time to prepare such objections or how to request exceptions and provide those general objections as a pro se party is able to state them.

From ECF 71-8 it is clear that the court must provide a fair hearing even to the poor and uneducated who may not be able to concisely and specifically state their objections. It is the responsibility of the court to identify appropriate legal theories to support the claims of pro se parties, not to deny justice simply because a pro se party is not erudite and does not elaborate their claim fully.

The notice provided by this court as cited above is woefully inadequate as it does not provide for "the Court...s may excuse the default in the interests of justice" as stated in Thomas v. Arn, 474 U.S. 140 (1985). In particular, the essential right of appeal of final orders must be supported through:

- adequate notice of the requirement to submit objections to magistrate FCR's
- time to provide notice of objections, and
- time to perfect the objections.

To collapse the whole process into 14 days, while desirable from the perspective of judicial efficiency, does not support due process requirements, especially for pro se parties who can be poor and uneducated, but still deserving of a fair hearing.

Due Process Requirements for 72(b) Notices

To insure that all parties are notified of the requirement to promptly raise objections, this court (and on appeal the 5th Circuit Court and Supreme Court if applicable) must require all 72(b) Notices:

- be in the main body of the order (above the signature block).
- be in the largest font used in the order
- be double spaced and start with the essential elements of the notice e.g. no extraneous directions on service.

- have a section header in a bold font with a short and clear message like:
  WARNING: You must file notice of any objections within 14 days
- include a reference to another widely available source (such as the local rules, e.g. LR 72.2) where the details of specificity and manner of service should be added to keep the notice short and understandable.
- make it clear that it is only necessary to state the intent to raise objections within the specified time and that extensions in time to 'perfect' the objections are automatically granted once notice is received.
- explain that if there are problems in service (e.g. the party was on vacation and did not receive the FCR in a timely fashion) then the party can submit an FRCP Rule 60 Motion for Relief which affirms the delay in service and includes the notice of objections. In this case the order accepting the FCR will routinely be rescinded and court will wait for timely objections for consideration.

Requirements for Providing Due Process to Pro Se Parties

There are several measures the district court must take to provide a fair hearing to pro se parties (as required by due process). Over the years the various courts have determined the appropriate times to notify other parties of the intent to appeal a final order and the time to perfect the actual appeal.

FRCP Rule 72 FCR's have the same breadth as final orders (indeed they can be adopted as the final order) so that any effort to restrict later objections must also provide with sufficient time to allow thoughtful notice of objections (mirroring notices of appeal) as well thorough preparation of the objections to be considered (mirroring the perfecting of an appeal).

Just because the FCR was generated by a magistrate does not mean the issues and time constraints are substantially different. Indeed, if the appeals courts wish to require every objection to be considered by the trial judge before they will consider it on appeal (an expectation well supported in case law), then the trial judge must

insure that parties are provided with the same careful and considerate opportunities to object.

If the trial judge prevents the parties from properly preparing and presenting their objections, then this is tantamount to denying the right to appeal as the appeals courts have uniformly required that they will only review objections which were timely submitted to the trial court. FRCP Rule 72 FCR's may have greatly increased judicial efficiency but this expedience is only permitted as long as the due process right to appeal is preserved.

While the trial court could be flexible in granting exceptions to the 14 day rule for FRCP Rule 72 objections, this would lead to numerous rescinding of otherwise final orders which is also a problem for due process. Indeed the courts seem to have consistently pursued the path of developing an arcane 'veritable maze of writs and confusing procedures' with the effect of creating a lesser form of nobility, attorneys, who collude to insure that all hard working non attorneys have to pay their 'tax' of attorney fees built into insurance premiums and complying with the ever more complex statutes and rules created by attorneys.

From ECF 75-1 and Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998)[5] it is clear that the framers of the constitution wished to protect individuals from such onerous and byzantine rules through the constitutional requirement for due process. The courts can not create rules for pro se individuals which prevent them from having a fair hearing. While the FRCP Rule 72 permissive 14 day rule is not de facto

5 cited by this court indirectly through Monroe v. Smith, 2011 WL 2670094 which quoted the obscure not precedent Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006) which quoted verbatim from the widely cited Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998).

unconstitutional, but any court rule which prevents a pro se individual from having a fair hearing is unconstitutional.

It is unconstitutional for an appeals court to deny any hearing on an issue just because the trial court made it virtually impossible for a pro se individual to raise the issue before the trial court with daunting local rules for FRCP Rule 72 proceedings. If the pro se party successfully navigated the arduous process to perfect an appeal then they deserve a hearing on the issue.

As the Supreme Court stated in Thomas v. Arn 'the Court of Appeals may excuse the default in the interests of justice' without qualifications. The appeals court could:

- decide the issue if that would not unduly impact the rights of other parties or
- remand the matter to the trial court to properly rule on the apparent objections (declaring that the trial court's local rules were too arduous but still giving the trial court the opportunity to decide the apparent objections).

In any case, for every such objection which was not ruled on by the trial court, the appeals court must admonish the trial court on violating due process and judicial protocol.

Further, the appeals court must insist that the trial court revise:

- The standard FRCP Rule 72(b) notice so that parties are aware of the quicker, easier and cheaper process for raising timely objections (versus the formal appeal process),
- The standard notice must also refer to instructions on how to file FRCP Rule 60 Motions for Relief in the event a party is not able submit timely Notice of

Objections,

- The period to submit notice of objections must be increased to the FRCP Rule 59 period of 28 days or the FRAP Rule 4 period for a Notice of Appeal of 30 days. Pro se parties often do not have the staff to monitor ECF filings or their mail continuously and small delays in actual service should not routinely create the confusion of rescinded orders,
- The local rules must make it clear that only the Notice of Objections is required within 14 / 28 / 30 days and an automatic extension of time to 'perfect' the objections will be provided. This extension must be the same time as allowed to perfect an appeal or longer at the discretion of the court. The notice must include the number of days automatically provided to perfect the objections. Further, the rules must provide for the granting of additional extensions at the discretion of the court according to the situation. Such extensions should be granted liberally 'in the interests of justice'.
- The local rules must also recommend prompt submissions of the perfected objections (even though there is ample time) as the court can not provide relief or justice until the objections are filed.
- The requirements for the actual objections must be in the local rules or another widely available document. The requirements for objections must be clear and simple making them much more attractive to parties so that no party will ever choose not to raise objections before appeal,
- Any requirements for specificity in objections must be corrected to encourage the party to be as specific as possible noting that justice will be quicker and more fair if the court can better understand the objection (time spent clarifying the objections will be returned several fold in a better judgment),[6]

6 The current notice of this court includes specificity requirements which are described in a convoluted and threatening manner presenting an apparently insurmountable barrier with the likely effect that the losing party

- While the clerks of the court can not provide legal advice, the court can prepare a reference (link) or brochure which the clerks are directed to provide to any party who seeks to pay the fee for a Notice of Appeal. The document should describe the alternative of Notice of Objections (if FRCP Rule 72 FCR is pending) or FRCP Rule 60 Motions for Relief (if there are objections which have not been raised before the trial court). The document should have sample forms that the applicant can easily fill out and quickly get alternative relief.
- The local rules must specify that any FRCP Rule 60 Motion for Relief under paragraph (b)(1) is justified if the applicant affirms that any error in submitting timely notice of objections or perfecting the objections was inadvertent[7] and the motion is submitted within the time that a Notice of Appeal would be accepted. This liberal acceptance of FRCP Rule 60 Motions is to prevent the due process violations of denying a fair hearing because of complex local and appellate rules which are not comprehensible to pro se individuals. There can not be an arcane 'veritable maze of writs and confusing procedures' which prevent pro se individuals from receiving a fair hearing.

Motion For Relief to Rescind Order and Recuse Unopposed

The Certificate of Conference for our first consolidated objections (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.

---

be overwhelmed and not take the required prompt action of filing the notice of objections. This temporarily creates the appearance of judicial efficiency but at the expense of due process and constitutional individual rights. The colonists became rebels due, in part, to the highly efficient military tribunals who similarly made decisions without any effort to provide a fair hearing. To paraphrase Martin Luther King, 'a revolution is the language of the unheard'

7 USATXN's violations of LR 7.1(a), not submitting a Response when required and then submitting a Response when not permitted should not be ignored based on the unsupported allegation that it was 'inadvertent'.

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**'[8] in reference to ECF 67, ECF 71 and the anticipated two more motions described in ECF 67 which are this motion (ECF 73) and the expected Motion for Leave to Submit a Second Amended Complaint.

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 could suggest some level of collusion and back channel communications, possibly through the clerks in various offices).

For the First Time USATXN 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[9] 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

8 Bold added by plaintiffs.

9 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.)

UNOPPOSED on 9 Jun 2025 with ECF 71.[10] 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 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 will not be filing any response for this motion (ECF 75) or the expected FRCP Rule 60 Motion for Leave to Submit a Second Amended Complaint which will follow.

AUSA Parker admits that she received notice of these conference results on 13 Jun

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

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 or altered that position so the next FRCP Rule 60 for Leave to submit the Second Amended Complaint will also be listed as UNOPPOSED unless AUSA Parker decides to notify me of a new position for USATXN.

Sanctions Requested for Violations of LR 7.1(a) Motion Practice Conference

It is clear that TXND Local Civil Rules LR 7.1(a) Motion Practice Conference requirements are designed to allow the court to efficiently distinguish between OPPOSED motions and UNOPPOSED motions. However, USATXN has made false claims in these email conferences (18 USC § 1001) creating confusion and wasting this court's time as well as ours (and potentially violating our due process rights as there can not be a fair hearing where the opposing party makes a mockery of the rules of the proceeding with impudence).

The court could also make a determination as to what AUSA Owen meant with no opposing responses 'unless otherwise requested/ordered by the Court'

AUSA Owen No Longer in Government Service

When I sent the email to AUSA Parker (ECF 75-1) I copied the previous USATXN representatives and I received an automated response 'from' AUSA Owen which said 'I have left government service.' which makes her prior enigmatic comment all the more intriguing. Was she fired for colluding with the court via back channel communication or was she fired / resigned for refusing to violate her oath of office to defend the constitution or refusing to commit federal crimes or violate the Texas Disciplinary Rules of Professional Conduct (ECF 30-2). Of course there are uncountable other possibilities all of which are pure

speculation, but the court could use the Order Show Cause hearing to resolve such questions and their impact on our due process rights.

AUSA Padis On Extended Leave

I similarly copied AUSA Padis on the same email (ECF 75-1) and received an automated response of 'I am on extended leave until 9/30/2025' which suggests that AUSA Padis was offered a "deferred resignation" under the Department of Government Efficiency (DOGE) DoJ plan. This makes it all the more important for the court to resolve whether or not there were serious federal crimes of falsifying government records (18 USC § 1001)[11] or violations of the Texas Disciplinary Rules of Professional Conduct (ECF 30-2) which may have impacted our due process rights. Holding the Order to Show Cause hearing for sanctions previously requested becomes all the more important.

The Notice Incorrectly Claims Appeals is Barred

Defendants in ECF 74 states:

> 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.

The actual text of FRCP Rule 72(b) is:

> Rule 72. Magistrate Judges: Pretrial Order …
> (b) Dispositive Motions…
> (2) Objections. Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.

11 AUSA Padis had sent an email to me claiming that this 'Office has no record of having been served in this case.' in order to delay this matter when actually there were records that the service was completed but that the service improper (wrong person made service but that was a mistake in USATXN records as the service was proper).

The rule itself only guarantees the right of parties to submit objections within 14 days (with permissive language using 'may'). There is no statement barring appeal if objections are not raised within 14 days. Further, we are not raising an appeal at this time but instead asking the court to reconsider its order based on timely FRCP Rule 60 motions. We have an absolute constitutional right to file timely FRCP Rule 60 motions and the defendants had an absolute constitutional right to file opposing responses, though the defendants declined to file any response with the original and primary motion (ECF 67).

Preservation Rule, Must Raise Objections to Trial Court Before Appeal

A review of the case law concerning such objections to expedited magistrate rulings makes it clear that the appeals courts do not want to resolve every objection from the hasty magistrate decisions but instead rely on the district judge to properly consider the objections before the matter is appealed.

This follows the general principle that appeal courts can only consider issues which were before the trial court. If a party has concerns which it does not present to the trial court, then those concerns are beyond the reach of the appeals court. This principle is designed to promote judicial efficiency (as the trial court has access to the evidence, witnesses, etc.) and justice (opposing parties should be able to address concerns promptly).

These general principles were developed from the British common law principle of Laches and is now embodied in the 'preservation rule'. This rule is widely referred to and known by most jurists but seldom clearly stated. The Michigan Supreme Court explained in Walters v Nadell, 481 Mich 377 (2008):

> a litigant must preserve an issue for appellate review by raising it in the trial court, such that a failure to timely raise an issue waives review of that issue on appeal.[12]

FRCP Rule 60 Motion for Relief Can Correct FRCP Rule 72(b) Errors

Numerous Justifications Listed in FRCP Rule 60

Timely FRCP Rule 60 Motions for Relief can raise issues which were not previously brought before the trial court and provide relief from a final judgment or order. Justifications for FRCP Rule 60 relief include:

> (1) mistake, inadvertence, surprise, or excusable neglect; …
> (6) any other reason that justifies relief.

Original FRCP Rule 60 Included Several Valid Justifications

With the original motion (ECF 67) there are several justifications for the relief:

- The court successfully hid the required **FRCP Rule 72**(b) Notice (14 days) so there was not the required notice - surprise
- The Plaintiffs were unaware of the 14 day requirement for notice of objections - inadvertence
- Buakhao was out of the country when the court had challenged the lack of her original signature on ECF 29 (so the requested 30 day extension whenever this occurs was applicable) so her individual response (ECF 66) and our group response (ECF 67) was timely (14 days plus 30 days) – any other reason
- Buakhao is illiterate in written English and the court challenged my assisting her resulting in her never receiving proper notice of the FCR (ECF 61). The order is completely incomprehensible to her (the notice could have been in verbal Swahili and been equally understandable to her). The 14 day period to raise objections has not started as yet for Buakhao and so the court's acceptance of the FCR was premature as there was no verified proper notice - mistake

12 Quotations removed by Plaintiffs.

There Was No Res Judicata As Motions Were Timely

While the right of appeal is a fundamental due process right, justice also requires that there be an end to litigation with issues finally resolved (a less publicized facet of due process) sometimes referred to Res Judicata. Examples are the requirements that FRCP Rule 60 Motions for Relief must, in general, be within a year of the final order or judgment and the first such motion must be within 28 days to maintain the right to appeal the decision (as in this case). The order does not become truly final until the right to file FRCP Rule 60 Motions or Notice of Appeal has expired.

USATXN ignores the fact that the two motions which are contested, ECF 67 and ECF 71 are FRCP Rule 60 motions which were timely submitted before there was any finality to the Order. Such motions are intended to provide an opportunity to correct errors in 'Final' Orders before they become final. There is no requirement that objections be raised before the 'final' order as these motions are intended to correct those and other errors before any appeal is submitted.

ECF 67 Requested Leave to Amend the Complaint

The Court Left Mrs. Carr An Apparent Illegal for Over 2 Years

The court had delayed the hearing on the Motion to Dismiss (ECF 31, 24 May 2024) for almost a year leaving my wife in dire circumstances. After USCIS had provided a final decision and notice that my wife's 10 year green card and citizenship applications were both approved (ECF 10-5) on 31 Jan 2023, USCIS instead refused to provide my wife with her citizenship as promised or the promised 10 year green card. USCIS illegally left my wife as an apparent illegal (with no documentation at all) for over two years.

Mrs. Carr Became Citizen The Day After the FCR

After an interminable period of terror about being deported with out cause or notice, we reapplied for citizenship and my wife passed the citizenship test again (ECF 71-2) on 10 Feb 2025 and received her Naturalization Certificate (ECF 71-3) on 28 Feb 2025, the day after the court filed the FCR (ECF 61) on 27 Feb 2025. This and numerous other responses by other defendants (USPS, DoS, and IRS) during this February blitz (ECF 67) raised concerns of apparent collusion between the courts and defendants.

New Circumstances Require Additional Plaintiffs

We were in the process of preparing the amended complaint which would reflect that my wife was no longer an apparent illegal, but would add two new defendants (her sons) whose immigration visa applications were delayed by the illegal delays in citizenship for my wife by USCIS. There are also two new defendants, the IRS and TIGTA who began property seizure while an appeal was pending and without the statute mandated 30 day notice.

All Defects in ECF 29 Will Be Addressed in the Amended Complaint

USATXN ignores the fact that ECF 67 requested relief so that we could submit a second amended complaint, the remaining FRCP Rule 60 motion.

Of course the amended complaint would also correct all the defects identified by the court. As the FCR (ECF 61) dismissed without prejudice and the Order (ECF 62) itself was still appealable, the Order was not yet final (Res Judicata) and it was quite proper to seek leave to amend the complaint with a justification for the delay as ‘excusable neglect’.

Numerous Errors to Warrant FRCP Rule 60 Motion for Relief

Plaintiff Failed to Read Hidden End Note

The first and, perhaps, most important, error is that I failed to read the 'end note' under the title 'Instructions for Service'. This is clearly an excusable error (inadvertence or excusable neglect under FRCP Rule 60(b)(1)) as all humans make mistakes and the appropriate corrections were made in the subsequent FRCP Rule 60 Motions for Relief.

The Court Misapplied Rule 11 to Remove Parties, Not Strike Documents

The Amended Complaint (ECF 29) Was Approved By The Court

In the court's order of 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."[13]

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

I had 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.

13 Bold added by Plaintiffs.

ECF 18, 18-1, and 29 were all submitted electronically by myself via my ECF account and have my signature block. See ECF 29 page 56. As such, I had signed each document on submitting them to ECF.

The Other Plaintiffs Also Correctly Signed ECF 18-1 and ECF 29

The referenced Amended Complaint (ECF 18-1 and ECF 29) was also properly signed by my wife and her sister in accordance with local rules. 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 us are considered attorneys within the scope of this civil action (unless the context indicates a contrary intention).[14]

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; ...[15]

14 This is the first time 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 filing I have made 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. This is slightly similar LR 83.11 and its exemptions for DoJ attorneys.

15 Bold added by Plaintiffs.

So, as I (an attorney within this matter it seems) submitted ECF 18-1 and ECF 29 electronically I needed to certify that the document was properly signed and represent the consent of the other person. 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 electronically on their behalf ...

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'.

FRCP Rule 11 Application By Court is Nonsense

Almost a year later the court appears to have changed its mind and then created a nonsense justification to dismiss an otherwise solid complaint. 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. … Rueangrong and Buakhao did not personally sign the Amended Complaint … But Brian, who is not an attorney, is not authorized to give legal advice or sign pleadings on behalf of others.
>
> Accordingly, the Court should dismiss without prejudice all claims Brian brings on behalf of Rueangrong and Buakhao.

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**.[16]

16 Bold added by Plaintiffs

FRCP Rule 11(a) simply allows the court to strike any document if the party who submitted the document did not sign the document. Of course it is clear that I signed the document by submitting the document from my ECF account with my signature block in the document. Further, it is also clear that the court accepted the document and did not strike the document because of problems with the signatures.

It is absurd that almost a full year later the court should change its mind (and without any arguments from USATXN) and then question whether my wife or her sister 'personally signed' the complaint. The reference to FRCP Rule 11(a) is irrelevant to this matter.

It is also 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 18-1 and ECF 29 as there are the correct certifications of their electronic signatures.

Recusal and Criminal Investigation Warranted

The egregious challenges to personal signatures and the concealing of material facts (violating 18 USC § 1001) appear to warrant 28 USC §§ 351-364 complaints which should be forthcoming once the FRCP Rule 60 Motion to Amend the Complaint is completed.

Physical Signatures Provided to Court In Compliance

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 it 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 74, 14 Jul 2025), 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.

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

No Cases Cited Warranted Refusal to Consider Arguments

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")[17]

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 opportunity had the option of correcting the error, the matter was not dismissed

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

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). I also presume that if that court were to learn that the plaintiff had been in a hospital in a coma until now, then that court would grant a FRCP Rule 60 (b)(6) Motion for Relief allowing the plaintiff respond opposing the MTD.

Inadvertent Error Caused By Dire Circumstances

It is important to note that the inadvertent error of referring to other briefs occurred when I was concerned about my wife's status as an apparent 'illegal'. 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), she was actually left as an apparent 'undocumented alien' (a.k.a. an 'illegal'). 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.

I could have filed LR 7.1 and LR 7.1 motions for more time and less stringent page restrictions but I was concerned about my wife and her dire circumstances. Had I known that the court was going to ignore her plight for more than a year I would have filed those motions and the court would not have had that excuse to ignore valid causes of action.

1st FRCP Rule 60 Motion (ECF 67) Was Timely And Unopposed

In this case, we responded to the FCR (ECF 61) with timely objections and

properly stated opposition to the dismissal in our first FRCP Rule 60 motion (ECF 67) which was unopposed and should be granted as USATXN has not offered any timely explanation for the lack of response to that motion.

The court can not deny our right to a fair hearing based on what is an absurd application of page length restrictions and obscure court decisions precluding references to previous filings. Obviously this was an inadvertent error caused by wife's dire circumstances and it was a Plain Error for the court to dismiss those claims without first providing us an opportunity to correct the error (as was done in the other cases cited).

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 ...[18]

In both the original complaint and amended complaint it is clear that all of us are

18 Bold added by Plaintiffs.

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 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 permissible' 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.

Three Causes of Action Simply Ignored by Court

After delaying this matter for almost a year it appears the court was in a rush to get it off the docket and did so without due care and consideration. There are at least three causes of action which it simply ignored or intentionally hid to avoid addressing complex issues.

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.

DoS and Doctrine of Consular Non Reviewability Ignored

The entire cause of action against DoS where DoS interviewers for non immigrant visas completely ignore the statute mandated requirements for issuing visas and deny visas without considering any proper evidence, all under the umbrella of the Doctrine of Consular Non Reviewability (DoCNR). However, DoCNR is extremely controversial with attacks suggested in Kleindienst v. Mandel, 408 U.S. 753 (1972) which depend on citizen rights to due process. These citizens rights were expressly addressed in Sandra Munoz v. State Department (9th Cir. 2022, 21-55365) and the controversy expanded in Department of State v. Munoz (S. Ct. 2024). There were challenges to non immigrant visas not addressed in the Supreme Court but it is obvious that non immigrant visas are the correct bellwether for DoCNR resolution.

However, as it is my citizenship which is the basis for the base challenge to DoCNR it obvious why the court did not address DoS and their visa denials. Whatever decision this court makes in this matter it will likely be appealed to the

5h Circuit Court. Because of the controversial DoCNR it is possible that the issue could be considered by the Supreme Court. This is important as the various class action expansions from the FOIA results would be enticing for legal aid organizations. While they could get awarded costs as in Garcia Perez v. USCIS, No. 2:22-cv-00806 (W.D. Wash., filed June 9, 2022) where USCIS agreed to revise its Employment Authorization Documents (EAD) there would also be the possibility of appearing before the Supreme Court (another important boon for legal aid organizations).

The possibility of such high profile attention to this matter may also have contributed to the court's desire to bury the matter without proper consideration but due process is not driven by the desires of the court but instead the rights of individuals to a fair hearing.

However, this ignoring of a critical cause of action is another Plain Error in the FCR (ECF 61) warranting the relief sought in the instant motion (ECF 73).

Fees Paid Warrants Continuation of All Counts

Court Attempts to Undermine Marriage and Family Irrelevant

In its haste to dispose of this matter, the court also ignored the fact that for the counts against USCIS and DoS (and their relevant IGs) the fundamental damage was fees paid and the fundamental relief was a credit for future services. It is important to remember that I was the person who paid the fees. The court may choose to consider the legal union of marriage and family as irrelevant, but, if that is the case, then the fees weren't paid jointly by the marriage or family but instead by myself personally. The credits for future services were also sought for the marriage or family, but if the court wishes to undermine the institution of marriage

and family then the credit would be at my discretion. As such, the improper removal of my wife and her sister is irrelevant. Each count stands undeterred.

Pro Se Parties Can Join Together in A Single Complaint

The court and defendants seem to have confused constitutionally protected free speech (explanations and advice) with representation (independently speaking on their behalf without their consent, or, in particular, without getting their consent to sign papers electronically on their behalf) and practicing law without a license, a criminal offense.[19]

While the court and USATXN have recently (after almost a year of silence) decided to object to pro se parties working together providing each other shared advice, expertise, and technical assistance, the reality is that this is quite common and intrinsic to due process, not some abhorrent practiced to be quashed.

It is certainly possible and desirable for several pro se parties to join together in a single Complaint with 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, desires,

19 There are generally no federal statutes concerning practice of law but instead the courts routinely rely on the states. In Texas there is Section 38.122 of the Texas Penal Code which states:

Sec. 38.122. FALSELY HOLDING ONESELF OUT AS A LAWYER. (a) A person commits an offense if, with intent to obtain an economic benefit for himself or herself, the person holds himself or herself out as a lawyer, unless he or she is currently licensed to practice law ...

and technical expertise with the other parties. This sharing is guaranteed by free speech but also due process.

The poor and uneducated are entitled to a fair hearing by due process, but as we progress toward a society where attorneys are a lesser form of nobility riding on the backs of hard working individuals then pro se parties must be provided with whatever deference is necessary to insure a fair hearing even if they can't afford the luxury of an increasingly expensive attorney.

Oddly enough, this court (through its local rules) seems particularly supportive of having similarly situated parties assist each other. From the court's local rules it is clear that pro se parties are considered attorneys in an extremely limited fashion in their ability to attend conferences, appoint a lead attorney / party, and even sign documents electronically for other persons (even people not party to the suit). Of course this consideration is limited to the current civil suit only and not to any other action.

Preservation Rule Justifies Arguments About Representation

In this particular case it is very easy, plaintiffs can help and assist each other in any fashion they choose (it is unregulated). However, in accordance with the Preservation Rule, I have raised specific arguments which would be of interest if the matter were appealed, possibly to the Supreme Court.

As the court broadly denied the ability of spouses to represent each other with consent (far beyond any other court's decisions) and extended that broad denial to close family members, I elaborated on the contrary so that on appeal the various appeals courts can make their determination if they agree with this court's anti-

marriage and anti-family stance.

It is clear that close family members can assist each other if they are all in the same suit (acting as attorneys on their own behalf) but this court denied this representation far beyond any previous court decision. According to the Preservation Rule I elaborated on the alternative providing fodder for any appeals court to consider.

This is also similar to my previous arguments against rule 56 motions versus the more efficient rule 56 response. While it is almost certain that the 5th Circuit Court will concur with rule 56 motions, the Supreme Court might accept this matter for consideration just to have the rare opportunity to settle this long standing dispute between the appeals courts.

Conclusion

All the issues raised above are available to the court for consideration. If this court decides against any or all of the arguments we have raised, each such issue will be preserved for appeal (the trial court was given the opportunity to rule based on its own best judgment). The court may or may not decide to revise its **FRCP Rule 72** procedures but this series of FRCP Rule 60 motions will preserve our right to appeal and give the 5th Circuit Court the opportunity to review the decisions of this court.

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 communication 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 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: 28. Jul. 2025
Location: Irving, Texas

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061

Date: 28. Jul. 2025
Location: Irving, Texas

/s *Buakhao Von Kramer*

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

Date: 28. Jul. 2025
Location: Chiang Mai, Thailand

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with the local rules and procedures specified in 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.

TXND Local Civil Rules LR 1.1 states:

> 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.

However, 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; ...

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Case, Statute, and Other Alphabetical Index

18 USC § 1001 ..... 16 ff., 26, 32
28 USC Part II - Department Of Justice 29
39 USC § 245 (1940 ed. and Supp. V) 28
5 USC § 404 29
Department of State v. Munoz (S. Ct. 2024) 33
Dolan v. Postal Service, 546 U.S. 481 (2006) ..... 27 ff.
Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996) 4
ECF 10-5 ..... 21, 30
ECF 18 ..... 23 f.
ECF 18-1 ..... 23 ff.
ECF 26 ..... 23, 26
ECF 29 ..... 20, 23 ff., 31
ECF 3 ..... 17 f., 31
ECF 30 ..... 17 f.
ECF 30-2 ..... 17 f.
ECF 31 21
ECF 59 38
ECF 61 ..... 5 f., 14 f., 18, 20, 22, 25, 29 ff., 34
ECF 62 ..... 6, 14, 22, 33, 37
ECF 63 15
ECF 64 27
ECF 66 ..... 20, 27
ECF 67 ..... 1, 6, 13 ff., 19 ff., 30 f.
ECF 71 ..... 1, 14 f., 21
ECF 71-2 22
ECF 71-3 22
ECF 71-8 ..... 7 f.
ECF 73 ..... 14, 33 f.
ECF 74 ..... 6, 14, 16, 18
ECF 75 15
ECF 75-1 ..... 10, 13 ff.
FRAP Rule 4 12
FRCP Rule 11 ..... 25 f.
FRCP Rule 5 23
FRCP Rule 59 12
FRCP Rule 60 ..... 1, 3 f., 6, 9, 11, 13, 15 ff., 19 ff., 30 f., 37

FRCP Rule 72.....3, 6 ff., 13, 18, 20, 37
FTCA tort claims.....28 f.
Garcia Perez v. USCIS, No. 2:22-cv-00806 (W.D. Wash., filed June 9, 2022).....34
Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998).....10
IG Act of 1978.....29
Kleindienst v. Mandel, 408 U.S. 753 (1972).....33
LR 1.1.....24, 39
LR 11.1.....24 f., 39
LR 7.1.....13, 17, 30
LR 7.2.....1, 5
LR 72.2.....9
LR 83.11.....24
Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006).....10
Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011).....10
Sandra Munoz v. State Department (9th Cir. 2022, 21-55365).....33
Thomas v. Arn, 474 U.S. 140 (1985).....4 f., 8, 11
TXND.....25, 39
TXND Local Civil Rules.....17, 24, 39
Walters v Nadell, 481 Mich 377 (2008).....19

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

Subject: Confer Case 3:23-cv-02875-S pending motions, ECF 67
Date: Fri, 13 Jun 2025 08:28:23 -0500
From: Brian Carr <carrbp@gmail.com>
To: tami.parker@usdoj.gov
CC: Emily Owen-DOJ <emily.owen@usdoj.gov>, Padis, George (USATXN) <George.Padis@usdoj.gov>

Dear Ms. Parker,

I hope you have had a good week.

I noticed that you have been added to this matter and may be taking responsibility for the DoJ response in this matter. As you may already be aware there are three FRCP Rule 60 motions pending (as described in ECF 67). On 6 May 2025, Ms. Owen stated 'I am not filing any response' in our discussion of these motions. Are you planning on filing any responses (opposing these motions)?

Thanks for your attention to this matter. Wishing you all the best,

Brian

From: **Brian Carr** <carrbp@gmail.com>
Date: Tue, May 13, 2025 at 1:21 PM
Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider
To: Owen, Emily (USATXN) <Emily.Owen@usdoj.gov>

Hi Emily,

Sorry for the delay in getting back to you, but I spent some time contemplating what it means to be opposed to a motion in the context of the local rules.

It is my conclusion that being opposed to a motion is not about having general non specific concerns or misgivings but instead about having clear and specific issues which will be raised in an opposing response.

For example, you are likely opposed to slavery, mass shootings, burning of widows on their husband's funeral pyre, and terrorism. However, in the context of local rules, opposed means that you have a legal basis for objecting to specific relief(s) requested in the motion and that you intend to file a response opposing the motion with the legal basis for your objections.

TXND Local Civil Rules LR 7.1 states:

> (e) Time for Response and Brief. **A response** and brief to an opposed motion **must be filed** within 21 days from the date the motion is filed. (Bold added by Plaintiff)

The use of 'A response' instead of 'Any response' is indicative that a response is required by the opposing party if they stated that they are opposed to the motion. To claim opposition without the intent to file an opposing response could be construed as intentionally misleading the court and attempting to delay the matter.

If a motion is assumed to be opposed because of no ability to get a response from the adversely affected party, then the lack of response within the required time frame will demonstrate that the motion is, in fact, unopposed and no reply is required or authorized.

I will include an explanation similar to the above in the Rule 60 Motion to Amend the original Rule 60 Motion (ECF 67) as UNOPPOSED due to your failure to file a timely response as required by LR 7.1.

I will also include a Certificate of Conference in the new Rule 60 Motion explaining that in your email of 6 May 2025 you stated "I am not filing any response" and so concluding that the motion is 'UNOPPOSED'.

Of course in the same sense that I have a constitutional due process right to file timely Rule 60 motions even if the judge has closed the matter, you have a similar constitutional due process right to file timely opposing responses.

For all the upcoming Rule 60 motions (generally described in the first Rule 60 Motion) I will assume that you are not filing a response and so will list them as 'UNOPPOSED' based on the above quote which will be included in the Certificate of Conference. If you wish to file an opposing response just give me a heads up and I can update the Certificate of Conference.

Wishing you the best,
Brian

On 5/6/2025 8:25 AM, Owen, Emily (USATXN) wrote:

Hi Brian,

I am still opposed. Because the case is closed, I am not filing any response unless otherwise requested/ordered by the Court.

Thank you,

Emily H. Owen

Assistant U.S. Attorney

(214) 659-8605

emily.owen@usdoj.gov

From: Brian Carr <carrbp@gmail.com>

Sent: Sunday, May 4, 2025 6:31 PM

To: Owen, Emily (USATXN) <Emily.Owen@usdoj.gov>

Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

Wasn't this a fantastic weekend to be out and about. I hope you were able to enjoy it.

As you are aware, it took me a little while to get my original Motion for Relief (ECF 67) ready, 7 Apr, while your opposition was stated on 28 Mar. However, any opposition to ECF 67 was due on 28 Apr, but has not been filed yet.

I am considering another Motion For Relief to amend ECF 67 to note it is UNOPPOSED as no opposing papers were timely filed. I might include an explanation that between 28 Mar and 28 Apr you reconsidered opposing the motion. I would be open to any alternative explanation for the lack of opposing papers as well as no explanation (just the lack of a response). Would you like to have a phone conversation about this?

Now the questions are, do you have an alternative explanation that you would prefer AND do you oppose this Motion for Relief to amend ECF 67 as UNOPPOSED?

Wishing you all the best,

Brian

On Fri, Mar 28, 2025 at 2:50 PM Owen, Emily (USATXN) <Emily.Owen@usdoj.gov> wrote:

> Hi Brian,
>
> I apologize for my delay in getting back to you on this. I am opposed.
>
> Thank you,
>
> **Emily H. Owen**
>
> Assistant U.S. Attorney
>
> (214) 659-8605
>
> emily.owen@usdoj.gov
>
> ---
>
> **From:** Brian Carr <carrbp@gmail.com>
>
> **Sent:** Monday, March 24, 2025 7:48 PM
>
> **To:** Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
>
> **Subject:** Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

Separately, there are a couple or three papers from Air and couple or three papers (similar) from Buakhao which ask that these plaintiffs be included or remain in the suit. One of the papers is an Amended Complaint which was printed and then signed. Another is just a request to remain in the suit and an explanation that the Amended Complaint was submitted with their approval and they have signed to indicate to their approval and their attempt to follow the court's order that ECF 18-1 be filed unchanged as ECF 29.

The last paper is a summation of their experiences and what they want. Each of the new papers is in Thai with an English translation (not very good English, but English and Thai don't map very well). They will be mailed to the court in a few days and arrive / get filed in the next week or two. There is no conference as to whether they are opposed but there is minimal compliance with the court's filing requirements. I will be interested to see what the clerks do with them.

As to the current Motion for Relief, I am asking for relaxed filing requirements for subsequent Motions for Relief.

I am thinking about submitting three subsequent consolidated motions for relief each of which would, with the courts permission, represent all three Plaintiffs (or perhaps five for the last Amended Complaint). The motions would be:

1) Identifying errors in the decision (a few of which were mentioned previously)

2) Asking Magistrate Rutherford consider recusal to avoid the appearance of bias based on the delays in the case until my wife became a citizen and other things which create the appearance of back channel communication and, to a certain extent, collusion with the government. As there is so little to claim about the appearance for Judge Scholer, she can recuse or not based on her own judgment.

3) Leave to file two Amended Complaints. The first which must be filed within four months adding new Defendants of the IRS and TIGTA as well as two new Plaintiffs, Tin and Earth (nicknames for Air's two sons). I haven't mentioned Earth much before, but he is a trainer Sergeant in the Thai Artillery who would like to enlist in the U.S. Army if possible (this is new in the last couple of days). It would also add all the pending FOIA requests which have not been answered as yet with distinct reliefs for each. Of course there must be physical signatures for Earth and Tin

3a) The next Amended Complaint would add references to the appropriate topic based briefs submitted previously.

That said what I would like is the ability to submit each motion without the restrictions of page limitations. I am well aware of the tricks people play to

> meet the page restrictions in Appellate Briefs and don't think they are beneficial for presenting clear, concise, and persuasive arguments. For example, I think that with electronic documents 14 pt type is more readable and, hence, more persuasive. I would also like to be able to submit separate Affirmed Briefs dealing with general topics such as "'Credit for Future Services' is completely different from 'Cash Payment' from the point of view of Sovereign Immunity". Then there would be separate briefs for each group of 'Credit for Future Services' reliefs showing how the general defense applies to the specific reliefs.
>
> These same briefs would be used across all three motions so that the motion itself can be more clear, concise and persuasive.
>
> I imagine that with such stand alone affirmed briefs covering 'State a Claim', 'Sovereign Immunity', and 'Executive Discretion', the 9 (and later 11) counts can each be addressed in less than ten pages each for a total of less than 100 pages (probably significantly less, maybe even 50 if I have time to get really clear and concise). However, considering the alternative of 52 (or even 156) briefs of 25 pages each (1300 pages or more) I can guarantee that even if all the stand alone affirmed briefs were added together in the page count it would not even get close to 1300 pages.
>
> Of course these stand alone briefs would not be repeated in each of the three motions but just referred to as appropriate.
>
> I will also ask that with the concurrence of the other Plaintiffs and the Court, that I be able to electronically sign papers for the other Plaintiffs based on their affirmed agreement. I could also keep and / or attach excerpts from our Line (a messaging app popular in SE Asia, but not China where it is banned, possibly for being too secure) chat sessions.
>
> Thanks for getting back to me on this.
>
> Brian
>
> On 3/24/2025 9:40 AM, Owen, Emily (USATXN) wrote:
>
> > Hi Brian,
> >
> > I hope you had a nice weekend as well. To clarify on the LR 7.2(c) motion, are you planning to request each of the following: (1) be allowed to submit a single consolidated motion for each plaintiff; (2) be allowed to submit separate Rule 60 motions/briefs on each relief sought; and (3) be allowed to submit each brief in excess of the page limits in the local rules?

Also, what is the length of page limit that are you going to be requesting?

Thank you,

Emily H. Owen

Assistant U.S. Attorney

(214) 659-8605

emily.owen@usdoj.gov

From: Brian Carr <carrbp@gmail.com>

Sent: Friday, March 21, 2025 9:22 PM

To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>

Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

I hope you are having a nice weekend.

I am planning on filing an LR 7.2(c) motion to allow longer briefs for the Rule 60 Motion(s) for Relief as well as permission to submit a single consolidated motion rather separate Motions from each Plaintiff as well separate motions for each Relief sought. The issues to be raised will be those listed previously plus some new ones....

Wishing you the best,

Brian

> On Mon, Mar 10, 2025 at 9:13 AM Owen, Emily (USATXN) <Emily.Owen@usdoj.gov> wrote:
>
> > Thank you, Brian.
> >
> > We are opposed to the motion.
> >
> > Best,
> >
> > Emily H. Owen
> > Assistant U.S. Attorney
> > (214) 659-8605
> > emily.owen@usdoj.gov
> >
> > -----Original Message-----
> > From: Brian Carr <carrbp@gmail.com>
> > Sent: Sunday, March 9, 2025 10:21 PM
> > To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
> > Subject: [EXTERNAL] Rule 54(b) Motion to Reconsider
> >
> > Hi Emily,
> >
> > From what I have heard it must be difficult working for the government in these times of turmoil. I hope that you are not caught up in the maelstrom.
> >
> > I am working on a Rule 54(b) Motion to Reconsider. I would appreciate it if you could let me know whether you expect to oppose the motion. I have included the early draft of the introduction so you will have some idea what to expect.
> >
> > Wishing you the best,
> >
> > Brian
> >
> > Introduction
> >
> > The Court is asked to defer dismissal without prejudice but instead grant the Plaintiffs time to file an Amended Complaint. The Plaintiffs would like to add new Defendants of the Internal Revenue Service (IRS) and The Treasury Inspector General for Tax Administration (TIGTA) as well as a new Plaintiff, Mrs. Carr's son Rujipas Lawichai.

Further relief is sought of providing Plaintiffs with meaningful results from FOIA information requests for individual records and cumulative data. Many of these FOIA requests have been pending or in process for over two years.

Once the results of the various FOIA requests for cumulative data are made available to the Plaintiffs, the Plaintiffs anticipate adding new Plaintiffs as a class action suit with the assistance of legal aid organizations such as National Immigration Litigation Alliance which was awarded costs in Garcia Perez v. USCIS, No. 2:22-cv-00806 (W.D. Wash., filed June 9, 2022) where USCIS agreed to revise its Employment Authorization Documents (EAD) administrative procedures to comply with clear and specific statutes and constitutional due process.

There are numerous errors in the Findings and Recommendations the most serious of which results in the removal of two Plaintiffs, Mrs. Carr and Mrs. Von Kramer from the matter without consulting them or giving them any opportunity to heard.

FRCP 11(a) was cited as the basis for removing Plaintiffs but notice of the problem as required by FRCP 11 was not provided to the Plaintiffs. Further the only remedy in FRCP 11 of striking the unsigned document would require the striking of the Motion to Dismiss rather than granting the dismissal.

The court is asked that a different Magistrate be assigned to this case to avoid the appearance of bias or impropriety. Magistrate Rutherford appears to have collaborated with Defendants to defer the matter until they could ameliorate their constitutional and criminal violations.

Further, the Plaintiffs request a review of Magistrate Rutherford's decision to not consider sanctions for serious of allegations of criminal falsification of government records to trick the Plaintiffs and delay the proceedings, flagrantly violating Texas Disciplinary Rules of Professional Conduct (ECF 30-2) Rule 4.01 'Truthfulness in Statements to Others' and 18 USC Section 1001 (falsification of government records).

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] Brief of Mr. Carr Supporting Count 1 and 2 Against USPS, USPS OIG, and USPS BoG

Brief of Mr. Carr Supporting Count 1 and 2 Against USPS, USPS OIG, USPS BoG

Table of Contents

Brief of Mr. Carr Supporting Count 1 and 2 Against USPS, USPS OIG, USPS BoG....1
Table of Contents....1
Introduction....2
USPS Count 1....3
Promised Refund Never Received....3
Sovereign Immunity Does Not Apply to USPS....3
Dolan Clearly Permits Refunds for 'Guaranteed Delivery' Failures....3
The FTCA Supports Simple Tort Claim Against USPS....5
Credit for Future Services Not Protected By Sovereign Immunity....5
Delivery Time Falsified to be On Time When Actually Late....5
Refund Failed Due to Falsified Records and Broken Business Processes....7
Ancillary Relief Sought From USPS....8
Count 2, USPS OIG and USPS BoG....8
Statutes Clearly Require USPS OIG and USPS BoG to Correct Problems....8
Falsified Delivery Times is A Longstanding Problem....9
USPS Has Extraordinary Falsified Record Problems....9
Falsifying Delivery Times is a Federal Crime....10
USPS IG Does Not Report Crimes As Mandated By Statute....10
USPS BoG Does Not Require Statutory Compliance....11
USPS OIG Provides Immunity to Widespread Federal Crimes....12

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

USPS BoG is Likely Source of Immunity for Widespread Federal Crimes.....13
FOIA Requested Records Not Provided.....15
Conclusion.....16
Verification of Document.....16
Case, Statute, and Other Alphabetical Index.....17

Introduction

This verified affirmation will present the legal arguments which demonstrate that both Count 1 and Count 2 have valid claims to be considered by the court. The basic form of a claim is to demonstrate that the defendants 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 is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress with special focus on the disbursement of government funds (the power of the purse) which the constitution specifically reserves for Congress.

The is also the 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.

USPS Count 1

This basis for the claim against USPS is that I was promised a refund to my credit card for $26.35 but the refund never posted to my credit card.

Promised Refund Never Received

The basis for the claim against USPS is that I was promised a refund to my credit card for $26.35 because of a 'guaranteed delivery' package that was delivered a few minutes late but the refund never posted to my credit card. However, instead of insisting on the promised refund, this suit asks for a credit for future services with USPS.

Sovereign Immunity Does Not Apply to USPS

Dolan Clearly Permits Refunds for 'Guaranteed Delivery' Failures

The court in ECF 61 stated:

> 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 provide a credit for future services. This is, apparently, a novel legal theory, which I would like to develop fully. 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.

While USPS' failure to make the promised credit to my credit card justifies the claim against USPS, more details are required to support the ancillary claims against USPS OIG and USPS Board of Governors (BoG) as well as (later and separately) CIGIE and DoJ.

Delivery Time Falsified to be On Time When Actually Late

On 09 Apr 2021 I purchased an Overnight Express, Guaranteed Delivery 'click-n-ship' shipping label to return my passport from the Thai Embassy in D.C. to my home in Irving, TX (see ECF 18-3 USPS Receipt for $26.35) which I sent via

email to the Thai Embassy as the pending trip to Thailand required the passport and visa be returned promptly (to complete other arrangements).

The Thai Embassy returned my passport with the package accepted by USPS at 8:46PM on 13 April 2021 with guaranteed delivery by 12PM on 15 April 2021.

However, the package did not arrive at the Irving Post Office until 11:18 AM 15 April 2021 and was 'out for delivery' at 11:29 AM. It was scanned as delivered at 11:35 while the driver was almost certainly still at the Post Office, a common practice for improper 'Stop the Clock' scans (as will be discussed later) as can be seen in ECF 18-4.

That morning I was home waiting for delivery so that I could complete the arrangements for the trip and I got an email from USPS saying the envelope had been delivered at 11:35AM. I went out and looked for the envelope, but couldn't find it. I called the Post Office as I was concerned that my passport had been delivered to the wrong address (not being familiar with improper 'Stop the Clock' scans) and was told not worry as there were equipment / truck problems and the driver was running late. That made no sense to me at the time as I was not familiar with improper 'stop the clock' scans where delivery times are falsified by scanning the package as delivered while still at the Post Office.

I took pictures of the porch area and checked again at 12PM with my wife and we still could not find the envelope / package. Needless to say I was concerned that my passport was lost (a very serious matter) and we would have to cancel our trip.

I checked again at 12:30PM and found the envelope in our mail box. I was relieved and was able to complete the arrangements for our trip. The delay was a minor inconvenience but the terms of the 'guaranteed delivery' only supported minor compensation, $26.35.

Refund Failed Due to Falsified Records and Broken Business Processes

That afternoon I made an online request for a refund (refund request number 6006595) which was denied in minutes as the package was falsely reported as delivered on time. Two weeks later I was permitted to appeal that arbitrary denial and on 5 May 2021 the status of the refund was changed to 'Dispute Paid', see ECF 18-8.

However, the credit card which I used for the online 'click-n-ship' never posted the refund (I check each credit card statement each month confirming all charges and credits).

Over fifty years of credit card use, I have been promised hundreds of credit card refunds and there have been dozens of cases where the refund doesn't get to my credit card. In that case, I contact the merchant and ask for the transaction ID where they paid my bank. In every other case the merchant gets back to me and says there was a problem initiating the refund at their end and they then issue a credit which does post to my credit card.

With USPS when I asked for a transaction ID for the refund, I received assurances that the refund was paid, but no one could give me any details such as the credit card transaction ID (see ECF 18-9). From my numerous phone calls to USPS I concluded that while 'Accounting Services' approved the refund on 5 May 2021

(incorrectly recorded as 'dispute paid') they then referred the matter to Customer Service who were unable to make the refund due to the delay and the fact that USPS records still indicated that the package was delivered on time.

Ancillary Relief Sought From USPS

As I suffered a loss (albeit minimal) from the widespread falsified delivery times and refund processing by USPS, ancillary relief is sought to reduce future falsified delivery times and incorrectly denied refunds for myself and other postal customers. There are also several suggestions for measures which could provide redress for past and future harmed postal customers as well as offsetting the cost of the measures through penalties for USPS management who benefited from illegally increased bonuses, but the actual implementation of this remediation should be left to DoJ and USPS OIG coordinating with USPS.

Count 2, USPS OIG and USPS BoG

Statutes Clearly Require USPS OIG and USPS BoG to Correct Problems

Ancillary Relief is sought from USPS OIG and USPS BoG because had they fulfilled their statutory and constitutional duties then I would have received the authorized refund and this matter would not be before the court. The relief sought is orders to USPS OIG and USPS BoG that they take those actions to prevent such damages in the future, particularly 5 USC § 404 (d) (reporting of federal crimes) as it relates to 18 USC § 1001, the federal crime of falsification of government records.

Obviously Sovereign Immunity does not apply to these orders to obey statutes as in Marbury v. Madison (1803) and APA 5 USC § 702. The limitations on 'sovereign

immunity' are discussed at length in ECF 67-3.

Falsified Delivery Times is A Longstanding Problem

USPS OIG has long known that USPS has serious problems with falsified delivery times and other customer complaints related to delivery and tracking problems (e.g. refund for late deliveries with guaranteed delivery times) but rather than reporting federal crimes to the DoJ (as required by statute) and aggressively pursuing corrections, USPS OIG only made suggestions to USPS management which USPS management chose not to implement (never allocated resources for the corrections). This is not surprising as USPS employees and management benefited from the falsified records with better retention, promotions, and, for management, bonuses.

USPS Has Extraordinary Falsified Record Problems

In 2017 USPS OIG issued an audit report (DR-AR-18-001, ECF 18-7) where extensive problems were found. It stated:

> [USPS OIG] analyze[d] ... 25.5 million scans and found that ... about 1.9 million scans (7 percent) were improper stop-the-clock scans that occurred at delivery units instead of at the delivery location.

This might be unclear to non-USPS personnel, so to clarify, the 'stop-the-clock scans' are the scanning of a package's bar code to record the final delivery time to the customer. The 'delivery units' means the Post Office where the delivery person received the packages to deliver. The delivery location is the customer's location or address. To restate:

> USPS OIG found 1.9 customer delivery times recorded at the Post Office rather than the customer's delivery address.

To be clear, delivery scans can be made in the truck as long as the customer's address / house is in sight or even an easy walking distance away. However, it is never acceptable to scan as delivered a package while still at the Post Office and none of these 1.9 million packages were scanned at the customer's address.

Falsifying Delivery Times is a Federal Crime

18 USC § 1001 states:

> (a) ..., whoever, in any matter within … the executive... branch of the Government of the United States, knowingly and willfully -
> (1) falsifies, conceals, or covers up ... a material fact; …
> shall be fined under this title, imprisoned not more than 5 years or, ...

However, USPS OIG found 1.9 million falsified delivery times out of 25.5 million.

Finding this many falsified records certainly qualifies as extraordinary when the usage of delivery times is considered.

It is a well known fact that cumulative delivery times in USPS are used for retention, promotion, and even bonuses for USPS personnel. It is also a well known fact that these cumulative delivery times are used in computing quality measurements for Congress and the public. Falsifying such important records certainly qualifies as a crime.

USPS IG Does Not Report Crimes As Mandated By Statute

5 USC § 404 states:

> (d) ... each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

I asked the USPS IG to report federal crimes to DoJ (as required by statute) in the

hopes that the DoJ would insist that USPS management rein in the rampant falsified records, but the USPS IG answered indirectly that the OIG had decided not to prosecute the widespread federal crimes (see ECF 10-1). This is clearly outside of USPS IG executive discretion. The decision to prosecute is exclusively reserved to DoJ, presumably so that DoJ can use the threat of prosecution to efficiently insure future compliance with the law. Committing federal crimes and violating the constitution is never within executive discretion as discussed in ECF 67-3.

USPS BoG Does Not Require Statutory Compliance

As USPS IG was clearly violating statutory mandates to report federal crimes to the DoJ, I asked that the USPS IG 'supervisor', the USPS BoG in this case, direct the USPS IG to report federal crimes to the DoJ (see ECF 10-2), but they referred my request to CIGIE where the USPS IG was a significant leader (see ECF 10-3) and no action was taken. This was not surprising as USPS BoG also benefits from the reported superior (but false) quality measurements and (fraudulent) profitability from the widespread falsified records. The magnitude of the falsified tracking records seems incredible until it is considered that these delivery times are used to measure individual employees' performance for retention and promotion purposes. Further, for management, bonuses as well as retention and promotion can depend on these quality metrics as well as profitability. The profitability of each section and division is improved by fraudulently rejecting claims for refunds and this improved profitability benefits management at all levels. It appears that with USPS they are retaining and promoting employees and managers based on their ability to falsify performance metrics and defraud postal customers rather than their ability to actually perform.

USPS OIG Provides Immunity to Widespread Federal Crimes

The recent focus in USPS on improving profitability should have been coupled with a focus on improved accuracy and less falsified records to avoid an explosion in falsified records.

When I reported the falsified USPS delivery record which caused him damages in an approved minor refund which was never paid through additional falsified documents (but did provide us with standing in this matter), the USPS OIG refused to report the matter to DoJ as the USPS OIG had decided that these delivery related crimes should not be prosecuted but instead were consistently referred back to local USPS management. No action or investigation were ever taken by USPS OIG (see Complaint, Doc 11-1, para 53-55)

Clearly USPS local management does not wish to restrict this criminal behavior which increases their bonuses and improves their careers. Apparently local management's response is to make token disciplinary actions with a 'wink and a nod' to encourage the continuance of the criminal behavior to their own benefit.

When USPS OIG audits and investigations demonstrate widespread criminal falsification of government documents through improper 'stop the clock scans' (see Doc 18-7) they widely report the problem along with recommendations for how USPS management could substantially reduce the improper scans but USPS management never allocates the resources to correct the problem. This is not surprising as the practice improves USPS managers' careers and bonuses.

USPS BoG is Likely Source of Immunity for Widespread Federal Crimes

When congress created the USPS OIG they tried to provide the USPS with more independence by having USPS IG report to the USPS BoG. However, Congress did not give USPS OIG or USPS BoG the authority to commit or encourage federal crimes (e.g. falsifying government records) with impunity.

It appears that the USPS BoG has successfully prevented the involvement of DoJ with these problems through illegal orders. The USPS BoG has fallen into the trap of gaining immediate apparent success through illegal orders and falsified documents. As stated previously, illegal orders almost always are verbal only informal guidance to preserve the option of deniability in the event the illegal orders are found out.

I suspect that the illegal order took the form of a guarantee from any candidate for USPS IG position to not involve the DoJ in any delivery or tracking problems (as 'it is not necessary and only complicates the matter for local management'). It came with a clear understanding that the IG would be fired if the DoJ was ever involved in USPS delivery and tracking problems. Of course this is purely speculation.

While the illegal order would not explicitly require the IG to take illegal actions, 5 USC § 404 explicitly requires the IG to expeditiously report to the AG (a.k.a. DoJ) all likely federal crimes. Given the importance of delivery times within USPS, every one of 1.9 million improper 'stop the clock' scans in their 2017 audit should have been reported to the DoJ.

USPS management never made the USPS OIG recommended changes to reduce such improper 'stop the clock' scans. Further, it is argued that the DoJ on notice of such crimes should have insisted that USPS reduce the falsified records with the resulting decline in reported profitability and quality measures. This, apparently, is what the USPS BoG feared.

The verbal illegal order likely did not directly threaten to terminate the USPS IG for reporting improper 'stop the clock' scans to DoJ, it simply demanded that the USPS IG and OIG insure that the DoJ did not get involved in USPS delivery affairs. This is the sort of ambiguity common for actual illegal orders as it can not be clearly shown that it violated 5 USC § 2302(b)(9)(D) as they did not require the prohibited 'explicit violations of federal statutes', they simply threatened termination for the IG if the DoJ got involved. Of course, the USPS IG could only hope to keep DoJ out of these matters by disregarding the clear intention of Congress that the DoJ be the sole decider of prosecution for federal crimes.

The USPS OIG defense of this unlawful refusal to report federal crimes to the DoJ in their reply on 7 June 2022 in (ECF 10-1) states:

> When employee conduct does not meet the threshold for prosecution, we typically refer such matters to Postal Service management officials for their determination of possible administrative action

I did not ask that anyone be prosecuted for these comparatively minor federal crimes and had explicitly suggested that USPS OIG could easily meet the requirements of the 5 USC § 404 by just copying the DoJ on any complaints of falsified delivery records before it forwarded the complaint to local USPS management. For example, in ECF 10-2 I wrote to the USPS BoG:

> I am actually requesting that they be referred to the Attorney General and Justice Department where an unbiased determination of the appropriate remedy can be made. It would be absurd to suggest that every USPS employee who ever did a[n improper] 'Stop the Clock' scan be put in jail. However, the senior management who encouraged and supported the practice might be candidates for dismissal and even fines to the degree that they profited from their illegal criminal actions.

The ancillary relief of this court insisting the USPS OIG, USPS BoG, CIGIE, and DoJ all work together to prevent future violations of federal criminal statutes and provide relief to injured parties is actually a quite reasonable and well justified response to extraordinary numbers of federal crimes of falsified records and fraudulent accounting for the disbursement of federal funds.

FOIA Requested Records Not Provided

In order to properly document the falsification of delivery times and incorrect refund processing, I had submitted FOIA requests to USPS and USPS IG as described in the anticipated amended complaint section ‘USPS FOIA Requests Pending’.

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 falsification of delivery times 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.

Conclusion

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

Verification of Document

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

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 28. Jul. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

18 USC § 1001....8, 10
28 USC Chapter 171....5
39 CFR § 111.1....4 f.
39 USC § 245 (1940 ed. and Supp. V)....4
5 USC § 2302(b)(9)(D)....14
5 USC § 404....8, 10, 13 f.
5 USC § 702....8
APA....8
Dolan v. Postal Service, 546 U.S. 481 (2006)....3 f.
Domestic Mail Manual 604 9.2.3....4
DR-AR-18-001....9
ECF 10-1....11, 14
ECF 10-2....11, 14
ECF 10-3....11
ECF 18-3....4 f.
ECF 18-4....6
ECF 18-7....9
ECF 18-8....4, 7
ECF 18-9....7
ECF 61....3
ECF 67-3....3, 5, 9, 11
FTCA tort claims....4 f.
Hale v. USA, No. 22-20426 (5th Cir. 2023)....3
Kosak v. United States, 465 U.S. 848 (1984)....4
Marbury v. Madison (1803)....8

UNITED STATES POSTAL SERVICE

OFFICE OF THE GENERAL COUNSEL
HEADQUARTERS, WASHINGTON, DC

IN RE, APPEAL OF CASE NO.
2025-FPRO-01666

APPEAL NO. 2025-APP-00110

ATTORNEY COLLEEN HIBBERT-KAPLER
ON BEHALF OF GENERAL COUNSEL THOMAS J. MARSHALL

OPINION AND ORDER

After careful consideration, this office is affirming the action of Rashonda Williams, Manager Finance Business Support, on FOIA request 2025-FPRO-01666.

I. STATEMENT OF FACTS

1. In a letter dated March 11, 2025, and received by the Postal Service via PAL, the requester submitted a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, for records regarding refunds for when an item was not delivered according to the applicable service standard. Specifically, the requester sought the following information:

> I am seeking cumulative data with no personal identifying information. I am generally seeking information concerning refunds of 'Guaranteed Delivery' costs where the item was not delivered according to the applicable service standard. I am interested in refund requests submitted online and am seeking a break down of requests which were approved and denied as well as the break down of requests where an appeal was submitted.
> I am seeking annual totals since Jan 2017 up to 2025 with quarterly break downs for 2024 and any completed quarter in 2025 when the results computed.
> I would like the number of refunds requested online for delayed delivery with guaranteed delivery with the average refund requested as well as standard deviation, maximum, and minimum.
> Further I would an additional break down with a Group By of ‘Refund Approved’ and ‘Refund Denied’ in the initial application.
> For the ‘Refund Denied’ group, I would like an additional Group By break down with 'No Appeal Submitted' or 'Appeal Submitted'.
> For the 'Appeal Submitted' group, I would like an additional Group By by with 'Refund Denied' or 'Refund Approved'.
> For the each of the 'Refund Approved' groups above, I would like an additional Group By break down with the bank to which the refund was routed to with:
> Chase,
> Capital One,
> American Express,
> Bank of America,
> Citibank,
> Discover,
> U.S. Bank,
> Wells Fargo,
> Other Bank, and
> No Record of Bank Transfer

I am particularly interested in tracking number 9470103699300057573507 delivered late on 15 Apr 2021 and refund request submitted on 16 Apr 2021 and appeal updated to 'Dispute Paid' on 6 May 2021, but no transaction for the refund has been located to date (so the refund would be expected to be listed in the 'No Record of Bank Transfer').

2. By correspondence dated May 1, 2025, Rashonda Williams, Manager Finance Business Support, provided a response that identified 42 pages of responsive records. 39 pages of records were withheld in full pursuant to FOIA Exemption 3 in conjunction with 39 U.S.C. § 410(c), 2 pages were included with redactions pursuant to FOIA Exemption 3 in conjunction with 39 U.S.C. § 410(c), and 1 page was produced in full.

3. By correspondence dated May 1, 2025, the requester asked Ms. Williams for clarification about the meaning of “ptr_call_back” in the responsive records and received a response on the same day.

4. By correspondence dated May 2, 2025, the requester asked Ms. Williams to provide confirmation that the lack of a requested bank transaction ID for his specified tracking number indicated there was no matching transaction ID and that the record would be “No Record of Bank Transfer” in the cumulative results. Eboni Francis, Senior Government Information Specialist responded to the requester via email on May 6, 2025 informing the requester that transaction ID information was not a part of the initial request and under standard practice the Postal Service would not have records of banking routing information of its customers regarding issuing refunds for mail delivery failures.

5. By correspondence dated May 12, 2025, the requester sent a response seeking additional information and challenging the responses provided regarding the request as well as seeking information about how far back in time the search was conducted, requesting the search go back to 2017 as requested rather than 2021 as was provided, and the fee estimate. Ms. Francis responded to the requester via email on May 13, 2025, informing him that the data requested is not preserved prior to 2021 and confirming the fee estimate was accurate as to the number of hours it took to retrieve the requested records.

6. By correspondence dated May 14, 2025, and received on May 15, 2025, the requester appealed two aspects of the response. Specifically, the requester asserted the results for the specific tracking number cited “did not fully specify whether there was a banking record indicating that refund was actually paid” and challenging the redaction of records with no record of action payment as not commercial in nature. In the appeal, the requester stated there was no record returned of the actual payment for a specific requested transaction and asked the FOIA office to determine whether the refund record qualified for the “No Record of Bank Transfer” designation including conducting a search or information about that specific transaction ID and a statement that no record was found after conducting an extensive investigation into a specific refund, presumably referring to the one connected to the tracking number provided in the initial request.

7. This office learned that Ms. Williams along with Ms. Francis’ guidance, used her knowledge of the organization of the Postal Service to conduct a search for the information requested in the Revenue and Field Accounting Department, as the location most likely to contain responsive records. In response to the requester’s questions following the initial response, Ms. Williams and Ms. Francis provided additional information regarding the retention policies for the locations where responsive information would be located.

II. APPLICABLE LAW

Congress enacted the FOIA to "'pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny.'" *Dep't of the Air Force v. Rose*, 425 U.S. 352 (1976). Congress balanced this objective by recognizing that "legitimate governmental and private interests could be harmed by release of certain types of information." *Fed. Bureau of Investigation v. Abramson*, 456 U.S. 615, 621 (1982). The FOIA "requires federal agencies to make Government records available to the public, subject to nine exemptions." *Milner v. Dep't of the Navy*, 562 U.S. 562, 562 (2011). In addition, other laws allow the Postal Service to withhold certain categories of records and information. *See* 39 U.S.C. § 410(c).

The FOIA does not require federal agencies to create records in response to a FOIA request, but rather is limited to requiring agencies to provide access to reasonably described, nonexempt records. *See Students Against Genocide v. Dep't of State*, 257 F.3d 828, 837 (D.C. Cir. 2001). Further, the FOIA establishes a right of access to existing agency records only. *See Nat'l Labor Relations Bd. v. Sears, Roebuck & Co.*, 421 U.S. 132, 161-62 (1975).

Adequate Search

Generally, upon a "request for records," 5 U.S.C. § 552(a)(3)(A), an agency must conduct an adequate search for all records responsive to the request. *See Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). The agency must provide all responsive records found, except insofar as they fall within any of several exemptions enumerated in the FOIA. *Milner*, 562 U.S. at 564.

"An agency has an obligation under FOIA to conduct an adequate search for responsive records." *Edelman v. Sec. & Exch. Comm'n*, 172 F.Supp.3d 133, 144 (D.D.C. 2016). An agency fulfills its obligations under FOIA if it can demonstrate "beyond material doubt" that its search was "reasonably calculated to uncover all relevant documents." *Truitt*, 897 F.2d at 542 (quoting *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (1983)). The adequacy of an agency's search for documents under the FOIA "is judged by a standard of reasonableness and depends . . . upon the facts of each case." *Weisberg v. Dep't of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). *See also Physicians for Human Rights v. U.S. Dep't. of Def.*, 675 F. Supp. 2d 149, 157 (D.D.C. 2009) ("The adequacy of an agency's search is measured by a standard of reasonableness, and is dependent upon the circumstances of the case" (citing *Weisberg,* 705 F.2d at 1351)). "[T]he adequacy of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search." *Iturralde v. Comptroller of the Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003). "There is no requirement that an agency search every record system." *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). "FOIA demands only a reasonable search tailored to the nature of a particular request." *Campbell v. U.S. Dep't of Justice*, 164 F.3d 20, 28 (D.C. Cir. 1998).

An agency's search for responsive records is adequate when all the offices that could be in possession of responsive documents are sent copies of the request with instructions to search for responsive documents and each office searches for responsive records. *Judicial Watch, Inc. v. U.S. Dep't of Health & Human Svcs.,* 27 F. Supp. 2d 240, 241, 244 (D.D.C.1998). *See also Larson v. Dep't of State*, 565 F.3d 857, 869 (D.C. Cir. 2009) (affirming adequacy of search based on agency's reasonable determination regarding records being requested and searched accordingly); *McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 849 F. Supp. 2d 47, 55-58 (D.D.C. 2012) (concluding that agency's search was adequate because agency determined that all responsive records were located in particular location created for express purpose of collecting records related to subject of request and searched that location).

An "agency's failure to turn up a particular document, or mere speculation that as yet uncovered documents might exist, does not undermine the determination that the agency conducted an adequate search for the requested records." *Wilbur v. Cent. Intelligence Agency*, 355 F.3d 675,

678 (D.C. Cir. 2004) (citing *Iturralde*, 315 F.3d at 314; *SafeCard Servs., Inc. v. SEC*, 926 F.2d 1197, 1201 (D.C. Cir. 1991)); *see also Burke v. U.S. Dep't of Homeland Sec.*, 270 F. Supp. 3d 99, 106 (D.D.C. 2017) (stating that a requester's "bare assertion" records must exist does not overcome the adequacy of an agency's search); *Strunk v. U.S. Dep't of State*, 770 F. Supp. 2d 10, 16 (D.D.C. 2011) (noting that the requester's "assertion that an adequate search would have yielded more documents is mere speculation" and such speculation as to the existence of responsive records is not relevant); *Media Rsch. Ctr. v. U.S. Dep't of Just.*, 818 F. Supp. 2d 131, 138 (D.D.C. 2011) (rejecting the requester's argument as "simply conjecture" where it argued that certain documents must have existed because meetings occurred during the relevant timeframe).

Further, the FOIA "does not obligate agencies to create or retain documents; it only obligates them to provide access to those which it in fact has created and retained." *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136, 152 (1980); *see also Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 321 (D.C. Cir. 1982) ("It is well settled that an agency is not required by FOIA to create a document that does not exist in order to satisfy a request." (citing *Nat'l Labor Relations Bd. v. Sears*, 421 U.S. at 161-62)).

Finally, the FOIA does not require federal agencies to answer questions or create records in response to a FOIA request, but rather is limited to requiring agencies to provide access to reasonably described, nonexempt records. *See Harrison v. Fed. Bureau of Prisons*, 681 F. Supp. 2d 76, 83 (D.D.C. 2010). Additionally, the FOIA does not require agencies to conduct research. *Id*. The "FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters." *Dale v. Internal Rev. Serv.*, 238 F.Supp.2d 99, 104 (D.D.C. 2002).

Exemption 3 and 39 U.S.C. § 410(c)(2)

If information is "specifically exempted from disclosure by statute," then it is also exempt from mandatory disclosure under the FOIA by incorporation. 5 U.S.C. § 552(b)(3) ("Exemption 3"). One statute that exempts information from disclosure is Section 410(c)(2) of the Postal Reorganization Act. 39 U.S.C. § 410(c)(2) ("Section 410(c)(2)"); *see also Wickwire Gavin v. U.S. Postal Serv.*, 356 F.3d 588, 592 n.6 (4th Cir. 2004); *Carlson v. U.S. Postal Serv.*, No. 13-cv-06017-JSC, 2015 WL 9258072, at *4 (N.D. Cal. Dec. 18, 2015); *Airline Pilots Ass'n v. U.S. Postal Serv.*, No. 03 2384 (ESH), 2004 WL 5050900, at *5 (D.D.C. June 24, 2004). This statute operates independently of the FOIA to exempt certain information from mandatory disclosure. Section 410(c)(2) "comports with Congress's overall purposes in passing the Postal Reorganization Act, which include assuring that USPS 'be run more like a business than had its predecessor, the Post Office Department.'" *Wickwire Gavin*, 356 F.3d at 590 (citation omitted). Congress "indicated that it wished the Postal Service to be run more like a business than had its predecessor," *Franchise Tax Bd. v. U.S. Postal Serv.*, 467 U.S. 512, 519-20 (1984), and that the Postal Service should become "self supporting" and "no longer rely on massive annual infusions of general revenues . . . at the taxpayers' expense," H.R. Rep. No. 91-1104 at 17 (1970). Congress thus sought to "[e]liminate serious handicaps" previously "imposed on the postal service by certain legislative [and other] policies" to allow the Postal Service to follow "modern management and business practices." *Id.* at 2. "Congress spoke loudly through the Postal Reorganization Act, providing USPS with a broad release from many FOIA disclosure requirements with which other agencies must comply." *Wickwire Gavin*, 356 F.3d at 592.

Section 410(c)(2) permits the Postal Service to withhold "information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed." 39 U.S.C. § 410(c)(2). "Information is of a commercial nature if it relates to commerce, trade, profit, or the Postal Service's ability to conduct itself in a businesslike manner." 39 C.F.R. § 265.14(b)(3); *see also Carlson v. U.S. Postal Serv.*, 504 F.3d 1123, 1128-29 (9th Cir. 2007) (applying the common meaning of the term "commercial" to include all information that relates to commerce, trade, or profit). Section 410(c)(2) permits the withholding of a broader range of commercial information than similar FOIA exemptions. *See Carlson*, 504 F.3d at 1129 (applying the "common meaning"

of the term "commercial"). Courts have ruled that, under Section 410(c)(2), information is "commercial" at least if it relates to commerce, trade, or profit. *See Bloomberg L.P. v. U.S. Postal Serv.*, No. 22CV6112 (DLC), 2023 WL 3976010, at *4–5 (S.D.N.Y. June 13, 2023), aff'd, No. 23-1005, 2024 WL 4293872 (2d Cir. Sept. 26, 2024) (citing *Carlson*, 504 F.3d at 1123). This broader scope exists because the Postal Service is commissioned to operate like a private corporation and, therefore, must follow sound business principles. *Carlson*, 504 F.3d at 1127-28.

In determining whether particular information is "commercial," in nature, the Postal Service considers six factors relating to whether the information is more akin to its role as a business entity competing in the market or its role as a provider of public services. *See* 39 C.F.R. § 265.14(b)(3)(i). Specifically, the Postal Service considers whether the information:

(A) Relates to products or services subject to economic competition…;
(B) Relates to the Postal Service's activities that are analogous to a private business in the marketplace;
(C) Would be of potential benefit to individuals or entities in economic competition with the Postal Service, its customers, suppliers, affiliates, or business partners or could be used to cause harm to a commercial interest of the Postal Service, its customers, suppliers, affiliates or business partners;
(D) Is proprietary or includes conditions or protections on distribution, is subject to a nondisclosure agreement, or a third party has otherwise expressed an interest in protecting such information from disclosure;
(E) Is the result of negotiations, agreements, contracts or business deals between the Postal Service and a business entity; or
(F) Relates primarily to the Postal Service's governmental functions or its activities as a provider of basic public services.

No single factor is determinative but all are considered to determine the overall character of the information. 39 C.F.R. § 265.14(b)(3)(ii). In addition, the Postal Service has identified an extensive, though not exhaustive, list of types of information that are considered commercial and, thus, exempt from disclosure under Section 410(c)(2). *See* 39 C.F.R. § 265.14(b)(3)(ii).

If the information is commercial in nature and would not be disclosed "under good business practice," then the FOIA does not require the Postal Service to disclose the information. *Wickwire Gavin*, 356 F.3d at 594-95. No separate analysis is necessary to consider whether disclosure would cause competitive harm or to balance the commercial interest with the public's interest in knowing the information. *See id*. at 594-95; *Carlson*, 2015 WL 9258072 at *8-10. "[T]he contours of the good business practice exemption [are] to be gleaned by looking to the commercial world, management techniques, and business law, as well as to the standards of practice adhered to by large corporations." *Wickwire Gavin*, 356 F.3d at 592.

III. LEGAL ANALYSIS

Adequate Search

Under the FOIA, "there is no requirement that an agency search every record system." *Oglesby*, 920 F.2d at 68. "FOIA demands only a reasonable search tailored to the nature of a particular request." *Campbell*, 164 F.3d at 28. The Postal Service's search in this case was adequate.

Here, the FOIA response consisted of multiple sorted categories of requested information regarding refunds of guaranteed delivery costs from January 2017 to 2025 and refund transaction information for a specified tracking number. The records custodian requested a search of the location most likely to contain the requested information and communicated with the individuals capable of locating and retrieving responsive records. The custodian has extensive knowledge of the Postal Service records and systems regarding the information requested. The records

custodian's efforts resulted in responsive records back to 2021, and she confirmed that responsive records are not retained prior to 2021.

The requester's follow-up emails to the response included a request for information beyond the scope of the initial request, specifically regarding an investigation into further details of banking or other payment records for a specific transaction record. "An agency's decision to conduct a 'targeted search' based on the scope of the [party's] request is proper under the FOIA." *Dillon v. Dep't of Just.,* 102 F. Supp. 3d 272, 286-87 (D.D.C. 2015) (citing *Bloomgarden v. U.S. Dep't of Just.,* 10 F. Supp. 3d 146, 153 (D.D.C. 2014) ("agreeing with agency's assertion that its 'targeted search for personnel documents…was reasonable in light of the narrow nature of [the] plaintiff's request that focused on the termination of [a particular Assistant United States Attorney]'"; *see also Campbell v. U.S. Dep't of Just.*, 164 F.3d 20, 28 (D.C. Cir. 1998) ("FOIA demands only a reasonable search tailored to the nature of a particular request.").

The fact the Postal Service's search did not locate banking or specific payment details of a single refund transaction, when those details were not requested in the initial request, and did not locate records prior to 2021 does not undermine the determination that its search was adequate. *See Wilbur*, 355 F.3d at 678. The mere fact requested information was not located does not make a search inadequate. *Iturralde*, 315 F.3d at 315. Further, the FOIA does not require the Postal Service to retain or create new records in order to respond to a FOIA request. *See Students Against Genocide*, 257 F.3d at 837. Rather, the requester has the right under the FOIA only to existing agency records. *Kissinger*, 445 U.S. at 152.

Exemption 3 and 39 U.S.C. § 410(c)(2)

In order for the Postal Service to properly withhold the requested information under Exemption 3 and Section 410(c)(2), it must be (1) commercial in nature and (2) information that would not be publicly disclosed under good business practice. 39 U.S.C. § 410(c)(2). The responsive records subject to redaction and withholding are reports displaying the number of guaranteed service refund claims and resulting refunds, payments, denials, appeals, and appeal results as well as the dollar totals for the related records. After reviewing the record in unredacted form, we find that the information was properly withheld under Exemption 3 and Section 410(c)(2).

The Postal Service will consider six factors when determining whether information is commercial in nature. Here, the information was properly classified as commercial in nature, as the information "relates to products or services subject to economic competition, including, but not limited to, "competitive" products or services as defined in 39 U.S.C. 3631;" "relates to the Postal Service's activities that are analogous to a private business in the marketplace;" "[w]ould be of potential benefit to individuals or entities in economic competition with the Postal Service…or could be used to cause harm to a commercial interest of the Postal Service," and "is the result of negotiations, agreements, contracts or business deals between the Postal Service and a business entity." 39 CFR § 265.14(b)(3)(i)(A)-(E).

Here we find that data related to service standards and performance qualifies as "information of a commercial nature" under Section 410(c)(2) as it related to commerce, profit and the Postal Service's ability to conduct itself in a businesslike manner. In addition, the redacted information falls under Postal Service regulations identifying types of information already assessed to be commercial. "Sales performance goals, standards, or requirements" are considered information that is commercial in nature. 39 C.F.R. § 265.14(b)(3)(ii)(T).

We also find that the requested information would not be publicly released as part of good business practice. To make this determination, we look to the techniques and standards of practice in the commercial world and followed by large corporations. *See Wickwire Gavin,* 356 F.3d at 592. The responsive records involve information on the number of service failures and refunds for a competitive product. This product competes against companies that provide similar

service, and those companies would not publicly disclose how many failures have occurred or how many refunds they have given.

Therefore, because the information meets both criteria set forth under Section 410(c)(2), and Ms. Williams reviewed each line of information on the responsive records and made individual determinations as to what information is exempt from disclosure and what information is not exempt and disclosed the non-exempt portions of the records, the redactions made by Ms. Williams were proper.

IV. CONCLUSION

For the foregoing reasons, Ms. Williams' actions are affirmed in full.

For the General Counsel,

Colleen Hibbert-Kapler
Attorney, Ethics & Legal Compliance

UNITED STATES POSTAL SERVICE

***via* email**

June 12, 2025

Officer Brian P Carr
Regular Army Captain (RET)
1201 Brady Dr.
Irving, TX, 75071
carrbp@gmail.com

Re: Freedom of Information Act Appeal No. 2025-APP-00110
FOIA Case No. 2025-FPRO-01666

Dear Officer Carr:

This is in response to your email dated May 14, 2025 and received on May 15, 2025. In your email, you appealed from the action of Rashonda Williams, Manager Finance Business Support, on your request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, for certain Postal Service records regarding refunds for when an item was not delivered according to the applicable service standard. After carefully considering your appeal, we are affirming Ms. Williams' action on your request in full. A decision on this matter is attached to this letter.

This is the final decision of the Postal Service regarding your right of access to records requested pursuant to the FOIA. You may seek judicial review of this decision by bringing suit for that purpose in the United States District Court for the district in which you reside or have a principal place of business, the district in which the records are located, or in the District of Columbia.

The Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect the requester's right to pursue litigation. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
Room 2510
College Park, MD 20740-6001
Email: ogis@nara.gov
Telephone: 202-741-5770
Toll free: 1-877-684-6448
Facsimile: 202-741-5769

For the General Counsel,

Colleen Hibbert-Kapler
Attorney
Ethics & Legal Compliance

Enclosure
cc: Rashonda Williams
Eboni Francis
FOIAAppeal@usps.gov

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] Brief of Mr. Carr The Right to Representation is a Fundamental Due Process Right

Table of Contents

Table of Contents....1
The Right to Representation is a Fundamental Due Process Right....2
Introduction....2
This Court Erred in Removing Plaintiffs From the Matter....2
Pro Se Parties Can Join Together In a Single Complaint....2
It is Tedious to have Multiple Complaints In an Action....3
Marriage is Legal Union Which Permits Representation with Consent....4
Close Family Members Can Represent Each Other With Consent....5
Representation Is Required for a Fair Hearing....6
The Government Has Limited Control Over the Selection of Counsel....6
Iannaccone Has Valuable History of Due Process and Representation....6
Even the Poor and Uneducated Must Have a Fair Hearing....6
Practice of Law Can Be Restricted, Not the Selection of Counsel....8
Courts Can Require Reputable Individuals....8
Barriers to Become an Attorney Requires Alternative Counsel....9
Apparent Retaliation Justifies Need for Alternative Counsel....9
USCIS Ignores Own Rules to Deny Representation to Poor and Uneducated....10

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

USCIS Has Authority to Regulate Representation....10
USCIS Published Rules for Representation....11
USCIS Ignores Rules for Reputable Individual Representation....11
Contradictory Statements About G-28 Procedures Are a Crime....12
Due Process Requires Reputable Individual Representative....12
DoS Failings Resolved By Representation and Rules of Evidence....13
DoCNR Introduced with Case Law....13
Judicial Review Recognized As Feasible....15
DoCNR No Longer Applicable, Remote Judicial Review Possible....16
DoS Tourist Visas Ignore Statutes and Constitution, Commit Crimes....16
Summary....17
Verification of Document....18
Case, Statute, and Other Alphabetical Index....19

The Right to Representation is a Fundamental Due Process Right

Introduction

This brief relies on the premise that due process is fundamental inalienable right of individuals in our legal system based on the principle of a fair hearing (as established in ECF 71-8 concerning pro se self representation). This brief establishes that the right to representation and the assistance of others (as an extension of self representation) is a fundamental facet of due process which can not be infringed upon by the government to include Congress, the courts, and individual agencies. Examples of such infringement will be discussed for this court, USCIS and DoS.

This Court Erred in Removing Plaintiffs From the Matter

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

Pro Se Parties Can Join Together In a Single Complaint

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 that court removed Monroe's spouse from the proceeding solely because she did not choose to join the matter.

In contrast, this court removed my wife and her sister through a misleading reading of the complaint ignoring the clear declaration that they were appearing pro se (ECF 29, para 12 and 13) as described in our opposition (ECF 73) in the section titled 'The Court Ignores Clear Qualifiers in the Complaint'. This court also misapplied FRCP Rule 11(a)[2] to remove parties from the suit even though the remedy specified in the rule is to strike the unsigned document after notice (which was not provided). It does not under any circumstances authorize the selective removal of parties who have already joined the matter.

It is Tedious to have Multiple Complaints In an Action

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. The court would need to insure that each separate complaint was answered by each relevant defendant cited and, then, presumably, require that each complaint and answer be amended as the court sorted through and resolved different allegations (or affirmations) dismissing those portions of each complaint or answer as appropriate according to the law.

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

2 FRCP Rule 11(a) requires at least one party to sign each pleading which is now virtually automatic with the submission of a paper via ECF from the account of a single party.

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.

However, in consolidating the various separate complaints into a single complaint, each party can (and must) 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

The court and government in general can not restrict 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 was in a nebulous legal status, part person and part chattel or livestock. Women were counted in the census in the number of potential voters, but not actually allowed to vote, similar to slaves. Women could not represent themselves in court so that self representation really meant representation by their husband if they were married and by their father if they were unmarried.

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 decisions 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. Due to the diversity of the parties who altered U.S. law to provide equal rights for all persons, it is impossible to conclusively state what their intent was.

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.[3]

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

3 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 immediate family members as with my sister in law.

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.

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.

Representation Is Required for a Fair Hearing

The Government Has Limited Control Over the Selection of Counsel

Due process was developed in English law from 1300's to 1700's and beyond. Due process is the fundamental right of a fair hearing before loss of life, liberty or property and restricts the government from requiring individuals to perform actions which require prescience (determine estimated income taxes for income which is not yet known), omniscience (obey laws which are incomprehensible to the individual or defend against charges or evidence which are unknown), or omnipotence (pay taxes on income which has not been received yet). See ECF 71-8. There must be a fair hearing and all parts of the government must insure that it is possible for each individual to obey the law.

Iannaccone Has Valuable History of Due Process and Representation

Even the Poor and Uneducated Must Have a Fair Hearing

In the Findings of the court (ECF 61), the court incorrectly cited Monroe v. Smith,

2011 WL 2670094 (S.D. Tex. July 6, 2011) (a case where that court found that spousal representation would be permitted with consent but this court read that spousal representation was never permitted) which incorrectly cited Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006) a not precedent case but the verbatim quote was from Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998) which is precedent and is widely cited. Iannaccone has broad discussions about due process, pro se or self representation, and representation through counsel.

Iannaccone includes a history of representation through counsel 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)]

Iannaccone goes on to cite 28 USC § 1654 which states:

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

Iannaccone notes the similarity with the original statute of September 24, 1789 in section 35 which stated:

> 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.

It is important to remember that to be ‘Counsel’ at that time when there was no requirement of attendance at law school (which were just being established) or passing a bar exam (there weren’t any), only the rules of the court. President Lincoln was a famous attorney but he became an attorney only with the approval

of a court.

While it is clear that each court can establish it own rules for ‘Counsel’, these rules are constrained by the requirement that every individual be given a fair hearing whether they are rich or poor and whether they are highly educated or uneducated. Our government must provide a fair hearing for even the poor and uneducated.

Practice of Law Can Be Restricted, Not the Selection of Counsel

Of course the government has an interest and a right to regulate the legal profession and to criminalize ‘practicing law without a license’. However, the critical elements of this crime are:

- Falsely claiming to be an attorney or
- Accepting remuneration for legal services or advice

The poor and uneducated must be given a fair hearing (justice is not reserved for the rich) which means that all persons must be able to seek advice and representation from whomever is available to them. When the government and various bar associations make the barriers to being a lawyer so expensive that only the select few (the rich) can afford their services then the court must relax the requirements for counsel so that all individuals can have counsel and representation.

Courts Can Require Reputable Individuals

Of course the courts and government tribunals can insist that selected counsel or representatives are reputable individuals. It would not be conducive to prompt and fair justice for persons convicted of fraud or perjury to serve as counsel. However, close family members and friends who have a good reputation, have an existing

relationship with the party, and are not receiving remuneration for their advice or services must be permitted to act as a representative for the party.

Barriers to Become an Attorney Requires Alternative Counsel

While the courts, government tribunals, and government agencies have an obligation to find the legal basis (if any) to support the claims of a pro se party, this has been proven to be inadequate in these times of arcane 'veritable maze of writs and confusing procedures' which have grown up with the increasing demands in order to become an attorney.

In this court, the court itself invented false legal theories to discard valid claims. In USCIS, the tribunal gave every indication of retaliating against my wife for my complaints to the IG, USCIS director, and Congress. With DoS the tribunals made no effort to ground their decision in either the law or the evidence; both were ignored for the expedience of the tribunal, in extreme cases only two minutes average throughput for consideration of each visa application, see dissent in Department of State v. Munoz (S. Ct. 2024).

Apparent Retaliation Justifies Need for Alternative Counsel

In this suit it is apparent that USCIS simply ignored statutory requirements for prompt resolution of applications for 10 year green cards (within 90 days from application to extend a 2 year green card) leaving many thousands of legal permanent residents as apparent illegal aliens and my wife being stranded in Thailand, unable to come home.

The question to consider is how could hundreds of immigration attorneys not call out USCIS on these egregious violations of their statute mandated duties. The

apparent answer is retaliation. Any immigration attorney who speaks out against these injustices would face retaliation against all their clients (a huge injustice) eliminating their ability to get clients and make a living. The increasing costs of becoming a proper attorney makes the dangers of agency retaliation against diligent attorneys ever more likely especially when the individuals are poor and uneducated (such as new immigrants who applied properly and have no right to vote). To insure that government agencies (and the courts) abide by the law, alternatives to normal attorneys must be provided so that the poor and uneducated can get justice through non standard Counsel.

USCIS Ignores Own Rules to Deny Representation to Poor and Uneducated

USCIS Has Authority to Regulate Representation

Congress has given broad authority to DoJ (Attorney General) and DHS to regulate representation under the INA statutes. 8 USC § 1103 states:

> Duties and powers of Secretary of Homeland Security
> (1) The Secretary of Homeland Security shall be charged with the administration and enforcement of this chapter …
> (2) He shall have control, direction, and supervision of all employees and of all the files and records of the Service.
> (3) He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter.

The Attorney General has similar broad powers for removal proceedings with 8 USC § 1362 which states:

> In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal

> proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

USCIS Published Rules for Representation

Under these two statutes, USCIS has adopted published rules in 8 CFR Part 1292.1 which states:

> Representation of others.
> (a) A person entitled to representation may be represented by any of the following: …
> (1) Attorneys …
> (2) Law students and law graduates not yet admitted to the bar ...
> (3) Reputable individuals. Any reputable individual of good moral character, provided that:
> (i) He is appearing on an individual case basis, at the request of the person entitled to representation;
> (ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;
> (iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and
> (iv) His appearance is permitted by the official before whom he wished to appear (namely, a special inquiry officer, district director, officer-in-charge, regional commissioner, the Commissioner, or the Board), provided that such permission shall not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself out to the public as qualified to do so.

USCIS Ignores Rules for Reputable Individual Representation

While the above administrative rule of reputable individual representation is

completely reasonable, the reality is that USCIS actually prevents a fair hearing through violations of this and other rules. In the Amended Complaint section 'Request that Mr. Carr be Mrs. Carr's Authorized Representative' (ECF 29, page 35, para 196) there is a description of how I properly submitted the correct form G-28 (ECF 30-5) on 15 Sep 2023 with an anticipated 30 day processing time but I have not received any response to date even after multiple inquiries. In recent inquiries over the phone it appears that USCIS simply does not allow reputable individuals to become representatives.

Contradictory Statements About G-28 Procedures Are a Crime

Since there is a widely published rule supporting reputable individuals as representatives, any verbal or written statement to the contrary is a prima facie federal crime of 18 USC § 1001 which states:

> (a) ... whoever ... knowingly and willfully ...
> (3) **makes or uses any false writing or document knowing the same to contain any materially false**, fictitious, or fraudulent **statement** or entry;
> …
> shall be fined under this title, imprisoned not more than 5 years or, …[4]

When two or more government records (published rules, internal policies, etc.) contradict each other, one or more of the records must be false. This places the government employee in a bind as there is no way to know which record is correct. The only legal action is to correct the false record (not possible under normal circumstances) or report the problem to management or the IG for correction.

Due Process Requires Reputable Individual Representative

Given the widespread lawless actions by USCIS ignoring the constitution, statutes

4 Bold added by Plaintiffs.

and rules, it is apparent that lawyers and law students specializing in immigration law can only really deal with USCIS and attending law school is a substantial expense. The law students are closely supervised by lawyers or businesses and are soon educated that they must not call out serious crimes by USCIS for fear of retaliation against their other clients (for the lawyer or business). Instead they collude with USCIS on navigating the arcane 'veritable maze of writs and confusing procedures' rather than diligently representing the rights of their clients.

As soon as significant hurdles were required to become a lawyer, due process requires that alternative representation (e.g reputable individuals) is required in order for their to be a fair hearing for everyone including the poor and uneducated.

DoS Failings Resolved By Representation and Rules of Evidence

DoCNR Introduced with Case Law

With DoS the primary defense raised was the Doctrine of Consular Non Reviewability (DoCNR) which will be discussed extensively in this matter. The governing law includes Kleindienst v. Mandel, 408 U.S. 753 (1972), Sandra Munoz v. State Department (9th Cir. 2022, 21-55365) and Department of State v. Munoz (S. Ct. 2024).

DoCNR says that federal courts can't review decisions made at consulates (e.g. visas). It was not based on anything in the constitution but rather was a creation of the circuit courts in the 1890's as a response to the The Chinese Exclusion Act of 1882. DoCNR was based on the inability of the courts to review actions taken in distant consulates where the evidence and witnesses were not accessible to the court. It literally took weeks to travel to the consulates so judicial review was

infeasible. The circuit courts recognized that if Congress had wanted judicial review of these new travel documents (not yet called ‘visas’) then Congress would have to create part time judges or magistrates at each consulate to conduct the review. As these travel documents at the country of origin were such a novel idea, Congress had not made any such provisions; it is worthy of note that during this period there was significant concern about Chinese laborers and their impact on our economy and culture. In the 1890’s there was a distinct lack of concern about the rights of people of color (e.g. ‘coolies’ and ‘greasers’).

However, instead of the circuit courts explaining that Congress needed to create courts which could physically perform judicial review, they created legalese about Congress’s 'plenary power to exclude aliens'; there was no such absolute power in the constitution or anywhere else until the circuit courts used it to justify their disregard for ‘aliens’ (and people of color in general).

Over the next hundred years American culture adapted so that ‘aliens’ were no longer considered to be vermin to exploited for profit or eliminated if profit was not possible. Instead they have come to be recognized as people entitled to respect and dignity and, according to the Fifth Amendment, due process with respect to life, liberty, and property.

Also, by about the year 2000, there were sufficient fiber optic cables connecting the continents of significance so that the courts could actually review the evidence (electronic documents) and interview witnesses (video conferences) all with ‘instant’ access.

Judicial Review Recognized As Feasible

In Munoz (9th Cir. 2022) the 9th Circuit Court found that the citizen wife, Sandra, was entitled to due process for her foreign national husband's immigration visa application in accordance with Mandel (1972). The 9th Circuit ordered a new hearing and Sandra was able to present new evidence. However, DoS persisted in their conclusion that her husband was a known criminal based on undisclosed evidence and refused an immigration visa (as known criminals are precluded from immigration visas by statute).

At this point, 9th Circuit could have ordered a new hearing where DoS was required to disclose any evidence that Sandra's husband was a criminal[5]. Instead the 9th Circuit ordered that DoS provide an immigration visa to Sandra's alien husband due to a 2 year delay in notice for Sandra.

This was an error as the court could not review the DoS evidence that Sandra's husband was a criminal. DoS appealed and won in Munoz (S. Ct. 2024) with the conclusion the government does have the right to exclude criminals from immigrating and this takes precedence over any right of the couple to live together.

In Munoz (S. Ct. 2024) the Supreme Court went on to needlessly uphold DoCNR even though the case had demonstrated that judicial review and due process was no longer impossible for foreign nationals at foreign consulates. Sandra was able to represent her husband (a foreign national and possible criminal) and present evidence. The key missing element was her ability to review the evidence against

5 In Kiareldeen v. Reno 71 F.Supp.2d 402, the court ruled in favor of an immigrant applicant facing deportation. On appeal, the court ruled that the reliance on secret evidence violated his due process rights because (1) it deprived him of meaningful notice and an opportunity to confront the evidence against him, and (2) exclusively hearsay evidence could not be tested for reliability.

her husband.

DoCNR No Longer Applicable, Remote Judicial Review Possible

It is clear that Congress does not have any 'plenary power to exclude aliens' (though they do have the power to exclude criminals after a due process hearing subject to appeal and judicial review) and, in fact, Congress has provided sufficient communications with embassies and consulates so that judicial review is possible for denied visa applications.

DoS Tourist Visas Ignore Statutes and Constitution, Commit Crimes

The DoS visa interviewers (or tribunals) made no effort to ground their decisions in either the law or the evidence; both were ignored for the speedy processing of the application, in extreme cases only two minutes average for each visa application, see dissent in Department of State v. Munoz (S. Ct. 2024). which states:

> The State Department's Office of the Inspector General has documented numerous deficiencies in consular processing across several continents. See, e.g., ISP–I–19–14, Inspection of Embassy Bogota, Colombia, p. 16 (Apr. 2019) (finding consular managers in Bogota required visa adjudicators to maintain an average of 30 in-person interviews per hour).

It is clear that the interviewer does not have time to review the evidence prepared by the applicant but instead must rely on superficial indicators such as dress and speech (are they rich and well educated or poor and uneducated) and not on the proof of sufficient ties to their home country as required by the statute.
Of course this is not a 'fair hearing' as required by due process and the constitution. This court is asked to, among other things, order DoS to allow each visa applicant to be represented by a person of their choice, permitted to review

any evidence against them, and allowed to present evidence which is considered by an impartial tribunal before the tribunal provides a written decision that is based on both the applicable law and the evidence before the tribunal, i.e. due process.

As my wife and her sister have each received tourist visas, they do not require a new hearing at this time, but will need future visas for themselves or others. The credit for future services will ameliorate their damages.

Summary

The right to representation is fundamental to a fair hearing and constitutionally guaranteed due process. The government has a limited ability to restrict an individual's ability to choose a representative, but must always insure that there are viable options for the poor and uneducated. In addition, spouses have a special right to represent each other with consent. Immediate family members have a similar right to represent each other with consent.

USCIS improperly denied representation by reputable individuals. USCIS must expand reputable individual representation for easy spousal representation (so citizen spouse can assist immigrant spouse) and immediate family members must have a similar easy representation (citizen family member can assist immigrant family member).

For DoS and DoCNR, the governments complaint that it doesn't know how to consider citizen rights to due process from Mandel (1972), the answer is allowing representation to all visa applicants. Of course DoS is also required to provide the other elements of due process to include notice, access to the evidence against the applicant (if any), the ability to submit evidence which is considered by an

impartial tribunal, and a written decision well founded in both the law and the evidence.

Respectfully submitted,

Verification of Document

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

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

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

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 28. Jul. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

18 USC § 1001....12
19th Amendment....5
8 CFR Part 1292.1....11
8 USC § 1103....10
Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)....5
Department of State v. Munoz (S. Ct. 2024)....9, 13, 15 f.
ECF 30-5....12
ECF 29....3, 12
ECF 61....6
ECF 71-8....2, 6
ECF 73....3
Faretta v. California, 422 U.S. 806 (1975)....7
Fifth Amendment....14
FRCP Rule 11....3
Iannaccone v. Law, 142 F.3d 553 (2d Cir. 1998)....2, 6 f.
Kiareldeen v. Reno 71 F.Supp.2d 402....15
Kleindienst v. Mandel, 408 U.S. 753 (1972)....13, 15, 17
Martin v. City of Alexandria, 198 Fed. Appx. 344, 346 (5th Cir. 2006)....7
Monroe v. Smith, 2011 WL 2670094 (S.D. Tex. July 6, 2011)....3, 6
Plessy v. Ferguson, 163 U.S. 537 (1896)....4
Sandra Munoz v. State Department (9th Cir. 2022, 21-55365)....13, 15
The Chinese Exclusion Act of 1882....13

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] Brief of Mr. Carr The Doctrine of Consular Non Reviewability is Based on a False Premise

The Doctrine of Consular Non Reviewability is Based on a False Premise

Table of Contents

The Doctrine of Consular Non Reviewability is Based on a False Premise....1
Table of Contents....1
Introduction....2
Foreign National 'Aliens' Are Actually Human Beings and People....2
DoCNR Created By Appellate Courts, No Constitutional Basis....2
DoCNR Denies That Aliens are People, Human Beings....3
Recent Court Decisions Have Suggested Failings of DoCNR....4
Doctrine of Consular Non Reviewability Assumes Aliens are Not People....4
Due Process to All Persons....4
Person and Citizen Are Not Synonyms....5
Americans Had Suffered Grievously During the American Revolution....6
Constitutional Framers Wanted to Create a Lasting Peace....6
Violence Is The Result of the Unheard....7
The Meaning of Citizen Changed Over Time....7
DoCNR Was Created Out of Expediency, Not Founded in Law....10

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

It is Time for DoCNR to Join Its Contemporary, Separate But Equal....12
Even If DoCNR is Valid, The OIG and DoS Must Support Due Process....13
Initial Test of Doctrine of Consular Non Reviewability Met / Extended....14
Citizen Right To Travel With Spouse Recognized Exception to DoCNR....14
Additional Exceptions to DoCNR Should Be Reviewed....15
Does DoCNR Apply to Citizen Spouse's Siblings....15
Does DoCNR Apply to Citizen Veteran's Widow....15
Does DoCNR Apply to a Permanent Residents' Sister....16
Additional Challenge to DoCNR as Mrs. Von Kramer is a Person....16
Summary....16
Verification of Document....17
Case, Statute, and Other Alphabetical Index....18

Introduction

Foreign National 'Aliens' Are Actually Human Beings and People

This brief opposes the Doctrine of Consular Non Reviewability (DoCNR) from many directions but primarily centers on the fact that it is based on a false premise. The authors of the constitution chose to use the word 'person' for due process rights in the Fifth Amendment rather than the new term 'citizen' which was created to provide an alternative to the traditional term of 'British subject'. 'British subject' no longer applied once we were independent of Britain. However, in trying to 'form a more perfect union' the authors had diverse views and compromised with many apparent contradictions in the Constitution. As these contradictions were resolved over the last 200 years it has become apparent that foreign nationals in other countries are not just 'aliens' but also people entitled to respect, consideration, and due process the same as any other human being.

DoCNR Created By Appellate Courts, No Constitutional Basis

The DoCNR denies federal courts from reviewing any visa denial (a consular activity). In Kleindienst v. Mandel, 408 U.S. 753 (1972) it is explained that the

appellate courts created the DoCNR without any constitutional authority. In Mandel DoCNR was summarized as:

> Congress's plenary power to exclude aliens or prescribe the conditions for their entry into this country. Congress has ... delegated conditional exercise of this power to the Executive Branch. When, as in this case, the Attorney General decides for a legitimate and bona fide reason not to waive the statutory exclusion of an alien, courts will not look behind his decision.

The flaw is the premise that Congress has a plenary power (or absolute power) to exclude aliens. The constitution confers no such power on Congress or any other part of the U.S. government. While Congress certainly can deprive aliens of the fundamental liberty to travel freely (i.e. Congress can exclude aliens) it can only do so through 'due process of law'. This requires Congress to pass lawful statutes empowering the executive branch to exclude aliens within the requirements of 'due process of law'. This implicitly authorizes some form of judicial review of every decision to exclude an alien.

DoCNR Denies That Aliens are People, Human Beings

To restate this, the DoCNR completely ignores the Fifth Amendment requirement for the federal government that:

> 'No person shall be ... deprived of life, liberty, or property, without due process of law'.

When the constitution was enacted this guarantee basically only applied to white, adult, male, Christian, property owners. Of course that was a rather lengthy and unwieldy description. Fortunately, there was a much more concise description which was citizen, a term also used in the constitution selectively.

However, when writing the Fifth Amendment it was decided to use 'No person' rather than 'No citizen'. This was largely aspirational as 'Due Process' was not applied to non-whites, native Americans, women, slaves, indentured servants, non Christians or the destitute. Over the last two hundred years due process and other fundamental rights have been extended to include most people under most circumstances. The DoCNR is a throw back to the Chinese Exclusion Act of 1882 where aliens like the Chinese were not considered people entitled to 'Due Process' or other constitutional rights.

Recent Court Decisions Have Suggested Failings of DoCNR

DoCNR is fundamentally flawed as Congress never had any absolute power to exclude or deport aliens. This exposure was conceded in Mandel where the 'fundamental' rights of a citizen are impacted by the improper treatment of an alien, e.g. the due process rights of an alien are reviewable if it can be shown a citizen is impacted.

Doctrine of Consular Non Reviewability Assumes Aliens are Not People

Due Process to All Persons

The fundamental flaw of DoCNR is the premise that Congress has a plenary power (or absolute power) to exclude aliens. The constitution confers no such power on Congress or any other part of the U.S. government. While Congress certainly can deprive aliens of the fundamental liberty of traveling freely (i.e. Congress can exclude aliens) it can only do so through 'due process of law'. This requires Congress to pass lawful statutes empowering the executive branch to exclude aliens within the requirements of due process and provide a fair hearing. In the first section of the Amended Complaint (ECF 29) as well as the predecessor (ECF 3) in the first section of the Introduction (‘Due Process Requirements’) there is a

discussion due process and its many facets one of which is the right of appeal which implicitly requires the option of some form of judicial review of every decision to exclude an alien.

To restate this, the DoCNR completely ignores the constitutional requirement to the federal government that:

> 'No **person** shall be ... deprived of life, liberty, or property, without due process of law'.[2]

Person and Citizen Are Not Synonyms

The authors of the constitution used both 'person' and 'citizen' [3]including both in Article I, Section 2, which includes:

> No **Person** shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a **Citizen** of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.
>
> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of **free Persons**, including those bound to Service for a Term of Years, and **excluding Indians** not taxed, three fifths of all **other Persons**.[4]

Clearly the framers were careful in their choice of ‘person’ or ‘citizen’.

---

2 Bold added by Plaintiffs.

3 Indeed the word citizen itself was largely a creation of the American Revolution as a replacement for ‘British subject (of the Crown)’. There had been citizens and citizen armies in Greek and Roman times, but the English language did not have any common term for citizens. As the Roman empire broke up, all lands and people on them, both serfs and freemen, were the property of different kings (sovereigns) in Europe. Ordinary people were more similar to livestock then to the citizens of early Roman times.

4 Bold added by Plaintiffs

Americans Had Suffered Grievously During the American Revolution

The framers of the constitution had succeeded in the American Revolution but with great losses of all kinds. The American Revolution was particularly devastating because a significant portion of the population remained loyal to the king ('Tories') and caused significant suffering for the rebels as well as suffering themselves from the rebels according to the tides of the war.

Further, this was the first of 'modern' citizen armies and the large human losses which result from citizen armies were unprecedented. In their experience there had only been royal armies which were small (due to the expense) and generally did not harm the royal subjects of either side (it is royal subjects who support the armies thru royal taxes). Royal subjects were treated more like livestock or chattel as they could be sold and traded as needed through sovereign treaties.

The French Revolution (a plausible repercussion of the French assisting the American Revolution against the British) resulted in significantly greater citizen armies and new levels of devastation in the Napoleonic wars.

Constitutional Framers Wanted to Create a Lasting Peace

In defining the individual freedoms enshrined in the constitution, the framers were seeking to create a lasting peaceful government to avoid the devastation they had just experienced. As such the right to democratically elected representatives and a fair hearing before the loss of life, liberty or property were of great importance to them.

The colonists had rankled against their treatment by the British Army and Admiralty Courts. As British subjects they had had due process and elected

representatives in England, but as colonists the British Army and Admiralty Courts did not respect those rights. A loyal British subject in the colonies could be required to house and feed British soldiers without any due process. If the local commander needed to house his soldiers, he would simply declare who would provide for them. It is also important to remember that with the smaller royal armies, the soldiers were largely the dregs of society, drunkards and petty thieves who had no alternative to conscription. Housing and feeding the soldiers was not a minor inconvenience.[5]

Violence Is The Result of the Unheard

Most Americans can not really appreciate the importance of these fundamental rights but Blacks who had been raised under the Supreme Court doctrine of 'Separate but Equal' knew it very well as stated by Martin Luther King with 'a riot is the language of the unheard'.[6] The American Revolution was the result of violations of the traditional British elected representatives and due process. Anger and violence such as riots and revolutions result when people are not given the opportunity to be heard.

The Meaning of Citizen Changed Over Time

When the constitution was enacted the guarantee of due process basically only applied to white, adult, male, Christian property owners. Of course that was a rather lengthy and unwieldy description. Fortunately, there was a much more concise description which was citizen, a term also used in the constitution selectively. The authors of the constitution chose 'No person' for the due process right.

5 The British also suffered greatly during the American Revolution and other British colonies benefited with respect to elected representatives and due process. No other British colonies rebelled in the manner of the American Revolution.

6 Martin Luther King, Grosse Pointe High School - March 14, 1968

The choice of 'person' was also largely aspirational as due process had never been provided to non-whites, native Americans, women, slaves, non Christians or the destitute, only proper British subjects, now citizens according to their state.

The original constitution had several contradictions, slavery being, perhaps, the most divisive unresolved issue: are slaves people entitled to due process or property with no rights at all. That issue divided the country leading to the Civil War, a dispute with significantly greater suffering and losses than the American Revolution.

As seen below, after rampant disregard for people of color before the Civil War, starting in 1865 there were a series of amendments and acts thru 1871 which eliminated the blatant contradictions and provided liberty and justice for all (except the Indians). There was no change to the due process clause as it already included all persons, far ahead of the lagging citizenship rights.

However, the Whites in the South violently resisted these reforms with organizations such as the Klu Klux Klan (causing the Civil Rights Act of 1870[7] and Enforcement Act of 1871[8]). It seems that the citizens of the U.S. were not ready for broad promises of liberty and justice for all as the Republicans of the North lost interest preserving the expanded rights and returned to ignoring the rights of women, people of color, non Christians, etc.. leading to Chinese Exclusion Act of 1882 and the doctrine of 'Separate But Equal' Plessy v. Ferguson, 163 U.S. 537 (1896). The Doctrine of Consular Non Reviewabilty was invented

7 Now 42 USC section 1981.
8 Now 42 USC section 1983

by the Circuit Courts out of nothing but their desires and expediency. DoCNR was unsupported by anything in the constitution or statutes.

Year	Act / Amendment / Decision	Effect
1850	CA Act For The Government And Protection Of Indians	Vagrant Indians sold as Indentured Servant, Indian Children sold Indentured to Whites
1855	CA "Greaser" Act[9]	Vagrants sold as indentured servants for hard labor.
1856	Dred Scott v. Sandford, 60 U.S. 393 (1856)	Slaves remain property even in states banning slavery
1865	13th Amendment	Abolish slavery
1868	14th Amendment	Citizenship expanded (including slaves, not Indians)
1870	42 USC section 1981 Civil Rights Act of 1870	Equal rights under the law
1871	42 USC section 1983 - Enforcement Act of 1871	Civil action for deprivation of rights, Response to Klu Klux Klan
1882	Chinese Exclusion Act of 1882	Excluded Chinese Laborers
Late 1800s	Doctrine of Consular Non Reviewabilty	Invented by Circuit Courts, Denies Due Process to Aliens
1896	Plessy v. Ferguson, 163 U.S. 537 (1896)	Creates 'Separate but Equal', negates Equal Rights Law of 1870
1920	19th Amendment	Gives women right to vote
1924	Indian Citizenship Act	Grant citizenship to all Indians
1942	EO 9066, Public Law 77-50	Japanese Incarceration
1944	Ex parte Mitsuye Endo, 323 U.S. 283 (1944)	Strike down EO966

9 Machine readable text for the "Greaser" Act is hard to find so I have included the text in ECF 45-3.

1954	Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)	Strike down 'Separate But Equal', mandatory segregation via National Guard
1964	2 USC section 1311 Civil Rights Act	Restrict discrimination race, religion, color, or national origin, also sex for employment
1967	Age Discrimination in Employment Act	Restrict Age Discrimination in Employment
1973	Rehabilitation Act	Disability Protections
1990	Americans with Disabilities Act	Disability Protections
1993	Religious Freedom Restoration Act	Free exercise of religion protected

After the tragic losses of WW1, the United States returned to the dream of liberty and justice for all and extended liberties and full citizenship to women and native Americans. There was a brief relapse during WW2 with the incarceration of Japanese (1942), but that was promptly corrected in 1944.

Then in 1954 the heinous (and false) Doctrine of Separate but Equal was overturned and another series of expansions of rights followed until the promise of liberty and justice for all was realized with the sole exception of DoCNR.[10]

DoCNR Was Created Out of Expediency, Not Founded in Law

In 1882 the exclusion of the courts from judicial review overseas (e.g. consular activities) was an essential expediency. Communication with the consulates could take weeks. There was no way for the U.S. courts to provide timely oversight. Indeed it could be argued that Congress chose to not provide judicial oversight for consular activities by not creating judges / magistrates to provide the oversight (e.g. a part time Magistrate at each Consulate).

10 That I know of, though, realistically there are probably numerous other injustices seeking correction.

It is not clear that the judges who created the DoCNR and 'Separate But Equal' had any choice. It should be understood that all such judges were the usual adult white male Christian property owners and could well have agreed with sentiment of the masses (i.e. other adult white male Christian property owners) that people of color (a.k.a. 'niggers', 'greasers', 'coolies', and 'Indian Savages'[11]), non Christians (a.k.a. heathens and other derogatory slurs), and the destitute (a.k.a. vagrants, people of low moral character who undermine the proper functioning of society) were vermin who needed to be controlled and exploited for profit if possible or eliminated if there was no profit in it. The view of women was more moderated as every adult white male Christian property owner had a mother and many had wives, sisters and daughters. The normal affection for these women tended to moderate the exploitation of women in general.

According to my usual rules of thirds, one third of the judges probably agreed with the masses that due process did not apply to such vermin and due process would hinder the exploitation of these groups. Another third probably thought that such exploitation was wrong, but did not believe that any order protecting these groups would be respected. If there was no Eisenhower to order the 101st Airborne to enforce segregation, then it would just weaken the court to make an order that the President and Congress would just ignore. They instead went along with 'supporting' the exploitation of these groups. The last third disagreed and advocated another course but were outvoted.

However, we are in a different time. In Sandra Munoz v. State Department (case

11 'Indian Savages' was used in the Declaration of Independence but by the late 1800's Indians and Savages were synonyms for most people and they would say 'Indians' in polite company but think 'savages'.

no. 21-55365) (9th Cir. 2022), Munoz was able to get due process through court orders so the foundation of DoCNR is exposed as unfounded. It is time for DoCNR to be sent to the trash bin of history with 'Separate But Equal' and the Dred Scott decision.

It is interesting that Congress has designated the DoJ as the sole agency responsible for upholding the law, but not upholding the constitutional rights of individuals. On reflection, that is almost certainly because every agent of the federal government (from judge to officer to employee) must take an oath to support the constitution and, thus, we are each responsible for insuring constitutional rights are upheld.

It is Time for DoCNR to Join Its Contemporary, Separate But Equal

Even if DoCNR was based on the inability of the court to provide timely oversight, that justification has past. Since the year 2000 there have been enough fiber optic cables connecting every significant continent so that consulate officers and judges now have 'instant' access to government records around the world and video conferences can eliminate the need for judges or witnesses to travel. It is time for the courts to step up and take on their role of monitoring the DoS to insure that due process is provided to all persons, even foreign nationals who are outside the U.S..

Of course, there will still be significant venue problems for any foreign national who does not have family, friends, or business contacts residing in the U.S., but Congress has no obligation to provide access to the courts to foreign nationals outside the U.S.. Further, with the widespread access to high speed data around the world, most foreign nationals who have a serious need could likely develop a contact in the U.S. to be a party to the suit and file the suit initially.

To be clear, the federal government has the right to deprive anyone: citizens, permanent residents, and other foreign nationals from life, liberty, and property as long as it is done with due process of law. So Congress certainly has the ability to restrict the fundamental right of movement and travel from aliens, barring entry to the U.S. and deporting them as appropriate.

If it is necessary to determine any factual criteria for admittance or denial, DoS must allow the applicant to present the evidence required for acceptance which is, apparently, not the usual procedure at this time.

The primary and fundamental requirement for such restrictions is due process but the requirement of due process can not be over-ridden by Congress or the courts under any circumstances.

Even If DoCNR is Valid, The OIG and DoS Must Support Due Process

Every agent of the federal government must swear an oath to support the constitution and the Fifth Amendment due process right applies to all human beings (borrowing from the extended DoJ mission) by a clear choice of the framers of the constitution.

We seek ancillary relief that DoJ work with DoS OIG and DoS Bureau of Consular Affairs to insure that all people get the fair hearings required by due process in future visa interviews.

Initial Test of Doctrine of Consular Non Reviewability Met / Extended

We object to the DoCNR because it is offensive (classifying aliens as non-persons (e.g. vermin to be exploited for profit)) and based on a false premise (as logic breaks down when you start with a false premise).

However, according to Mandel the first test for exceptions to the DoCNR is if the visa denials met the 'facially legitimate and bona fide reason' test. As none of the visa denials which we are contesting cited any facts at all, only restated the statutory requirements ('you did not prove you would not overstay your visa') with no description of the evidence which was considered (which would be problematic as my wife and her sister were not permitted to present the evidence they had prepared).

Citizen Right To Travel With Spouse Recognized Exception to DoCNR

However, Mandel and the later cases it seems that the DoCNR restriction on court review also does not apply if the alien is married to a citizen and they wish to travel together. Bustamante v. Mukasey, 531 F.3d 1059, 1062 (9th Cir. 2008) states:

> Freedom of personal choice in matters of marriage and family life is, of course, one of the liberties protected by the Due Process Clause. See Cleveland Bd. of Educ. v. LaFleur, 414 U.S. 632, 639-640, 94 S.Ct. 791, 39 L.Ed.2d 52 (1974); see also Israel v. INS, 785 F.2d 738, 742 n. 8 (9th Cir. 1986). Presented with a procedural due process claim by a U.S. citizen, we therefore consider the Consulate's explanation for the denial of Jose's visa application pursuant to the limited inquiry authorized by Mandel.

The court found that the freedom to travel together for married couples is a Due Process protected right. The Executive can not deprive a citizen from traveling

freely with their foreign national spouse unless due process is provided to the citizen spouse. This means that the proceedings to deny a visa to a foreign national must provide for due process if there is a citizen spouse who wishes to travel with the foreign national.

This provision for judicial review applies exactly for my wife as she was the spouse of a U.S. citizen, and I wished to travel with her. Further, it is relevant even though my wife is currently a citizen herself as she has several relatives who she would like to invite to visit her in the U.S..

Additional Exceptions to DoCNR Should Be Reviewed

Does DoCNR Apply to Citizen Spouse's Siblings

We would also like to argue to extend exceptions for DoCNR in the first denial of Buakhao's visa as I am a U.S. citizen and desired to travel with and host my sister-in-law, Buakhao. In Thai culture families are very close and every marriage is between entire families. In marrying my wife, I was establishing close ties (logically my own sister) with Buakhao. My citizen right to travel freely and host guests was improperly restricted when my sister-in-law's visa was denied. As such the court is asked to review the denial under a novel and untested exception to DoCNR applicable to a citizen spouse's siblings.

Does DoCNR Apply to Citizen Veteran's Widow

We would also like to extend exceptions for DoCNR in the second denial of Buakhao's visa in that Buakhao is the widow of an American Army pre-1968 veteran. In particular, Congress has added several special exceptions to restrictions on government assistance and social security survivors benefits for widows of pre-1968 veterans and DoS visa denial effectively improperly denied those benefits

without due process. As such Buakhao's visa denial must be subjected to judicial review as a novel and untested exception to DoCNR applicable to surviving spouses of pre-1968 veterans.

Does DoCNR Apply to a Permanent Residents' Sister

The Plaintiffs would also like to extend exceptions for DoCNR in the third denial of Buakhao's visa in that my wife was a lawful U.S. permanent resident and desired to travel with and host her sister. In Thai culture, extended families intrinsically share finances, property ownership, and liabilities with siblings, children, and parents. Thai tort law is very complex. My wife's lawful permanent resident right to travel freely and host guests was improperly restricted when her sister's visa was denied. As such the court is asked to review the denial under a novel and untested exception to DoCNR applicable to lawful permanent resident's siblings.

Additional Challenge to DoCNR as Mrs. Von Kramer is a Person

If any of the above requests for judicial review of the three visa denials for Buakhao fail, we request that each visa denial be subjected to judicial review under the novel and untested premise that Buakhao is a person and entitled to all the rights and privileges included in the Fifth Amendment to include judicial review of adverse executive decisions in accordance with due process of law. The physical barriers to court oversight of consular activities in 1882 have been reduced by current electronic access and it is time that DoCNR be relegated to the trash can of history.

Summary

Now that there are excellent communication capabilities to all consulates supporting electronic document sharing and video conferences with 'instant'

access, it is time to eliminate the DoCNR completely. It was based on a premise common in the 1890's that due process only applied to adult white male Christian property owners and people of color, women, and the destitute were exploited for profit.

Respectfully submitted,

Verification of Document

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

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

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

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 28. Jul. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

13th Amendment....9
14th Amendment....9
19th Amendment....9
2 USC section 1311....10
42 USC section 1981....8 f.
42 USC section 1983....8 f.
Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)....10
Bustamante v. Mukasey, 531 F.3d 1059, 1062 (9th Cir. 2008)....14
CA "Greaser" Act....9
CA Act For The Government And Protection Of Indians....9
Chinese Exclusion Act of 1882....4, 8 f.
Civil Rights Act of 1870....8 f.
Doctrine of Consular Non Reviewabilty....8 f.
Dred Scott v. Sandford, 60 U.S. 393 (1856)....9, 12
ECF 29....4
ECF 3....4
ECF 45-3....9
Enforcement Act of 1871....8 f.
EO 9066, Public Law 77-50....9
Ex parte Mitsuye Endo, 323 U.S. 283 (1944)....9
Fifth Amendment....3 f.
Indian Citizenship Act....9
Kleindienst v. Mandel, 408 U.S. 753 (1972)....2 ff., 14
Plessy v. Ferguson, 163 U.S. 537 (1896)....8 f.
Religious Freedom Restoration Act....10
Sandra Munoz v. State Department (case no. 21-55365) (9th Cir. 2022)....11

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] Brief of Mr. Carr Duties of IG and DoJ to Enforce Lawful Statutes and the Constitution

Duties of IG and DoJ to Enforce Lawful Statutes and the Constitution

Table of Contents

Duties of IG and DoJ to Enforce Lawful Statutes and the Constitution....1
Table of Contents....1
Introduction....2
Duties of Each Inspector General (IG)....3
IG Oath of Office, Support and Defend the Constitution....4
Protect Individual Rights....4
Report Federal Crimes....5
Falsification of Government Records Threatens Government of Law....5
Each Defendant IG Failed to Report Falsified Records....6
Summary....7
Verification of Document....7
Case, Statute, and Other Alphabetical Index....8

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

Introduction

This brief will discuss the duties and responsibilities of the various Inspector Generals: USPS, DoS, USCIS (DHS OIG), and IRS (TIGTA), each of which contributed to the damages we suffered through their negligence.

There will be a discussion of the duties of an IG which includes supporting the constitution and preventing abuse in the form of violations of individual constitutional rights. This is a very broad mandate which in this case narrows to the requirement of due process or a fair hearing before depriving any person of life, liberty, or property.

The second paragraph of the complaint (ECF 29) discusses due process and its different facets citing sources which discuss due process in great depth. However, the facet of due process most relevant to this matter is the requirement of a written decision based on the evidence presented and the relevant statutes.

There is also a very specific requirement for IG's to report federal crimes to the Attorney General (or DoJ) which in this matter is often the crime of falsification of government records or 18 USC § 1001. 18 USC § 1001 is very broad and includes concealing a material fact. If a written decision (required for due process) omits (conceals) material evidence then this is prima facie basis for the crime of falsification of government records and must be reported to DoJ.

Once a plausible federal crime has been reported to the DoJ, the DoJ is only required to monitor the investigation and resolution and can refer the matter back to the OIG which can refer the matter to another party, even local management.

While prosecution of federal crimes has been reserved to DoJ, a key advantage of this organization is to allow DoJ to use the threat of prosecution as a cudgel to expediently insure future compliance with the law. Proper convictions and incarceration are expensive and time consuming whereas immunity in exchange for testimony and plea deals can often lead to prompt resolution and future compliance with minimal delay and expense. Such plea deals can be implemented through the OIG and local management under the guidance of the DoJ.

Duties of Each Inspector General (IG)

The duties and responsibilities of each of the different Inspector Generals was defined in the IG Act of 1978 which is now 5 USC § 404 which states:

> (a) In General. - **It shall be the duty and responsibility of each Inspector General**, with respect to the establishment within which the Inspector General's Office is established -
>
> (1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the establishment;
>
> (2) to review existing and proposed legislation and regulations relating to programs and operations of the establishment and to make recommendations in the semiannual reports required by section 405(b) of this title concerning the impact of the legislation and regulations on the economy and efficiency in the administration of programs and operations administered or financed by the establishment, or the prevention and detection of fraud and abuse in the programs and operations;
>
> (3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by, the establishment for the purpose of promoting economy and efficiency in the administration of, or **preventing**

> **and detecting** fraud and **abuse in, its programs and operations**; ...
>
> (d) ... **each Inspector General shall report** expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been **a violation of Federal criminal law**.[2]

Each individual Inspector General position is created with respect to an agency or group of agencies which are referred to as 'the establishment' above, e.g. USPS IG is further defined within 39 USC (Postal Service) and TIGTA (the IRS IG) is defined within 26 USC Internal Revenue Code.

Each IG has multiple responsibilities as listed above, but we will focus on preventing and detecting abuse as well as reporting federal crimes within the framework of their monitored agencies.

IG Oath of Office, Support and Defend the Constitution

Protect Individual Rights

The oath of office for federal office holders is generally specified in 5 USC § 3331 which states:

> I, ..., do solemnly swear (or affirm) that **I will support and defend the Constitution** of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. ...[3]

Indeed, every federal government agent (be it officer, employee, or contractor) must support and defend the constitution. This means obeying the constitution (not

2 Bold added by Plaintiffs.
3 Bold added by Plaintiffs.

depriving individuals of constitutional rights such as due process) but also defending the constitution by opposing all violations (of constitutional rights among other things).

Further, supporting and defending the constitution extends to all lawful statutes which are the embodiment of the constitution (not just a piece of paper in the National Archives).

Report Federal Crimes

Falsification of Government Records Threatens Government of Law

The different IG's each have a clear and specific to report all federal crimes to the DoJ as shown above as well as supporting and defending the constitution.

In the count against each IG, there is the crime of falsification of government records.

18 USC § 1001 states:

> (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, 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; or
>
> (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, ...

This is a very broad statute covering not only government agents but also any individual submitting claims or statements to the government. The government routinely uses this statute insure individuals don't make false claims to the government (often using the threat of prosecution to insure future compliance).

This statute is also one of the foundations of our government of law where issues are decided by reviewing the law and evidence (accurate documents about what happened). The alternative is 'strong man rule' where the person with the most power (strongest gang) resolves any disputes based on whatever is most advantageous to their interests. Resolution of disputes through rules or the law depends on accurate records and falsification of government records is one of the first steps toward tyranny.

Each Defendant IG Failed to Report Falsified Records

There is a separate brief describing the claim against each IG, but below is a table of the records which were falsified by the monitored agency and which were not properly reported to DoJ for prompt correction.

Monitored Agency	Falsified Records Reported to IG	Responsible IG
USPS	Delivery times and refund payment	USPS IG
DoS	Visa Denial (omitted or concealed evidence considered and reason for denial in video record)	DoS IG
USCIS	False record of application status and omitted or concealed evidence in denial decision	DHS IG
IRS	Seizure of property notice without statute mandated 30 day notice	TIGTA

Summary

Each of the defendant IG's had a duty to support and defend the constitution with particular attention to individual constitutional rights such as due process. Each defendant IG failed to protect these individual rights when abuses were reported to them.

Further, I reported the federal crimes of falsifying government documents to each defendant IG and they apparently did not promptly report the crimes to the DoJ so that DoJ could assist in the correction of the documents as well as the damages which resulted.

This court is asked to order the defendant IG's to assist in the correction of monitored agency corrected implementation of due process with particular attention to insuring government records are complete and accurate.

Respectfully submitted,

Verification of Document

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

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

I hereby reaffirm that the above is true to the best of my knowledge under penalty

of perjury in both the United States and Thailand.

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 28. Jul. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

18 USC § 1001.....2, 5
26 USC Internal Revenue Code.....4
39 USC (Postal Service).....4
5 USC § 3331.....4
5 USC § 404.....3
ECF 29.....2
IG Act of 1978.....3