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

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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.

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.

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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

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

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

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

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

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

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

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

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

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’.

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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
	2 USC section 1311	
1964	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

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

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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.

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/s Brian P. Carr

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Case, Statute, and Other Alphabetical Index

IN THE UNITED STATES DISTRICT COURT
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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 3, 4 and 5 Against DoS and DoS OIG

Brief of Mr. Carr Supporting Count 3, 4 and 5 Against DoS and DoS OIG

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

Introduction

Standard Challenges and Defenses Discussed

This verified affirmation will present the legal arguments which demonstrate that both Count 3, Count 4 and Count 5 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 which will be addressed is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress 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).

DoS Challenges All Addressed

The statutes and case law for sovereign immunity and executive discretion are

discussed in ECF 67-3, a verified brief on that topic. The court on its own initiative also attempted to improperly remove my wife and her sister from this matter (ECF 61) citing issues of representation. The right to representation is discussed in depth in ECF 75-5. This particular error is discussed in depth in our motion to reverse and recuse (ECF 73).

DoS raised the defense of the Doctrine of Consular Non Reviewability (DoCNR) which is challenged here as well as in ECF 75-5 (representation issues with DoCNR), and ECF 75-6 which challenges DoCNR as a false doctrine created by the courts based on a false premise that aliens (foreign nationals) are not people or human beings. ECF 75-6 also discusses the various decisions which have defined DoCNR as well as recent challenges to DoCNR. This brief will summarize some of these issues.

DoS OIG Failed to Intervene

For DoS OIG, the problems with DoS were reported to DoS OIG as malfeasance (failure to implement clear and specific statutes by DoS), violation of individual Constitutional rights, and federal crimes.

DoS OIG has clear statutory mandates to work with DoS to resolve these problems and to report federal crimes to DoJ none of which were performed.

We were harmed by the delays in addressing these problems with duplicate visa application fees as well as delays in our ability to travel together and in receipt of Buakhao's Social Security widow's benefits.

DoS Count 3 and 4

Non Immigrant Visas Denied Without Due Process

In 2018 and 2019 my wife and later her sister were denied non-immigration visas under INA 214(b) which is 8 USC § 1184(b) but the written decision was flawed as it listed the statute for the denial but had no references to the evidence considered. Further, my wife and her sister were not permitted to present evidence and they were not allowed representation. In addition, the verbal explanation for the denial was different from the written denial letter and the verbal explanation was contrary to law and the evidence available. These are clear violations of due process (not a fair hearing) and we were damaged by the unwarranted restrictions in our freedom to travel.

As non-immigration visas are issued and denied according to clear and specific statutes (not discretionary) and visa applications are processed on a fee for service basis, the primary relief we seek is credits for future services with DoS.

There is ancillary relief of a declaration of the court that my wife's sister, Buakhao, was improperly denied the ability to visit the United States in 2019, 2020 and 2021 in order to establish her Social Security 'lawful presence' to receive Social Security Surviving Spouse.

There is also ancillary relief to correct the defects in non-immigration visa processing to insure that it complies with constitutional requirements such as due process as well as relief for similar applicants.

Credit for Future Services Not Protected By Sovereign Immunity

In this case, the court is asked to order DoS 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.

Doctrine of Consular Non Reviewability (DoCNR) Challenged

We intend to challenge DoCNR as it is offensive (to us) and fundamentally flawed. We have novel and untested challenges to existing law.

Mandel Test of Citizen Spouse Right to Live Together

The Complaint has two claims against DoS for failure to provide due process in their 4 visa denials to my wife (2018) and her sister (2019). USATXN claims immunity from DoCNR citing Kleindienst v. Mandel, 408 U.S. 753 (1972) an older case which USATXN misreads as, while Mandel did indeed uphold DoCNR with respect to freedom of the press for citizens who want to hear a foreign national, it also opened DoCNR to challenges from other citizen rights.

There was just such a challenge to DoCNR with Sandra Munoz v. State Department (case no. 21-55365) (9th Cir. 2022) where the citizen spouse of a foreign national met the exception described in Kleindienst. In Munoz 2022, the 9th Circuit Court required DoS to provide notice and the ability to present evidence to the citizen wife, but even so DoS continued to deny an immigration visa for her husband because the DoS tribunal still found that her husband was a criminal (the key contested fact).

Having had due process and demonstrated DoCNR was no longer applicable, the 9th Circuit Court, oddly enough and in error, went on to order DoS to provide an immigration visa to the foreign national husband due to the long delay in providing notice to the citizen wife. The 9th Circuit Court also questioned the validity of the DoS confidential evidence that the foreign national husband was a criminal but instead of ordering a new hearing which used corrected rules of evidence (following due process thoroughly), the 9th Circuit Court ordered DoS to issue the visa due to administrative delays.

DoS appealed this order to the Supreme Court in Department of State v. Munoz (S. Ct. 2024) claiming that it was an overreach of the 9th Circuit Court to insist that DoS issue an immigrant visa to a 'known' criminal.[2] The Supreme Court overturned Munoz 2022 but for even stranger reasons. They affirmed DoCNR and DoS denial of an immigration visa to a 'known' criminal as there was no way for DoS to provide due process to citizen spouses even though DoS had already provided for notice and the ability to present evidence to the citizen wife. The only thing that was really overturned was the 9th Circuit Court order to DoS to issue the visa without any court ever having access to the evidence that the foreign national husband was a criminal.

A better solution would have been for the 9th Circuit Court to order DoS to hold a new hearing where both husband and wife were provided access to the evidence against the husband and where both were permitted to present evidence that he was not a criminal. Once DoS was forced to decide whether to disclose the evidence

2 This is a good example of sovereign immunity as the relevant statutes specifically prohibit the issuance of immigration visas to known criminals. The court could not overturn the finding of a known criminal because of administrative errors.

that the husband was a criminal, the court could then review that decision and if the denial really was not supported by the evidence, then overturn the denial based on lack of supporting evidence rather administrative delays.

As such, we are seeking an exception to DoCNR for my wife as I am her citizen spouse who clearly desires to travel with her and, hence, should have been given due process in administrative decisions impacting my ability to travel with her.

Challenge to DoCNR Based on APA

For my wife's sister, Buakhao, in Patel v. Reno, 134 F.3d 929, 121 F.3d 1277 (9th Cir. 1997) the APA is cited as a potential source of judicial review. As Nikolaus Von Kramer (Buakhao's deceased husband) was a pre-1968 U.S. Army veteran, Congress has made special provisions preserving Buakhao's Social Security Surviving Spouse benefits and she is an ideal candidate to challenge DoCNR with respect to the APA as suggested in Patel.

Patel states:

> judicial review exists when the government has denied a visa if the government did not act "on the basis of a facially legitimate and bona fide reason." Kleindienst v. Mandel, 408 U.S. 753 (1972). In addition, ... judicial review may also exist under certain circumstances pursuant to the Administrative Procedure Act.

DoCNR Repealed When Originating Statutes Repealed

We also intend to challenge the DoCNR as it was an outgrowth of the Chinese Exclusion Act of 1882 which has been repealed and replaced with the INA which has no such exclusion of judicial review. The only restriction on consular visa

review is in INA, 8 USC § 1104(a) - Powers and duties of Secretary of State which only restricts the Secretary of State and makes no mention of the courts or judicial review so it appears that Congress has repealed the DoCNR.

DoCNR is Based on False Premise

Finally, we intend to challenge DoCNR directly based on the fact that the DoCNR is based on a false premise. While Congress can certainly deprive citizens, permanent residents, and 'aliens' from life, liberty, and property, it can only do so through due process. Congress never had any 'plenary power to exclude aliens' because the authors of the Fifth Amendment declared 'No person ... ' and Buakhao is a person. They could well have said 'No citizen ...' which was used elsewhere in the constitution but they chose 'person' for the protections of the Fifth Amendment and so Mrs. Von Kramer must be provided with due process.

Discard DoCNR and Its Discrimination Against People of Color

Just as Plessy v. Ferguson, 163 U.S. 537 (1896) was based on a false creation of the Supreme Court, 'Separate But Equal', which was corrected with Brown v. Board of Education of Topeka, 347 U.S. 483 (1954), the 'Doctrine of Consular Non Reviewability' (DoCNR) is based on a false premise that aliens are not people but rather some sort of vermin who are not entitled to due process. DoCNR needs to be overturned and relegated to the trash bin of history.

FOIA Requested Records Not Provided

In order to properly document the violations of due process, I had submitted FOIA requests to DoS and DoS IG as described in the anticipated amended complaint section ‘DoS Refuses FOIA Requests’ and the following section.

The court has authority to order DoS to produce those records and we are seeking

such relief, see 5 USC § 552(a)(4)(B) which states:

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

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

Relief Sought Is Proper

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

From DoS we are seeking credits for future visa services for ourselves, our friends, and our family. We are also seeking ancillary relief of correcting the visa application process so that these future application will be processed fairly.

We are also seeking similar declaratory relief for other visa applicants who were denied social security survivor's benefits because of improper visa denials.

DoS IG Failed to Defend the Constitution, Report Federal Crimes

After my wife's tourist visa was denied in 2018 without due process (no representation, evidence not considered and false verbal justification given in video recordings), I notified DoS IG of the problems and the relief we sought (new visa interview at no cost as the original interview was improper.

DoS IG responded on 9 Oct 2018 (ECF 34-6) and admitted that verbal explanation for the denial was not supported by statute but declined to provide any relief. There were falsified government records, i.e. the written denial cited the statute but did not mention any evidence considered and the verbal justification for the denial was contrary to law. However, DoS IG did not report these federal crimes to the DoJ as required by statute. The duties of the DoS IG are described in depth in ECF 75-7, my brief concerning the general duties of all IG's. We are seeking ancillary relief of the court ordering DoS IG to assist DoS and DoJ in correcting the visa application process so that all applicants receive a fair hearing with all the elements of due process to include representation, the ability to review any evidence against them, the ability to present evidence on their own behalf, a written decision which is well founded on both the statute and evidence, and the right of appeal.

As discussed in ECF 75-7, these are normal duties of the DoS IG according to statute and the relief sought will help other visa applicants as well as our friends and family members who we would like to host.

Conclusion

We should be granted the relief sought from DoS as DoS had a duty to provide facially correct decisions (listing the evidence considered as well as the statute) in its visa denials and it did not. Sovereign Immunity does not apply. The offensive (to us) DoCNR does not apply to my wife or her sister and we have several plausible challenges to DoCNR which we intend to pursue.

We are also seeking ancillary relief of DoS working with DoS IG and DoJ to revise the visa application process to insure it complies with due process as required by the Fifth Amendment. This is actually greater importance to us than the nominal

credit for future services as we have a strong belief in good governance.

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

1. I have reviewed the above affirmation and believe all of the statements to be true to the best of my knowledge.
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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
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Date: 28. Jul. 2025
Location: Irving, Texas

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IN THE UNITED STATES DISTRICT COURT
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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 Motions for: • FRCP Rule 15(a)(2) Leave to Submit Second Amended Complaint, • Due Process Corrections to Court Rules, • And Expedited Decisions for Motions Certificate of Conference – OPPOSED

FRCP Rule 60 Motions for FRCP Rule 15(a)(2) Leave to Submit Second Amended Complaint

And Due Process Corrections to Court Rules

And Request for Expedited Decisions

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

Introduction

This Motion is submitted in accordance with FRCP Rule 15(a)(2) which states:

> a party may amend its pleading only with ... or the court's leave. The court should freely give leave when justice so requires.

Justice particularly supports this amended complaint as the Order (ECF 63) which dismissed the matter is not final (still appealable) and the matter was 'dismissed without prejudice' (implying that there could be corrections such as the signed complaints, ECF 64 and ECF 66 which would correct the cited defects). After a delay of more than a year some of the requested relief is moot but new relief is warranted so an amended complaint would be appropriate as the Order is not yet

final.

USATXN Must Answer New Complaint in 14 Days

There have been substantial delays in justice with Mrs. Carr being denied the privileges of citizenship for over two years (ECF 10-5) which is least partially due to the last MTD (ECF 31, 14 May 2024) which completely ignored many causes of action such as denied FOIA requests and Mrs. Carr being left stranded in Thailand because USCIS ignored 8 CFR § 216.4 which requires USCIS to provide suitable documentation to permanent residents so that they can work and travel freely.

Indeed the previous MTD (ECF 31) dealt only in fiction addressing some imaginary complaint but not the clear and specific claims described in the actual complaint (ECF 29, MTD ECF 31 is critiqued in ECF 73). There have been enough delays and the court is asked to direct USATXN to submit a full, complete, and proper answer (not another MTD) to this proposed Second Amended Complaint within 14 days as specified in FRCP Rule 15(a)(2). The plaintiffs have suffered damages because of the delays and the new proposed plaintiffs are being denied their rights by each delay just as they were denied by the previous delays.

Due Process Corrections to Court Rules

In the previous FRCP Rule 60 Motions to Reverse, Recuse (ECF 73) of 21 Jun 2025, the USATXN Response (ECF 74) of 14 Jul 2025 was the first notice of FRCP Rule 72 14 day grace period to raise objections to the plaintiffs (the notice itself was successfully hidden at the end of the FCR (ECF 61)). This surprised the plaintiffs and they raised several objections to the form of the notice as well as local rules in their Reply (ECF 75) but USATXN did not have an opportunity to respond to the suggestions raised in the Reply (ECF 75) on 28 Jul 2025. This

motion is to insure that the court is properly briefed on the issues and that the issues are preserved for appeal.

Court is Asked to Promptly Decide All the FRCP Rule 60 Motions

This is the last of the series of FRCP Rule 60 Motions described in the first FRCP Rule 60 Motions for Relief from local rules (ECF 67). The first motion was within 28 days of the order and so have kept the Order dismissing the matter appealable.

In this motion and each of the other motions of the series there have been several factual errors identified in the Findings, Conclusions, and Recommendation (FCR, ECF 61) and, intrinsically, the Order (ECF 62 and ECF 63) itself. Such factual errors of material facts in a government document are prima facie criminal violations (18 USC § 1001) with the primary question of intent. When a factual error is identified if it is a mistake then it is expected that the source of the error will try to correct it as soon as possible. In this regard, the court is asked to decide all of the pending motions and also explicitly correct any factual errors in the form of corrected findings.

FCR Incorrectly Removed Two Plaintiffs Based on False Statement

For example in the FCR there is a statement that:

> Brian, who is not an attorney, is not authorized to ... sign pleadings on behalf of others

which is directly contradicted by LR 1.1 Definitions which states

> The word "attorney" means either: a person licensed to practice law ... or ... a party proceeding pro se in any civil action.

So it turns out that Mr. Carr **IS** an attorney with respect to local rules. Based on LR 1.1, LR 11.1 can be restated as:

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

So, not only is Mr. Carr an attorney (with respect to this matter and local rules) he is authorized to 'sign pleadings [electronically] on behalf of others [by representing the consent of the other person]'

As this false statement was the primary basis of much of the FCR, it warrants a specific call out of the error in the revised findings.

Overview of Proposed Second Amended Complaint

There are additions and corrections based on events that happened after the date of the pleading to be supplemented, FRCP Rule 15(d) and correct a clerical error as to the individual / office to represent Department of State (DoS) under FRCP Rule 15(c)(1)(C). It also includes corrections of typographical and clerical errors such as having two count 8s and no count 9.

The new complaint also consolidates the multiple complaints in the record and improves the clarity of the complaint through the addition of a table of contents and alphabetical index.

The complaint also adds section headers for the different FOIA requests and distinct reliefs to insure that they are properly considered. There are also the

addition of references to specific ECF documents to support affirmed statements.

The new complaint has references to separate briefs which have been added to the record to counter the normal challenges such as 'failure to state a claim', sovereign immunity, and executive discretion.

The new complaint adds two new defendants, the IRS and TIGTA, and two new plaintiffs, Mrs. Carr's two sons. The plaintiffs were preparing to amend the complaint with these supplemental changes when the order dismissing the matter was filed.

Due Process Corrections to Court Rules From ECF 75

As stated previously these arguments were raised in the plaintiffs' reply (ECF 75) but as that was not a proper motion, the court was not properly briefed on the issue. This motion will repeat the arguments and relief raised in the Reply almost verbatim as LR 7.2 has been interpreted to prohibit references to other motion papers and the relief sought in the original FRCP Rule 60 Motion for Relief from LR 7.2 constraints (ECF 67) has not been granted.

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 …[2]
>
> 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 justice**", 474 U.S. at 155, 106 S.Ct. at 475[3]

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

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

Required 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:

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

3 Bold added by Plaintiffs.

The text must be double-spaced...

To place place this sole block of single spaced text below the signature clearly 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's Notice 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)[4] it is clear that the framers of the constitution wished to protect individuals from such onerous

4 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).

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 unconstitutional, 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),[5]

- 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[6] 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.

Resolution of Mrs. Carr Dire Circumstances as Apparent Illegal, New Relief

Of particular note, due to the long delay in deciding the MTD (ECF 31, 14 May

5 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 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'

6 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'.

2024) Mrs. Carr was left in dire circumstances as an apparent 'illegal' terrified of being deported without cause or notice even though USCIS had approved both her ten year card and citizenship (ECF 10-5) on 31 Jan **2023**, but contrary to law USCIS had refused to provide either.

The primary relief sought was the immediate issuance of Mrs. Carr's ten year green card followed shortly thereafter by her citizenship. However, Mrs. Carr on her own and her own expense received her citizenship (ECF 71-3) on 28 Feb 2025 via a new application and test (as detailed in the new complaint).

The primary relief of citizenship is now moot, but there is still the ancillary relief of adjusting the immigration visa application dates for immediate family members (specifically her two sons and Mrs. Von Kramer it happens) as some compensation for the over two years when Mrs. Carr was improperly denied the rights of citizenship. This relief had been somewhat speculative before, but now that Mrs. Carr is a citizen, the relief for her immediate family members is now immediate and known.

Mrs. Carr's sons, Rujipas Lawichai (Tin) and Tanapon Lawichai (Earth) now have current applications for immigration visas (ECF 71-4 on 2 May 2025, ECF 71-5 on 13 May 2025) but the queue for available immigration visas in their category is about 9 years. The previously speculative relief is now very real and sought from the court for these two new plaintiffs.

Similarly, Buakhao Von Kramer now has a current application for an immigration visa (ECF 71-7 on 30 May 2025) with a queue of about 17 years. An earlier

application date is sought for her immigration visa as well as the previous declaratory relief to minimize her need to regularly visit the US to get her Social Security surviving spouse benefits.

General Updates to the Complaint

Typographical and Clerical Errors Fixed

There are corrections of typographical errors such as a correction so that the 9 counts are numbered 1 to 9 rather having two count 8's and no count 9. No party benefits from retaining these typographical errors. They simply introduce confusion for all parties.

In addition there are now specific references to the ECF documents which have been added to the record, which support the affirmed statements that had only been general references in the original complaint. These references are not really additions to the record in this matter but simply aid all parties in understanding and verifying the different affirmed statements in the Second Amended Complaint.

There is also the addition of a table of contents, reference table, and a time line table (exhibit), none of which are not formal parts of the record but added for the convenience of the court and other parties.

Consolidates Multiple Complaints (and Proto Complaints) in the Record

This proposed complaint also is expected to replace the eight complaints or proto complaints which are in ECF at this time (though the Thai pro se complaints are not labeled as complaints, but Thai people are not very litigious and have only a single word for complaint, motion, request, pleading, answer, etc.). The complaints to be merged are: ECF 3, ECF 29, ECF 64, ECF 65, ECF 66, ECF 67-4,

ECF 71-1, and ECF 71-10.

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. I promptly contacted the IRS and sent in the requested Form 843 (an abatement request) with supporting documentation.

There were delays in processing this appeal, but in late August 2024 the IRS notified me that our Form 843 was denied but that we could submit a Form 2210 with the breakdown of income received through the year. I completed and submitted the Form 2210 with another appeal request in 03 Sep 2024. The computed penalty of $340.81 was paid before submission.

In early October 2024 my appeal was forwarded to 'Appeals' 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. 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 had been $340.81 which was already paid. (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 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.

In addition we are asking the IRS provide better advice and, hopefully, better tools concerning how to compute the required estimated income tax payments when there is 'Annualized Income' (i.e. income varies widely during the year). Until such times as the improved advice or tools are available, the IRS must grant abeyance of penalties for first time violations in these particular cases if the taxpayer requests the abeyance (as we did for the $340.81 penalties).

Explicitly Add FOIA Requests

The Court Did Not Address FOIA Requests in Amended Complaint

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

Paragraph	**Defendant**
47	USPS OIG

Paragraph	Defendant
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) which is acceptable as they raised these defenses against all claims.

However, the court did not specifically address these claims which was an error. The court improperly removed my wife and Buakhao 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 elsewhere), 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 have been ordered by the court and even specific statutes that grant the court this authority. The FOIA office of the potential defendant, the IRS, cited the authority of the court to provide the relief sought. The court should immediately order the requested FOIA relief.

The new complaint has distinct FOIA sections for the following defendants: USPS, DoS, USCIS, and IRS. 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.

Conclusion

The court is asked to grant leave to submit the proposed Second Amended Complaint (which is attached to this motion as the first exhibit) and direct the clerk to file a copy of the amended pleading attached as the in accordance with LR 15.1 with a title of 'Second Amended Complaint'.

The court is also asked to direct USATXN to submit a full, complete, and proper answer (not another MTD) to this proposed Second Amended Complaint within 14 days as specified in FRCP Rule 15(a)(2).

Further, the court is requested to grant the relief sought in the series of FRCP Rule 60 Motions described in the first motions for relief from local rules (ECF 67) as well as the motions to reverse dismissal and recuse and reconsider sanctions (ECF 71) and the instant motion.

Each court that considers this matter is requested to revise its local rules (be they magistrate or judge specific rules or en banc court rules) to insure that FRCP Rule 72 specific rules are not unconstitutional and that the parties are provided with adequate and correct notice of their rights to file Notice of Objections or FRCP Rule 60 Motions before filing a Notice of Appeal.

Respectfully submitted,

Verification of Motion

We, the undersigned plaintiffs and proposed 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 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: 27. August 2025
Location: Irving, TX

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061
Date: 19 Aug 2025
Location: Irving, TX

/s *Buakhao Von Kramer*

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140
THAILAND
Date: 20 Aug 2025
Location: Bangkok, Thailand

/s *Rujipas Lawichai*

Rujipas Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 19 Aug 2025
Location: Phuket, Thailand

/s Tanapon Lawichai

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

Date: 19 Aug 2025
Location: As ordered by Thai Army while deployed on combat assignment

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with TXND LR 11.1(d), on the recorded date I received permission from Rueangrong Carr, Buakhao Von Kramer, Rujipas Lawichai, and Tanapon Lawichai to sign this document electronically on their behalf after sending them a copy of the Proposed Second Amended Complaint via Line (a secure and reliable messaging app popular in Japan, Thailand and other countries) and received their consent electronically via Line.

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.

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; …

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

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

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Alphabetical Index

Certificate of Conference

These Motions for Leave to Amend, Due Process Corrections to Court Rules, and Expedited Decisions for Motions are OPPOSED.

The conference was held via an email discussion with AUSA Parker with the

initial email sent to her on 19 Aug 2025 and the final response from USATXN on 25 Aug 2025 with the conclusion that:

> The Federal Defendants do oppose Plaintiff's motions. We oppose the motion for leave to file an amended complaint because (1) judgment has already been entered in this case and (2) an amended complaint would be futile for all the reasons set forth in Defendant's motion to dismiss and the Court's order granting that motion. Included as reasons for futility, whether mentioned in the motion to dismiss or appropriate to the proposed complaint, are a lack of subject matter jurisdiction and failure to state a claim for, among other reasons, failure to exhaust and statute of limitations. The Federal Defendants also believe that Mr. Carr cannot represent any of the other putative plaintiffs. The proposed addition of new plaintiffs and new claims only exacerbates the futility of the claims in this case, as opposed to rectifying the deficiencies in the claims.
>
> The Federal Defendants also oppose any motion for an expedited response because Plaintiff has not shown a need for expedited briefing. The Northern District of Texas carries one of the heaviest dockets in the country. Each litigant also seeks his or her day in court as expeditiously as possible. Plaintiff's belief that he has waited long enough, while understandable, is not a sufficient basis to expedite this litigation and move it to front of what is a substantial queue.

The motion for Due Process Corrections to Court Rules was added on 26 Aug 2025 and an email describing the addition was sent to AUSA Parker prior to the addition, but no response was received to date so that motion is also OPPOSED.

/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

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

Brian P. Carr, Rueangrong Carr, Buakhao Von Kramer, Rujipas Lawichai, and Tanapon Lawichai 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, IRS, TIGTA, and SSA Defendants	Civil No. 3-23CV2875-S Verified[1] Second Amended COMPLAINT

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1 The Verification of Complaint is at the end of this document as part of the signature blocks.

The Plaintiffs, Brian P. Carr (hereafter referred to as Mr. Carr), Rueangrong Carr (hereafter referred to as Mrs. Carr) Buakhao Von Kramer (hereafter Mrs. Von Kramer), Rujipas Lawichai (hereafter Tin, his nickname), and appear pro se in this matter, as and for their complaint allege the following:

Introduction

1. This matter concerns the Defendants falsification of government records and, potentially, obstruction of justice through failure to report or correct federal crimes, and the Plaintiffs' Fifth Amendment right to due process of law.

Due Process Requirements

2. Almost all of the counts raised in this matter center around due process. Since the 70's the U.S. Supreme Court has expounded on the requirements of due process for administrative procedures such that it is not an obscure arcane right, but rather a central pillar of how the

U.S. government must act when dealing with individuals. There is an excellent overview of 'due process' in Cornell Law LII Procedural Due Process which lists the ten key elements required for due process as:

1. An unbiased tribunal.
2. Notice of the proposed action and the grounds asserted for it.
3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The right to know opposing evidence.
6. The right to cross-examine adverse witnesses.
7. A decision based exclusively on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. Requirement that the tribunal prepare written findings of fact and reasons for its decision

These elements are derived from Judge Henry Friendly's article titled "Some Kind of Hearing".

USPS Falsifies Delivery Record

3. In April of 2021, Mr. Carr purchased a guaranteed delivery Express Mail label from the United States Postal Service (hereafter USPS). The package was delivered late but a postal employee falsified the delivery record to indicate that package was delivered on time. As a result, Mr. Carr was unable to get the guaranteed refund of $26.35. Mr. Carr appealed administratively with USPS and later with USPS Office of the Inspector General (hereafter USPS OIG), the Council of the Inspectors General on Integrity and Efficiency (hereafter CIGIE), USPS Board of Governors, and Department of Justice (hereafter DoJ) to correct the falsified documents and get the requested refund. No refund has been received.

Department of State Denies Non-Immigrant Visa Without Due Process

4. In 2018 and 2019 Mrs. Carr and her sister, Mrs. Von Kramer, applied for non-immigrant visas which were denied by the Department of State (hereafter DoS) through the Bureau of Consular Affairs (hereafter BCA) without due process. In particular, the denial was a form letter with no reference to the actual evidence and which contradicted the verbal explanations of the denial by the interviewer. This could be construed as falsification of government

records through omission of required information. Further, in each case the denial was based on a rationale that was not supported by the evidence or law in the matter. As there was no administrative appeal available, Mr. Carr sought correction of the injustice through the DoS OIG. CIGIE, and DoJ. Later non-immigrant visas for Mrs. Carr and Mrs. Von Kramer were approved in 2022 but both sisters suffered financial harm from the delay in receipt of the visas.

Mrs. Von Kramer Receives Survivor Benefits

5. Mrs. Von Kramer is the widow of a deceased American veteran and was able to visit the U.S. in 2022 and commenced receiving survivors' benefits from Social Security in May of 2023, but she must return to the U.S. every six months as she was not able to establish her 'lawful presence' in the U.S. in 2019, 2020, and 2021 as she planned.

USCIS Denies Citizenship Application Based on Falsified Documents

6. On 31 Jan 2023 as a result of a joint interview held on 30 Jan 2023 for a permanent green card (I-751) and for citizenship (N-400), the United States Citizenship and Immigration Service (USCIS) approved Mrs. Carr's I-751 application for a permanent green card while not actually providing the green card as her N-400 citizenship application was also approved.
7. However, instead promptly providing Mrs. Carr with a Certificate of Naturalization, on 01 Sep 2023, USCIS updated her N-400 record to note that the interview of 30 Jan 2023 was canceled due to unforeseen circumstances.
8. Mr. Carr complained to USCIS, the Department of Homeland Security (DHS) OIG and DoJ of falsified records (the interview had been completed and the N-400 had been approved). Even so, USCIS scheduled a 'second' N-400 interview for 11 Oct 2023, a date when USCIS had been informed that Mrs. Carr would be out of the country. Mr. and Mrs. Carr made numerous efforts to reschedule the interview which were refused. USCIS denied Mrs. Carr's N-400 application on 14 Oct 2023 for 'failure to appear'. Mr. Carr has since complained to DHS OIG of 'whistleblower' retaliation for his previous reports of federal crimes and other malfeasance by USCIS.

IRS Improperly Begins Property Seizure

9. On 11 Nov 2024 the IRS began seizure of property (CP504 notice) for penalties of $753.70 for 'late' estimated payments for 2023 tax year. Sufficient estimated taxes had been paid but

the majority was paid in the second half of the year when the income was received. However, the IRS had incorrectly assumed the income had been received evenly distributed through the year to compute the disputed amount.

10. The CP504 was sent while an appeal was pending (violating due process) and without the statute mandated 30 days notice (8 USC § 6331). Mr. Carr paid the disputed amount of $753.70 to avoid seizure of their car, house, or business assets but the IRS is continuing to ignore the appeal (and the now known facts of the timing of the income received) and, more importantly, not refunding the disputed amount.

Jurisdiction and Venue

Jurisdiction

11. This Court has subject matter jurisdiction over this action pursuant to 28 USC § 1331 and 28 USC § 1367, 42 USC Ch. 21B, Administrative Procedure Act (APA, 5 USC § 551–559, 5 USC § 702), and 28 USC Chap 171 (FTCA) as a case arising under 18 USC § 1001, 18 USC § 1505, 18 USC § 1510, 18 USC § 201, 18 USC Ch 96 (RICO), 18 USC § 1038 18 USC § 10, 5 USC § 404 (IG Act of 1978), 5 USC § 424 CIGIE, 39 USC (Postal Service), INA 8 USC Ch 12, 8 CFR § 216.4, 5 USC § 2302(b)(9)(D), 8 USC § 1184, 8 USC § 1146, 8 USC § 1447, 8 USC § 1421(c), 8 CFR Part 1292.1, 5 USC § 552 FOIA, 5 USC § 2302, 26 USC Internal Revenue Code, 26 USC § 6331, 26 USC § 7803, 28 USC Part II - Department Of Justice as well as the Fifth Amendment of the U.S. Constitution right to due process.

Venue

12. Venue is proper in this district pursuant to 28 USC § 1391 (b) because a substantial part of the events or omissions giving rise to the claim have occurred or will occur in this district and Plaintiffs Mr. and Mrs. Carr reside in this District and Mrs. Von Kramer, as a foreign national, receives her U.S. mail care of Mr. Carr.

The Plaintiffs

13. Mr. Brian P. Carr (hereafter Mr. Carr) is a U.S. citizen and resident of Dallas County in the State of Texas and a Plaintiff appearing Pro Se in this matter. Mr. Carr's contact information is:

Brian P. Carr

1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

14. Mrs. Rueangrong Carr (hereafter Mrs. Carr) is a U.S. Permanent Resident and resident of Dallas County in the State of Texas and a Plaintiff appearing Pro Se in this matter. Mr. Carr is Mrs. Carr's spouse and to the degree that it is legally permissible, Mr. Carr will represent Mrs. Carr. Mrs. Carr's contact information is:

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

15. Mrs. Buakhao Von Kramer (hereafter Mrs. Von Kramer) is a citizen and resident of Thailand with a U.S. B-1 / B-2 non immigrant visa (business / tourist). Mrs. Von Kramer's U.S. mailing address is care of Mr. Carr, a resident of Dallas County in the State of Texas. Mrs.Von Kramer is a Plaintiff appearing Pro Se in this matter. Mrs. Von Kramer is the widow of Nikolaus Von Kramer, a German National, U.S. Army veteran (pre 1968), U.S. citizen, married to Mrs. Von Kramer on 12 January 2006, and died 26 April 2014. Mrs. Von Kramer is also Mrs. Carr's sister. Mrs. Von Kramer has also requested that Mr. Carr represent Mrs. Von Kramer to the degree that it is legally permissible. Mrs. Von Kramer's contact information is:

Buakhao Von Kramer
c/o Brian Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

16. Mrs. Von Kramer's legal residence is:

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

17. Mr. Rujipas Lawichai (hereafter Tin, his nickname) is a citizen and resident of Thailand and Mrs. Carr's oldest son from a prior marriage and is an unmarried adult (over 21 years of

age). Mrs. Carr has completed a USCIS I-130 Petition for Tin to be able to immigrate to the United States (ECF 71-4). Tin's U.S. mailing address is care of Mr. Carr, a resident of Dallas County in the State of Texas. On 15 May 2025 Tin requested to join this suit (ECF 71-10). Tin is a Plaintiff appearing Pro Se in this matter and to the degree that it is legally permissible, Mr. Carr will represent Tin. Tin's contact information is:

Rujipas Lawichai
c/o Brian Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

18. Tin's legal residence (as registered with the Thai government) is:

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

19. Mr. Tanapon Lawichai (hereafter Earth, his nickname) is a citizen and resident of Thailand and Mrs. Carr's youngest son from a prior marriage and is an unmarried adult (over 21 years of age). Mrs. Carr has completed a USCIS I-130 Petition for Earth to be able to immigrate to the United States. Earth's U.S. mailing address is care of Mr. Carr, a resident of Dallas County in the State of Texas. Earth is a Plaintiff appearing Pro Se in this matter and to the that it is legally permissible, Mr. Carr will represent Earth. Earth's contact information is:

Tanapon Lawichai
c/o Brian Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

20. Earth is a soldier in the Thai Army on active duty military service to a constitutional democratic government recognized by the United States and a military ally of the United States. At this time Earth is deployed in a combat assignment and unable to disclose his location, but he is in a location consistent with his orders from the Thai government.

21. Earth's legal residence (as registered with the Thai government) is:

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

The Defendants

22. The United States government is the primary Defendant in this matter and is represented by the U.S. Attorney for the Northern District of Texas in her professional capacity with contact information:

United States Attorney
Northern District of Texas
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699

23. The U.S. Department of Justice (hereafter DoJ) is an agency of the United States, a Defendant in this matter and is represented by the Attorney General in her professional capacity with contact information:

Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

24. The United States Postal Service (hereafter USPS) is an agency of the United States, a Defendant in this matter and is represented by the Postmaster General in his professional capacity with contact information:

Postmaster General
USPS Headquarters
475 L'Enfant Plaza SW
Washington DC 20260-0010

25. The USPS Office of the Inspector General (hereafter OIG) is an agency of the United States, a Defendant in this matter and is represented by the USPS Inspector General in her professional capacity with contact information:

USPS Inspector General
1735 North Lynn Street
Arlington, VA 22209-2005

26. The USPS Board of Governors (BoG) is the governing body of the USPS, an agency of the United States. The USPS BoG is a Defendant in this matter and is represented by the Chairman in her professional capacity with contact information:

USPS Board of Governors Chairman
475 L'Enfant Plaza SW
Washington DC 20260-0010

27. The U.S. Department of State (hereafter DoS) is an agency of the United States and a Defendant in this matter. Because of the unusual division of authority and responsibility in DoS, DoS is represented by both the Secretary of State and the Assistant Secretary of State for Consular Affairs in their professional capacities with contact information:

The Executive Office
Office of the Legal Adviser, Suite 5.600
600 19th Street Ste 5, Suite 5 600, NW
Washington, D.C. 20522

28. The DoS OIG is an agency of the United States, a Defendant in this matter and is represented by the DoS Inspector General in his professional capacity with contact information:

U.S. Department of State Inspector General
1700 North Moore Street (SA-39)
Arlington, VA 22209

29. The Council of the Inspectors General on Integrity and Efficiency (hereafter CIGIE) is an agency of the United States, a Defendant in this matter and is represented by the Executive Director in his professional capacity with contact information:

Executive Director
Council of the Inspectors General on Integrity and Efficiency
1750 H Street NW Suite 400
Washington, DC 20006

30. The U.S. Citizenship and Immigration Services (hereafter USCIS) is an agency of the United States, a Defendant in this matter and is represented by the USCIS Director in his professional capacity with contact information:

USCIS Director
20 Massachusetts Avenue, NW
Washington, DC 20529

31. The Department of Homeland Security (hereafter DHS) OIG is an agency of the United States which oversees USCIS, a Defendant in this matter and is represented by the DHS Inspector General in his professional capacity with contact information:

Department of Homeland Security Inspector General
245 Murray Dr.; Building 410;
Washington, DC 20528

32. The Social Security Administration (hereafter SSA) is an agency of the United States, a Defendant in this matter and is represented by the SSA Commissioner in his professional capacity with contact information:

Social Security Administration Commissioner
1300 D. Street SW
Washington, D.C. 20024

33. The Internal Revenue Service (hereafter IRS) is an agency of the United States, a Defendant in this matter and is represented by the IRS Commissioner in his professional capacity with contact information:

Internal Revenue Service
1111 Constitution Ave, NW
Room 6329, SE:T:HQ:CPC
Washington, DC 20224.

34. The Office of the Treasury Inspector General for Tax Administration (hereafter TIGTA) is an agency of the United States, a Defendant in this matter and is represented by the TIGTA Inspector General in her professional capacity with contact information:

Treasury Inspector General for Tax Administration
901 D Street, SW; Suite 600
Washington, D.C. 20024

Count 1

USPS Falsifies Delivery Records, Refuses Credit
'Guaranteed Delivery' Package Delivered Late
Package Recorded as Delivered While Still at Post Office

35. The Plaintiffs repeat and reaffirm paragraphs 1 through 34, as if fully set forth herein.

36. The Plaintiffs refer to the Verified Brief (ECF 75-2) defending Count 1 and Count 2 which

are against USPS and USPS OIG as well the Verified Brief (ECF 67-3) discussing Sovereign Immunity and Executive Discretion.

37. On April 9, 2021 Mr. Carr purchased an 'Overnight Express' click'n'ship for $26.35 with tracking number 9470103699300057573507 with guaranteed delivery to return his passport from the Thai embassy to his home address (see ECF 18-3). The Thai embassy mailed his passport back and the shipment was accepted by USPS at 8:46PM on 13 April 2021 with guaranteed delivery by 12PM on 15 April 2021. This was longer than overnight as it was received late in the day.
38. 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 (see ECF 18-4).
39. It is virtually impossible to make the drive from the Post Office to Mr. Carr's house in six minutes. Note that while improper 'Stop the Clock' scans have a relatively benign name, they are, in fact, crimes of falsifying government records as per 18 USC § 1001 (a) (1).
40. Mr. Carr was anxious to get his passport and checked for the package several times on the morning of 15 April, 2021. When Mr. Carr received notice of the delivery at 11:35 AM via email, the Carrs went out to look for the package but could not find it.
41. Mr. Carr also called the Post Office about the missing package and was advised to not worry as there had been vehicle problems that morning and that his package would arrive soon. Mr. Carr asked if the record of delivery time would be corrected but received a non-committal answer. Mr. Carr also took a time stamped photo of the front porch area with no package present after it had been recorded as delivered.
42. At 12:30PM the package was in Mr. Carr's mail box, delivered after the guaranteed delivery time (contrary to the improper 'Stop the Clock' delivery scan).

Initial Refund Request Denied Due to Falsified Delivery Time

43. That afternoon Mr. Carr initiated 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.

After 2 Week Delay, Appeal Granted, Status is 'Dispute Paid'

44. Two weeks later Mr. Carr was permitted to appeal that arbitrary denial and explained about

the illegal 'Stop the Clock' scan and on 5 May 2021 the status of the refund was changed to 'Dispute Paid' (see ECF 18-8). However, the credit card which Mr. Carr used for the online 'click n ship' never posted the refund.

45. On 9 June, 2021, Mr. Scott Hooper, District Manager, Dallas Customer Service and Sales, 951 W. Bethel Rd., Coppel, Texas, 75099-9998 replied to Mr. Carr's queries about the falsified delivery time via Congressman Veasey stating that Mr. Rodney Malone, Postmaster, Irving, TX found that "the guaranteed date and time for delivery of the Priority Express Mail was April 15, 2031, by noon. Mr. Malone retrieved data from the carrier's scanner and was able to confirm the package was scanned as delivered on April 15, 2021 at 11:35 a.m.. Mr. Malone states the carrier has been trained in the proper disposition and scanning of Priority Express Mail. The signature was waived; therefore, allowing delivery directly to Mr. Carr's mailbox. Unfortunately, to be able to correct a scan in our system, it must be within the previous 21 calendar days." (see ECF 11-2)

Refund Never Made to Credit Card

46. Mr. Carr contacted USPS customer service on numerous occasions as there had not been any refund but was only told to wait longer for the refund even though he had already waited far longer than the suggested waiting time.
47. When Mr. Carr complained that the refund was due many months ago, the response was just a generic statement about submitting a new refund request (which would be denied as it was too late to initiate a new refund request).

USPS Never Provides Requested Transaction ID of Payment

48. On 3 September 2021, Ms. Scarpelli of the USPS responded to Congressman Veasey stating that Mr. Carr's refund was paid on 5 May 2021 but on further investigation by Mr. Carr there were no details of the refund.
49. After Mr. Carr made numerous attempts to find the transaction ID of the credit to his bank it became apparent that Ms. Scarpelli had been misled by the numerous falsified documents which resulted from the improper 'stop the clock' scan of his package and faulty USPS business processes to issue credits when a falsified delivery record indicates an 'on time' delivery. (See ECF 18-9)
50. It appears that the Accounting Service Center approved the refund and passed it off to Customer Service to make the actual refund. However, because the tracking record had a

falsified delivery time via the improper 'Stop the Clock' scan which was not corrected by management (a potential crime itself), customer service could not give the refund but referred Mr. Carr back to accounting services or asked Mr. Carr to start a new claim for a refund (which was not permitted at that time due to the delay).

Falsified Records Supporting Unwarranted Management Bonuses

51. There are now numerous documents which are false due to the original falsified delivery time and thousands of others as documented by USPS OIG (see ECF 18-7), to include quality reports to Congress and the U.S. public, profitability reports for individual post offices and regions, and bonuses paid to management of said post offices and regions. This is a prime example of how one uncorrected falsified document multiplies until it becomes hard to find any truthful and correct documents. These problems were referred to USPS management as well other defendants on 3 Mar 2023 in ECF 14-4.

USPS FOIA Requests Pending

52. On 21 Nov 2022 Mr. Carr submitted a personal FOIA request 2022-FPRO-00378 (ECF 70-11) specifically requesting bank transaction ID for credit card refund (item 2). USPS responded on 21 Jan 2023 (ECF 70-12) with delivery results (ECF 70-13) and 'Refund Issued' but no bank transaction ID. The court is asked to confirm that USPS does not have any bank transaction ID for the refund before relief is provided in the form of an actual refund or credit for future services.
53. On 11 Mar 2025, Mr. Carr submitted a cumulative FOIA request (ECF 70-7) to USPS which was accepted as 2025-FPRO-01666. On 1 May 2025 USPS FOIA responded (ECF 70-8) noting cost of $336.00 but redacting all cumulative results based on "information of a commercial nature" under Section 410(c)(2)[2] with the results in ECF 70-9.
54. On 12 Jun 2025, USPS appeals responded to Mr. Carr's appeal denying all requests (ECF 75-3) with a letter explaining (ECF 75-4) that, among other things, this court has jurisdiction to review the appeal.

2 Section 410(c)(2) is 39 USC § 410 c)(2) which states:
(c) Subsection (b)(1) of this section [(FOIA)] shall not require the disclosure of -
(2) 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;

Count 2

USPS OIG Refuses to Investigate or Report Federal Crimes

USPS BoG Refuses to Require Compliance With the Law

55. The Plaintiffs repeat and reaffirm paragraphs 1 through 54, as if fully set forth herein.

56. Plaintiffs refer to Verified Brief (ECF 75-7) which discusses the duties and responsibilities of IG's in general and the DoJ with respect to reporting crimes (IG) and enforcing the law (DoJ). It clarifies that the DoJ can rely on the various OIG's and even local management to investigate plausible federal crimes and implement corrections to prevent future violations as long as DoJ monitors the results and insures that the law is enforced.
57. Mr. Carr visited the USPS OIG web hotline which stated "the USPS OIG Hotline CANNOT assist you with daily mail delivery and tracking problems" but also "the USPS OIG Hotline CAN assist you with ... Employee Misconduct".
58. Mr. Carr made several submissions to the Hotline which includes Submission 167800 on 18 May 2021, Submission 170675 on 27 May 2021, Submission 184761 on 19 July 2021, and Submission 209111 on 22 October 2021. However, even though he cited specific federal crimes of falsifying government records, defrauding postal customers and USPS management uniformly unable to make any corrections, in all cases the complaint was simply referred back to USPS local management and with no correction or action taken. However, each complaint was closed as successfully resolved even though no corrections or actions were taken.
59. On 1 August 2021 Mr. Carr wrote directly to the USPS Inspector General inquiring as to the origin of the policy preventing any USPS OIG investigation of certain crimes of falsifying government records, e.g. improper 'Stop the Clock' scans of packages as delivered prior to actual delivery and, amongst other things, defrauding postal customers (see ECF 11-3).
60. This letter seems to have been referred back to the USPS OIG Hotline where they suggested that Mr. Carr would need to file a Freedom of Information Act request to get the information he required.
61. Mr. Carr submitted the FOIA request and received a statement from Tanya Hefley on 19 October 2021 stating "However, we were advised, during processing, the OIG Hotline determines the best routing (OIG, Inspection Service, Postal Service, other agency, etc.) for

an allegation on a case-by-case basis." (see ECF 11-4)

62. In a 2017 audit (DR-AR-18-001, ECF 18-7) the USPS OIG found there were over 1.9 million improper 'stop the clock' scans out of the 25.5 millions which were analyzed. The result was that over 7 percent of the analyzed scans were improper. Extending this to the over 4 billion scanned packages during 2017, as many as 280 million of such scans defrauded customers by these improper scans preventing 'guaranteed delivery' refunds. Further, the USPS OIG listed over about 1.4 million customer complaints in FY 2017 related to delivery. (see ECF 18-7)
63. In a 2020 Blog report by USPS OIG, "Specifically, 38 percent of the more than 1,100 packages that were selected at these units and that were in the facility before the carriers arrived for the day had been improperly scanned."
64. When Mr. Carr reported the details of the falsified delivery time to OIG case workers, it was not only ‘likely’ that a federal crime had been committed, but, in light of USPS OIG reports on the problem (see ECF 18-7), it was ‘beyond reasonable doubt.’
65. However, the reality is that improper 'Stop the Clock' scans are federal crimes and are not ever referred to the Attorney General as required by 5 USC § 404.
66. On 1 August 2021 Mr. Carr wrote to the USPS IG (ECF 11-3) directly complaining of an apparent illegal order preventing USPS OIG case workers from reporting known federal crimes (the well documented improper ‘stop the clock scans’ (a.k.a. falsified government records) to the Attorney General as required explicitly by 5 USC § 404 which states in part that the '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'. This was clarified on 17 Nov 2021 to explain that this failure to report federal crimes was malfeasance in USPS OIG (ECF 11-5)
67. The USPS IG made no response but via U.S. Representative Marc Veasey, Ms. Kelly Delaney, Senior Attorney, Government Relations, USPS OIG, replied on 7 June 2022 (ECF 10-1) and stated

> The OIG conducts investigations to determine whether evidence exists of misconduct or criminal activity by postal employees and, when appropriate, refers such matters for criminal prosecution. 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. … We did not identify a violation that warranted referral for criminal prosecution.

68. Thus, the OIG is claiming the authority to decide which cases should be prosecuted while it is clear from 5 USC § 404 that Congress intended that the decision to prosecute is reserved solely for the Attorney General (or the DoJ realistically).
69. It is apparent that the USPS OIG has decided to allow the USPS to commit certain federal crimes with impunity thereby defrauding thousands of postal customers each year.
70. On 3 August 2022, Mr. Carr wrote to the USPS Board of Governors (see ECF 10-2 previously provided to relevant Defendants) complaining of apparent illegal orders preventing the USPS IG from properly reporting federal crimes to the DoJ as required by statute, possibly a crime itself of obstruction of justice.
71. There was no response from USPS BoG but on 14 Dec 2022 from Andrew Jones, USPS Government Relations Representative replied via Representative Veasey (see ECF 10-3) stating 'the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is responsible for investigating complaints about an Inspector General. CIGIE conducts its investigations independently, and it has requested that all inquiries related to its functional responsibilities be referred to CIGIE for reply.' It claims that the complaint was forwarded to CIGIE but no response was forthcoming.
72. There are anecdotal reports of widespread falsification of records of all types within USPS which is the likely result of USPS OIG unlawfully granting USPS the ability to falsify delivery records with impunity. These problems were referred to USPS IG as well other defendants on 3 Mar 2023 in ECF 14-4.

Count 3

DoS Denies Mrs. Carr Visa without Due Process

73. The Plaintiffs repeat and reaffirm paragraphs 1 through 72, as if fully set forth herein.
74. The Plaintiffs refer to the Verified Brief (ECF 75-8) defending Count 3, Count 4 and Count 5 against DoS and DoS OIG as well the Verified Brief (ECF 75-5) discussing the right to representation which refers to the Verified Brief (ECF 71-8) concerning pro se self representation. ECF 75-8 also relies heavily of another Verified Brief (ECF 75-6) which has an extensive set of challenges to USATXN's primary defense of DoS, the Doctrine of

Consular Non Reviewability (DoCNR). ECF 75-8 also refers to another Verified Brief (ECF 75-7) which discusses the duties and responsibilities of IG's in general and the DoJ with respect to reporting crimes (IG) and enforcing the law (DoJ). It clarifies that the DoJ can rely on the various OIG's and even local management to investigate plausible federal crimes and implement corrections to prevent future violations as long as DoJ monitors the results and insures that the law is enforced.

75. Mr. and Mrs. Carr had married on 23 June 2018 in Thailand and applied for an immigration visa via an I-130 petition submitted to USCIS on 17 July 2018.
76. However, they learned that the I-130 petition normally takes over a year to be processed. They were concerned that his mother was over 90 years old and her health was failing. It was unlikely that she would survive for more than a year. The couple wanted Mrs. Carr to be able to meet Mr. Carr's mother so they decided to apply for a non-immigration visa.
77. As a result, Mr. Carr completed the application for a non-immigration visa DS-160 for Mrs. Carr with the $160 fee paid by Mr. Carr with his American credit card.
78. Mr. Carr requested that he be permitted to attend the interview as Mrs. Carr representative as he was more familiar with his mom's health and his finances. However, he was told that was not possible due to security and space concerns at the consulate.
79. As an alternative, Mr. Carr completed an I-864 affidavit of support showing assets of $2,986,370.28 over 90% of which were in IRA accounts which could not be moved outside of the U.S. without complex and expensive tax implications. He also attached an affirmed statement attached to the I-29F supporting those assets and an explanation that the couple had sufficient assets to live wherever they chose and that it would be incredibly stupid for them to overstay their visa as it would preclude freedom to travel in the future. They were not stupid people. (see ECF 12-3)
80. On 29 Aug 2018 Mrs. Carr had an interview for a B-1 / B-2 non immigrant visa (business / tourist) at the Chiang Mai Consulate in Thailand with appointment AA00843QZW.
81. The interviewer did not review any of the papers which Mr. Carr had prepared but instead did a cursory review of Mrs. Carr visa application record and noted the I-130 application to immigrate. The interviewer then informed Mrs. Carr that she could not get a tourist visa because she had an outstanding immigration visa application. The only way she could get a tourist visa would be to rescind her immigration application first and then reapply for a

tourist visa. This deeply upset Mrs. Carr, presenting her with a sort of Sophie's choice dilemma. Needless to say, the interviewer's verbal claim was totally contrary to the published requirements and the law in these matters.

82. The actual denial letter had no references to any evidence presented or reviewed but simply cited section 214(b)[3] 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'.
83. Mr. and Mrs. Carr were unlawfully denied their ability to travel freely due to denial of Mrs. Carr's visa application.
84. Mr. Carr complained to the DoS OIG with complaint H20190052 citing the lack of due process through the denial of the right to representation (Mr. Carr could not attend the interview), the denial of the opportunity for Mrs. Carr to present evidence, and the denial of the right to a written decision based solely on the law and evidence presented. Mr. Carr explained that the requirement that Mrs. Carr rescind her immigration application was not supported by the law and, as such. was unlawful.
85. On 10 October 2018 DoS OIG responded with ECF 10-4.
86. The response was signed by Cristin Heinbeck, Outreach and Inquiries Division, Visa Services of DoS which stated in part:

> there is no provision in U.S. law that specifically precludes issuance of a nonimmigrant visa to an applicant with a pending immigrant visa case. However, such an applicant must still demonstrate that he or she has clear ties to a continuing life overseas and evidence that he or she intends only a temporary visit to the United States. Such evidence is required to overcome the provisions of section 214(b) of the INA.[4]

87. The DoS did not address the denial of the right to representation and the right to present evidence. Of course an applicant will not be able to overcome the provisions of section 214(b) if they are not permitted to present the evidence which is required by section 214(b)[5].
88. As DoS OIG improperly abdicated its responsibility to oversee BCA and referred these

3 INA 214 is 8 USC § 1184
4 INA 214 is 8 USC § 1184
5 INA 214 is 8 USC § 1184

serious violations of the Fifth Amendment rights of due process to BCA, Mr. Carr continued his efforts to get a just and lawful decision by writing several emails to the Chiang Mai Consulate General.

89. Mr. Carr was able to persuade USCIS to expedite the I-130 immigration petition process and it was approved within four months (likely a record for such petitions in Thailand at that time).
90. Mr. and Mrs. Carr were also subjected to unwarranted stress in getting the I-130 so quickly as was the staff at USCIS who had to deal with the constant concerns raised by Mr. Carr about every delay.
91. Mrs. Carr was able to meet Mr. Carr's mother and that was a source of joy for all parties. Mr. Carr's mother died within a week of their arrival so the desire to visit promptly was well founded.
92. Mr. and Mrs. Carr returned to Thailand after a roughly three month visit to the United States (so would not have 'overstayed' a tourist visa in any case).
93. However, four years later USCIS failed in meeting its statutory mandate to allow Mrs. Carr to work and travel freely (see 8 CFR § 216.4 (b)) and left Mrs. Carr stranded in Thailand, unable to return to the U.S..
94. As a result, Mrs. Carr had to make a second application for a tourist visa with DoS BCA with the interview on 12 Dec 2022 at the Chiang Mai Consulate with appointment AA00BCSFIT.
95. Mr. Carr sent an explanatory email to the Chiang Mai Consulate General citing the previous letter from DoS stating that Mrs. Carr's previous visa application was denied unlawfully and explaining that USCIS had unlawfully left Mrs. Carr stranded in Thailand, attaching the supporting documents for this conclusion. Mr. Carr asked that an adequately trained interviewer be assigned to review Mrs. Carr's visa application so that there would not be further unjust and unlawful decisions.
96. The Consulate General responded that all interviewers were properly trained and made their decisions independently of any input from the Consulate General but it is possible that an addendum was made to Mrs. Carr's file explaining the sensitivity of the application.
97. Mrs. Carr's second visa application was approved with no substantial input from Mrs. Carr, only a quick review on the computer (presumably of the status of the application).

98. The cost of this second visa application fee was $160 which Mr. Carr attributes half to USCIS for leaving Mrs. Carr stranded in Thailand and half to DoS BCA for unlawfully denying the first visa application.

Count 4

DoS Denies Mrs. Von Kramer Visa without Due Process

99. The Plaintiffs repeat and reaffirm paragraphs 1 through 98, as if fully set forth herein.

100. Mrs. Von Kramer is the widow of an American veteran who died on 26 April 2014 (born 19 Nov 1944). Mrs. Von Kramer had promptly notified the U.S. embassy and Social Security of his death.

101. A member of the embassy staff had kindly mentioned to Mrs. Von Kramer that if she visited the U.S. regularly she could get survivor benefits from Social Security. She also explained that if Mrs. Von Kramer did not have friends or family in the U.S. it would be prohibitively expensive and not really possible.

102. As a result, after Mrs. Carr (her sister) had become a Permanent Resident of the U.S., Mrs. Von Kramer's younger daughter Yui Montira Moongram submitted a DS-160 visa application for Mrs. Von Kramer and paid the $160 fee. Her first interview was held on 9 Sep 2019 at the Chiang Mai consulate.

103. Mrs. Von Kramer asked that Mr. Carr attend the interview. Mr. Carr inquired again and was told that only the applicant was permitted in the consulate due to security and space constraints.

104. Mr. Carr helped Mrs. Von Kramer prepare an extensive folder of papers (more than an inch thick) to demonstrate her financial resources and ties to Thailand. It started with dual affirmations for Mr. Carr and Mrs. Von Kramer (see ECF 12-4, affirmed under penalty of perjury) with descriptions of the other 'exhibits' which included:

- Round trip tickets to the U.S. with the first flight on 13 Oct 2019 on the same flight to the U.S. as Mr. and Mrs. Carr were taking and return flights for Mrs. Von Kramer after a 14 day stay (longer than the 1 day minimum requirement and shorter than the 30 day / full month maximum for a 'lawful presence' visit as described in the affirmations). See ECF 16-7.
- An email from Mr. Carr inviting Mrs. Von Kramer to stay at their house during her visit

to the U.S.. See ECF 13-1,

- Previously Mr. Carr had provided Mrs. Von Kramer with a statement from one of Mr. Carr's retirement accounts showing over $400,000 in assets (signed by Mr. Carr), but as this ran to over ten pages it was decided to not include it in the packet and rely on the substantial savings Mrs. Von Kramer demonstrated below. Instead the focus would be on the accommodations and opportunities for service and volunteering and other 'lawful presence' activities described in attachments to the invitation email. See ECF 13-1,
- A signed copy of Mr. Carr's passport ID page.
- A Thai bank statement showing a roughly $30,000 balance in Mrs. Von Kramer's name for the last six months (and certified at the bank).
- Deeds to Mrs. Von Kramer's houses in Chiang Mai and Chiang Rai with pictures of the houses (they are nice houses) along with her and her dogs, two daughters, and other sister and brother (in different pictures).
- Deeds to some of her farm land (prime rice paddies in Chiang Rai where Mrs. Von Kramer was born).
- Title to her car along with pictures of her with the car and family members.
- University diplomas for her two daughters.
- Documentation of her daughters' long term employment as a nurse in Chiang Mai and Network Engineer in Bangkok together with pay stubs.
- Documentation of her marriage to Mr. Von Kramer and his death.
- An explanation by Mr. Carr of the requirements to get social security survivors' benefits which include several 'lawful' visits to the U.S. over a five year period (and a stipulation that any overstays would disqualify her from any future benefits).

First Visa Application Denied

105. Surprisingly enough, the interviewer verbally denied Mrs. Von Kramer first visa application based on her not having firm travel plans. This was not based on any evidence as Mrs. Von Kramer had copies of her flight tickets and invitation as described above.

106. Further, the written denial letter was functionally identical to the one Mrs. Carr had received with no references to any evidence presented or reviewed but simply cited INA 214(b)[6] and 'you did not overcome the presumption of immigrant intent, required by law, by sufficiently

6 INA 214 is 8 USC § 1184

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'.

107. Mrs. Von Kramer apologized to Mr. Carr at the end of the interview for not presenting her case well, but the real problem was the denial of her right to due process and representation.

108. Mrs. Von Kramer was raised in a very poor family with nine children and a sharecropper father. She had a limited education of only four years before she needed to start working to help support the family.

109. As a girl from a poor family in Thailand she was taught to be polite and not speak out. She was not taught how to persuasively and clearly advocate for her position. However, due process is guaranteed to all persons who deal with the U.S. government and the right to representation is to insure that justice is not provided only to the rich and well educated.

Second Visa Application Denied

110. Mr. Carr completed a second DS-160 visa application for Mrs. Von Kramer with the interview on 30 Sep 2019 at the Chiang Mai Consulate (appointment AA009APPX1) and Mrs. Von Kramer paid the roughly $160 fee in Thai Baht.

111. Mrs. Von Kramer was able to mention to the interviewer that she wanted to apply for Social Security but the interviewer falsely claimed that she could have her social security claims handled in Manila in the Philippines and did not need a U.S. visa for that. It is unclear if the interviewer was ignorant of Social Security rules and regulation or maliciously told her false information.

112. Mrs. Von Kramer mentioned her contact at the embassy who had explained the U.S. requirements for non citizens to receive Social Security benefits overseas to Mrs. Von Kramer, but the interviewer declined to call her.

113. The interviewer also did not read Mr. Carr's extensive explanation of Social Security rules and regulations applicable to Mrs. Von Kramer but instead denied her application based on the false claim that she could get her social security benefits in the Philippines.

114. The written denial letter was the same form letter as before with no mention of the actual evidence considered.

Third Visa Application Denied

115. Mrs. Von Kramer again apologized to Mr. Carr for not presenting her case well as she had not given the interviewer the extensive documentation which Mr. Carr had compiled.

116. Mr. Carr completed a third DS-160 visa application for Mrs. Von Kramer with the interview on 9 Oct 2019 at the Chiang Mai Consulate (appointment AA009BKKHR) and Mrs. Von Kramer paid the roughly $160 fee in Thai Baht.
117. Before the interview, Mrs. Von Kramer practiced handing the packet of documentation to the interviewer as she had not done that in previous interviews. Mr. Carr also ensured that she called attention to his affirmation which explained all the other attachments as well as the requirements for Social Security benefits paid to foreign nationals overseas.
118. In the actual interview, Mrs. Von Kramer did hand the packet to the interviewer and he did spend a few seconds reading the first few pages, before closing the packet and informing Mrs. Von Kramer that she could not get a visa as she was a widow and too old with insufficient ties to Thailand. If she were to remarry she could reapply and might be eligible for a visa.
119. Of course this verbal rationale is completely contrary to the published rules and laws for non-immigration visas.
120. The written denial letter was the same form letter as before with no mention of the actual evidence considered.
121. It should be noted that if Mrs. Von Kramer were to remarry, she would no longer be eligible for SSA survivors' benefits, the central focus of the first few pages of Mr. Carr's affirmation.
122. It is also apparent that the DoS BCA has unpublished unwritten unlawful policies which are followed by interviewers such as:
    - Immigration applicants should not be granted tourist visas irrelevant of the actual facts and circumstances.
    - Widows of deceased American citizens (or more properly surviving spouses) should never be granted tourist / business visas irrelevant of the actual facts and circumstances

    The last item may be intended to reduce drains on the overburdened social security system which could be considered an admirable goal, but it is up to Congress to balance the complex trade offs of such matters.
123. Mrs. Von Kramer suffered financial loss due to these unlawful denials of visa applications to include three application fees ($160 times 3, or $480) but also the flight tickets she was not able to use. Her round trip fare via Expedia on China Southern Airlines was $511.53 which

was a bargain for non-refundable tickets, but Expedia was helpful in negotiating with China Southern Airlines due to the extenuating circumstances and was able to get a refund of the entire amount less the stated change fee of $134. See ECF 16-7.

124. Mrs. Von Kramer was also unable to establish a lawful presence in the United States during the years of 2019, 2020, and 2021 according to SSA policies concerning payments to non-citizens residing outside the United States. An exception is granted to surviving spouses who have established a 'lawful presence' in the United States with five years of legal visits to the United States which demonstrate enduring ties to the United States. The requirements for these lawful presence visits are also complex and ambiguous (to the Plaintiffs) with the unusual requirement that for a visit to count for 'lawful presence' it must be longer than one day and shorter than 30 days (and not a full calendar month). A stay for an entire year also counts. See SSA POM RS 02610.025 5-Year Residency Requirement for Alien Dependents/Survivors Outside the United States (U.S.). [7]

Fourth Visa Application Approved

125. Mrs. Von Kramer made a fourth application for a tourist visa with DoS BCA with the interview on 12 Dec 2022 at the Chiang Mai Consulate with appointment AA00BCSFIT.

126. Mrs. Van Kramer was able to schedule her interview to be 15 minutes after Mrs. Carr time slot so that the two sisters went in together. It happened that Mrs. Carr was able to introduce Mrs. Von Kramer to Mrs. Von Kramer's interviewer with the statement 'She is my sister' before Mrs. Carr went on to her interview.

127. Mrs. Von Kramer was prepared with a more extensive folder of papers and had practiced presenting the papers with simple and brief explanations (e.g. "Here is an invitation letter from my brother-in-law, here is a picture of me with my sister and brother-in-law, here is a copy of my brother-in-law's passport page which he has signed for me, …")

128. However, before Mrs. Von Kramer could start her presentation, the interviewer asked if she would be traveling with others. She answered that she would be traveling with her sister and brother-in-law and the interviewer replied 'Let me look into the status of the other members of your group'. He then briefly looked at records on his computer before telling Mrs. Von

7 In 2023 Mr. Carr expressed an interest in the 'lawful presence' requirements with some SSA employees and after minimally including SSA in this suit, SSA has substantially improved and clarified the governing rules in SSA POM RS 02610.025 with an increased focus on 'sincere effort to establish enduring ties to the U.S..'

Kramer that her visa application was approved.

129. It is possible that Mrs. Von Kramer's interviewer may have read any notes or concerns about Mrs. Carr's visa application made by the Chiang Mai Consulate General in response to Mr. Carr's previous email.

SSA Conditionally Grants Survivors' Benefits

130. As a result, Mrs. Von Kramer was able to visit the United States briefly in 2022 and 2023, possibly establishing a lawful presence for those years according to SSA standards. See SSA POM RS 02610.025 5-Year Residency Requirement for Alien Dependents/Survivors Outside the United States (U.S.)

131. After a weekend trip to Cancun Mexico in January of 2023, Mrs. Von Kramer continued the process of applying for SSA survivors' benefits which started in May of 2023 and have continued with the requirement that Mrs. Von Kramer can not continue to receive benefits outside the U.S. if she is outside the U.S. for more than six months.

132. Mrs. Von Kramer has met SSA's requirements for payments and intends to continue her regular visits to the U.S. until SSA determines that she has established a lawful presence in the U.S. for five years.

DoS Refuses FOIA Requests

133. On 11 May 2023 via the DoS FOIA request web page Mr. Carr submitted two FOIA requests along with emails to FOIARequest@state.gov with required release forms for Mrs. Von Kramer and Mrs. Carr seeking all records related to the visa applications cited herein (ECF 70-14 and ECF 70-15). DoS denied access to Mrs. Von Kramer's records (ECF 12-5) and Mr. Carr contested the grounds for denying access to records and expanded the request to include IG complaints (ECF 70-16).

134. On 24 July 2023 responding to Case Number: F-2023-08493 Laura Stein, Deputy Director, Office of Domestic Operations, Directorate for Visa Services (DoS) stated that even with authorizations for release of FOIA information from Mrs. Carr and Mrs. Von Kramer, the DoS would still be required by section 222(f) of the Immigration and Nationality Act (8 USC § 1202(f)) to keep confidential any visa records that were not previously received from or sent to the subject of the request. See ECF 12-5.

135. On 19 Oct 2023, DoS provided only the electronic summaries of the information Mr. Carr had provided when filing Mrs. Carr's two visa applications. DoS excluded all other records

based on their contested interpretation of INA Section 222(f). See ECF 70-17.

136. This misconstrues 8 USC § 1202(f) which states:

> (f) Confidential nature of records shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States,

137. However, the Fifth Amendment guarantees to all persons (including foreign nationals) the right to due process which certainly includes access to all the evidence presented against them. All such information must be released to the applicant in order to administer the immigration laws and the applicants' due process rights so INA Section 222(f) does not apply to applicants seeking access to records applicable to their case.

138. These requirements on administrative procedures even extend to properly classified information covered by the Classified Information Procedures Act (CIPA) which provides uniform procedures for prosecutions involving classified information.

139. 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. On 20 Jun 2023 Mr. Carr notified DoS and other defendants of these crimes and other problems in ECF 14-2.

140. On 20 Dec 2023 Mr Carr submitted a DoS FOIA request for cumulative non immigration visa results by country and break downs by age and U.S. Social Security Survivor's Benefits eligibility (ECF 13-2) which DoS acknowledged as F-2023-13477 (ECF 13-3) and F-2024-04752 (ECF 70-18).

No Action on DoS FOIA Requests In 2024, Transferred Request in Feb 2025

141. No action was taken on any of the outstanding FOIA requests by DoS in 2024, but on 5 Feb 2025 (just before Mrs. Carr's citizen test) DoS transferred the FOIA request FP-2023-00325 to a different office (ECF 70-19) which put the request into another indefinite hold (ECF 70-20) on 28 Feb 2025 (the date Mrs. Carr became a citizen).

Count 5

DoS OIG Refuses to Investigate or Report Federal Crimes

142. The Plaintiffs repeat and reaffirm paragraphs 1 through 141, as if fully set forth herein.

143. In early October 2018 Mr. Carr submitted a complaint via the DoS OIG hotline (a web page) concerning malfeasance in the processing of visa applications as the DoS BCA did not provide due process, particularly the right to representation, lack of a written decision based on the evidence and the law, and right to appeal.

144. On 10 October 2018, he received a response from DoS Heinbeck, which stated 'there is no provision in U.S. law that specifically precludes issuance of a non immigrant visa to an applicant with a pending immigrant visa case' which contradicts the verbal justification for the visa denial (ECF 10-4).

145. On 9 October 2018 he was assigned reference number H20190052 and a response which included 'We have reviewed your complaint and determined that the appropriate office to address your concerns is the Bureau of Consular Affairs, Executive Office. Your information has been forwarded to that office.' (ECF 34-6)

146. This was consistent with The DoS OIG hotline web page at https://www.stateoig.gov/hotline which states 'Please note: OIG does not investigate complaints about the denial of U.S. visas.'

147. In April of 2023 Mr. Carr again complained about the lack of due process in processing visa applications and explicitly cited the plausible allegation of falsifying government records (see ECF 34-7) but received the same response (apparently a form email) with H20231749 on 24 April 2023 for Mrs. Carr (see ECF 34-7) and H20231753 on 19 April 2023 for Mrs. Von Kramer where DoS OIG stated that it was forwarding the matter to DoS BCA without taking any action (ECF 39-3).

148. However, in the 2023 complaints Mr. Carr explicitly made a plausible allegation of falsifying government records (a federal crime) from omitting required information from the denial notices as required by due process. Specifically there was no reference to any of the actual evidence presented or considered. See ECF 34-7.

149. The right to a written decision well founded on the evidence is particularly important (perhaps the foundation of due process) and 18 USC § 1001 defines a federal crime (falsification of government records) as:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact;

150. This has been held to include the omission of required facts which would include the rationale for a particular visa denial. It would also include having contradictory records, e.g. the video recording which included absurd conclusions such as that Mrs. Carr could not receive a non-immigration visa while she had an outstanding immigration application and a written decision which has no explanation at all.

151. Mr. Carr asked that the matter be forwarded to the DoJ as DoS OIG was required to report all plausible allegations of federal crimes to the Attorney General by statute, i.e. 5 USC § 404 which states in part that the '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'

152. Mr. Carr explained that if the DoS OIG did not have sufficient resources to investigate every plausible allegation of a federal crime, it was acceptable to forward the complaints to another department for resolution (perhaps even local management) as long as the complaint was also forwarded to the DoJ. See ECF 34-7, ECF 17-3.

153. Further, on 20 June 2023, Mr. Carr reported this malfeasance and, potentially, obstruction of justice within the DoS OIG to the DoS IG, Secretary Blinken (DoS), DoJ (cc) and CIGIE, ECF 14-2, ECF 34-7, ECF 17-3.

Count 6

CIGIE Takes No Action to Insure Lawful IG Compliance

154. The Plaintiffs repeat and reaffirm paragraphs 1 through 153, as if fully set forth herein.

155. The Plaintiffs refer to the Verified Brief (ECF 76-3) defending Count 6 and Count 9 which are against CIGIE and DoJ as well the Verified Brief (ECF 67-3) discussing Sovereign Immunity and Executive Discretion. ECF 76-3 also refers to another Verified Brief (ECF 76-4) which discusses the dangers of illegal orders and the importance of supporting the constitution and our government of law.

156. On 20 June 2023, Mr. Carr complained to the CIGIE about DoS IG not reporting federal crimes to the DoJ as required by statute, ECF 14-2

157. On 9 August 2023 the CIGIE responded that it was closing the case IC23-083 with no action taken (a standard form letter email with no reference other than the date of complaint and case number), ECF 14-3

158. On 9 Oct 2023, Mr. Carr complained to the CIGIE about USPS IG not reporting federal crimes to the DoJ as required by statute, ECF 14-5.

159. On 1 Nov 2023 the CIGIE responded that it was closing the case IC24-010 with no action taken (a standard form letter email with no reference other than the date of complaint and case number), ECF 14-6.

160. Mr. Carr was seeking that the council abide by its charter and insure that all Inspector Generals (IG) and staff under the different IGs are aware of the requirement to report all federal crimes to the Attorney General (AG) or, logically, the Department of Justice (DoJ), whenever they believe a federal crime has been committed within their purview / department(s) which they monitor. See 5 USC § 404 which states in part that the "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." See ECF 17-3.

161. It appears the United States Postal Service (USPS), Department of State (DoS) and Department of Homeland Security (DHS) IG's have each decided that they can choose not to prosecute certain federal crimes, particularly those crimes which have been integrated into the monitored departments normal procedures and which would be greatly disruptive to the monitored department to correct. They do this by refusing to report these crimes to the DoJ.

162. However, just because criminally illegal processes are integrated into the monitored department does not make them immune from prosecution. The decision to prosecute resides solely with the DoJ and failure of the IG to report federal crimes is at least malfeasance and could be construed to be obstruction of justice (another federal crime).

163. Mr. Carr was not asking for prosecution of any crime but only a directive from the CIGIE that all OIG personnel report all plausible allegations of federal crimes to DoJ even if they do not have sufficient resources to investigate the allegation and can not confirm that the crime is likely, much less prosecutable.

164. Further, it appears that the CIGIE has gone from a council which was intended to develop and enforce the highest standards and adherence to the law to instead become a group that

supports and encourages criminal behavior in their monitored departments and shares ideas and methods for supporting the criminal behavior. This could be construed as going beyond simple obstruction of justice to violating federal RICO criminal statutes, e.g. collusion between the illegal orders of the USPS BoG, USPS senior management, USPS IG, and CIGIE.

18 USC § 1505 - Obstructions of proceedings (OIG Case)

18 USC § 1510 - Obstruction of criminal investigations

Bribery to prevent communication with investigator

18 USC § 201 - Bribery of public officials and witnesses

Illegal order to OIG case worker to not report federal crimes to DoJ,

Case worker (or IG) gets to keep job if they do not report federal crimes to DoJ

18 USC Ch 96 (RICO) -

165. Of course Mr. Carr is not arguing that the RICO charges would be prosecutable or even recommending / asking the DoJ to prosecute any party, only that DoJ insures that all agencies of the U.S. government endeavor to obey all lawful statutes to include reporting all plausible allegations of federal crimes to the DoJ. On 24 Oct 2023 Mr. Carr asked that CIGIE, DoJ and other defendants correct these deficiencies in ECF 30-8.

Count 7, USCIS Commits Crimes and Ignores Constitution
USCIS Terrorizes and Denies Travel Thru Illegal Denial of Interview Waivers
Initial Applications

166. The Plaintiffs repeat and reaffirm paragraphs 1 through 165, as if fully set forth herein.

167. The Plaintiffs refer to the Verified Brief (ECF 76-2) defending Count 7 and Count 8 which are against USCIS and DHS OIG as well the Verified Brief (ECF 67-3) discussing Sovereign Immunity and Executive Discretion. ECF 76-2 also refers to the Verified Brief (ECF 75-7) which discusses the duties and responsibilities of IG's in general and the DoJ with respect to reporting crimes (IG) and enforcing the law (DoJ). In addition the USCIS claim concerning denied right to representation is supported by the Verified Brief (ECF 75-5) on the right to representation.

168. On 04 Aug 2020, USCIS received Mrs. Carr's I-751 application for a permanent green card (remove two year conditions) with receipt MSC2091582908 as Mrs. Carr 'conditional'

expired after two years on 13 Nov 2020 (ECF 24-1). However, there was no interview with Mrs. Carr receiving an 18 month extension letter and later a 24 month extension letter (thus extending the original expiration of her 'green card' from 13 Nov 2020 to 13 Nov 2022). See ECF 18-6, 12 Dec 2021. This delay in scheduling the I-751 interview is a direct violation of 8 CFR § 216.4(b)(1) which states:

> … The 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.

169. On July 11, 2022, Mrs. Carr submitted her N-400 application for naturalization as USCIS timetables suggested her I-751 interview was imminent and there was a 9 month delay for N-400 interviews. This would allow her to complete her I-751 interview and get her permanent green card about six months before her N-400 interview. This would allow time for her to study for the English and civics exams without concerns about having an expired green card.

Extension Letter Inadequate

170. Although 8 CFR § 216.4 does provide for an extension of the conditional 'green card'[8] with:

> 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.

The actual extension letter (ECF 18-6) was inadequate. INA Section 264(e) is 8 USC § 1304(e) which states:

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

However, the extension letter itself was on 8.5" by 11" paper of particularly low durability (short fiber content). While the 'green card' (ECF 24-1) was quite compact and durable, suitable for taking on a swim in the ocean (as required above), the extension (ECF 18-6) letter was not, making compliance with 8 USC § 1304(e) impossible.

8 The CFR is very restrictive on the conditions when a I-751 can have delayed adjudication and these circumstances did not occur with this application. The interview should have been waived and the matter adjudicated within 90 days.

Mrs. Carr's emphatic desire for a permanent green card before citizenship

171. It is important to understand that Mrs. Carr was absolutely terrified of USCIS. As an older immigrant from a poor family with extremely limited education, only 4 years of schooling, and no formal exposure to English in her childhood, Mrs. Carr feared arbitrary, capricious and unjust actions by USCIS such as deporting her without cause or notice if she failed her citizenship test or leaving her stranded overseas, not able to return to the U.S..

172. Mr. Carr also came from a relatively poor family, but he was born in the U.S. and was very fortunate. Mr. Carr graduated from West Point and later received a graduate degree from M.I.T.. Mr. Carr could not believe that USCIS would take unlawful and illegal actions such as leaving Mrs. Carr stranded overseas unable to return to the U.S.. It turns out in retrospect that Mrs. Carr was more correct than Mr. Carr.

Unlawful Restrictions on Travel by USCIS, Stranded in Thailand

173. In September of 2022, Mrs. Carr returned to Thailand on an emergency basis as her mother's health was failing. Sadly Mrs. Carr arrived just after her mother's death but was able to participate in the funeral ceremonies which extended until December of 2022 as Thai traditions has the ashes from the cremation waiting 100 days before being taken back by the family.

174. Her green card and extensions expired on 13 Nov 2023 while Mrs. Carr was in Thailand on an emergency basis (see ECF 24-1 and 18-6). Even though 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.', USCIS refused to provide Mrs. Carr with any documentation to allow her return to the United States. This is contrary to the above administrative rule.

175. USCIS's suggestion for how Mrs. Carr was to return to the US was via an I-131A (for travelers who have 'lost' their documents to get a one time document allowing their return for a $575 fee), see ECF 18-6. Instead Mrs. Carr got a $160 multiple entry B1 / B2, business / tourist visa and was able to return to the USA in late Dec 2022, ECF 45-1.

Rescheduling Original Interview

176. Further, USCIS scheduled Mrs. Carr's N-400 interview for 14 Dec 2022. Mr. Carr explained to USCIS that Mrs. Carr would be unable to attend as she was out of the country and could not return due to USCIS's refusal to provide her with proof of valid permanent resident

status. On 21 Nov 2022 USCIS canceled the 14 Dec 2022 interview and later scheduled her joint interview for I-751 and N-400 for 30 Jan 2023.

A-551 Passport Stamp Instead of Green Card

177. Mrs. Carr was also able to come into a USCIS office on 3 Jan 2023 to get an A-551 stamp in her passport which was valid for one year but does not provide the full ability to travel and work freely of a traditional green card. See ECF 20-2.

Improper Application of English Requirement to Older and Poor

Discriminates Against Buddhist and Islamic Cultures

178. Prior to the interview on 30 January 2032, Mr Carr initiated a complaint with the DHS OIG that the English requirements for naturalization were discriminatory based on religion, income, age and culture.

179. It is well established that the appropriate time to learn the sounds of English is soon after birth. Further the appropriate time to learn to recognize the shapes of English characters is before adolescence.

180. For example, in Thai language there is no 'th' sound and the pair of plosive sounds d and t are not in the Thai language. The Thai language includes only the consonant that is between d and t. As an adult, Mr Carr cannot hear the sound that is between d and t nor can he pronounce it. Similarly, as Mrs. Carr was not exposed to English at an early age, she is unable to hear or pronounce the 'th' sound.

181. Further, the time to learn to recognize the characters of the English alphabet is before adolescence. While it is possible to learn to recognize a foreign alphabet during later years, the recognition will never be as quick, accurate or comfortable as if it was learned before adolescence.

182. The actual effect of the English requirement for citizenship is to discriminate against older individuals from poor families from Buddhist and Islamic countries.

USCIS Denies Green Card Through 'False' Claims of Approval

Joint I-751 and N-400 Interview of 30 Jan 2023

Both 10 Year Green Card And Citizenship Approved

183. There was a joint I-751 and N-400 application on 30 Jan 2023. The informal results were that Mrs. Carr failed the English and civics tests (ECF 16-4). The interviewer also canceled the 'final' portion of the I-751 interview which was an undocumented and possibly unlawful

review of the 'criminal background' questions from some previous forms (not part of the I-751 application itself) as Mrs. Carr did not understand English and so could not personally answer those questions.

184. The results of the interview were given verbally and informally at the time of the interview. There was also a poorly written and ambiguous form letter with check boxes concerning the N-400 results (similar to ECF 16-4 though the provided copy was hand written).

185. However, the next day (31 Jan 2023) USCIS entered a formal written decision for the I-751 application which stated in part:

> 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. If you have questions regarding this process, please contact the USCIS contact center at 800-375-5283.

186. Mr. and Mrs. Carr were elated at this change in fortune as it was a complete reversal of the informal verbal results. They relied on the formal written decision as a final findings of facts, decision, and order (to borrow from judicial terminology which is appropriate for a serious due process matter concerning the ability to vote and work and travel freely).

USCIS **Denied** I-751 Through False Statements

187. Within a couple of weeks Mr. and Mrs. Carr inquired at the specified contact number as to when the Oath of Allegiance would be scheduled and were told that the normal processing time for such matters was 4 or 5 months and that they should call back after that.

188. Mr. and Mrs. Carr would later learn that her I-751 was actually denied. USCIS would later deny her N-400 in a sham hearing and continue to refuse to provide her with a 10 year green card until after this suit was filed. As more than thirty days had passed since this effective denial based on statements which USCIS believed to be false, there were no avenues within USCIS to actually get the permanent green card.

USCIS Unlawful Policies Justified as 'Enforcement'

189. The US government has had a long history of discriminating against foreign nationals with USCIS and its counterpart for visas in the Department of State each contributing through an unlawful disregard for due process.

190. However, during the Trump era with the appointment of Director Francis Cissna, confirmed 5 Oct 2017, USCIS went to new heights of illegally mistreating foreign nationals.

191. Specifically, USCIS stopped waiving of the interview for an I-751 application even though these waivers were mandatory in accordance with 8 CFR § 216.4 (b) which states:

> The 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.

The unlawful elimination of waivers (previously about 90% had been waived) created an explosion in the unlawful queue for I-751 interviews for USCIS which already had an illegal 1-year backlog of applications. Further, the interviewer was now required to verbally confirm the prior criminal background questions.

192. As most I-751 applicants do not speak English and most USCIS interviewers speak only English, USCIS effectively stopped conducting interviews for I-751 applications. Instead of adding more resources to conduct the expanded interviews with the collected fees, USCIS just illegally stopped conducting interviews which, along with the illegal termination of the mandated waivers, added to the explosion of the illegal queue for I-751 interviews. Executive Discretion gives wide latitude to the executive branch but this does not extend to explicitly prohibited behavior when there are legal options available such as using the collected fees for their specified purpose of granting waivers and conducting interviews. As cited above, USCIS was explicitly required to grant a waiver or schedule the interview and adjudicate the I-751 within 90 days of the acceptance date of the I-751 in 8 CFR § 216.4(b)(1).

193. Instead USCIS simply waited until the applicant later filed an N-400 application for citizenship, though not all applicants later filed N-400 applications. Then the interviews were combined with the verbal review of the criminal background questions conducted in English, assuming the applicant was able to pass the English test. Further, the criminal background questions were already part of the N-400 interview in any case.

194. However, if the applicant was unable to pass the English test, then USCIS was in a bind for the I-751 new criminal background portion of the joint interview. USCIS had to find a creative solution to process this case.

195. It appears that USCIS chose to effectively deny the I-751 application by claiming it was

approved along with the N-400 so that no permanent resident card was provided. However, USCIS would then refuse to provide either a permanent resident card or certificate of naturalization by later claiming in future case updates that the N-400 application had not been approved.

196. This meets the criteria of a federal crime because the effective denial of the I-751 application was based on a claim that USCIS believed was false. For future reference, this will be called 'effective denial based on false premises'.

USCIS Provides Incomplete or False Estimates of Interview Dates

197. When USCIS effectively ceased providing separate I-751 interviews, they did not provide notice to applicants nor did they provide accurate estimates for the dates when interviews would be scheduled. The actual scheduling of I-751 interviews was **never** unless the applicant submitted an N-400 application (citizenship) in which case both interviews were scheduled together almost immediately irrelevant of the normal queue for N-400 interviews.

198. This caused great uncertainty and fear for those applicants who were poorly educated with limited English ability and poor understanding of US government procedures such as Mrs. Carr.

199. The phone number provided by USCIS for questions and concerns was answered by an automated phone system which was distinctly unresponsive and would routinely hang up on applicants if they were not able to correctly formulate a request or question which the automated could respond to.

200. For most of the time when the I-751 application was pending scheduling an interview (and in a queue over two years long and growing), there were no requests or questions which the automated system could respond to. It was certain that the automated system would hang up on the applicant after about five minutes of struggling to find a way to speak to an actual person where they could explain their concern. This phone number was the only point of contact for applicants attempting to get information about the status of their application. See ECF 18-6.

Criminal Background Questions Unlawful

201. Just after the interview of 30 January 2023, Mr Carr also initiated an IG complaint concerning the criminal background questions which were routinely included as part of the

USCIS application policy.

202. In particular, there are no exceptions provided about classified information which cannot be released to the interviewer or records sealed by a lawful court order.

203. Further, it is overly broad to not restrict the questions to actual convictions for serious crimes. As stated the questions would include every minor traffic or even parking violation in the state of Texas where such violations are considered crimes. The truth is, no one remembers all the situations where they may have gone over the speed limit or parked a few inches too close or too far from the curb.

204. In fact, the only accurate answer to any of the criminal background questions is 'yes' with an explanation of 'I can neither affirm nor deny the existence of information relating to this question.'. Any other answer could risk violations of the law by providing either classified or sealed information. Further, no one remembers or knows all the circumstances where they may have violated some minor traffic, parking, or zoning regulation.

USCIS Informed of Upcoming Travel Plans

205. In August, Mr. and Mrs. Carr contacted USCIS about scheduling a new A-551 stamp for Mrs. Carr's passport to preserve her limited ability to work and travel based on their travel plans to be out of the country from 10 Oct 2023 to 25 Dec 2023. They were told that they could not get a replacement A-551 stamp as they can only be issued within 30 days of expiration and the applicant must be in the US to get the stamp.

206. On 25 Aug 2023, Mr. Carr also contacted his congressman, Representative Veasey, as well as the USCIS Director and DHS IG, seeking assistance in getting the Oath of Allegiance scheduled as no action had been taken in the matter (ECF 34-2).

USCIS Denies Citizenship After Approval

False Notice that N-400 Interview of 30 Jan 2023 Canceled

207. However, on 01 Sep 2023 USCIS sent a notice which states that "the interview of 30 Jan 2023 was canceled due to unforeseen circumstances" (sent under the N-400 receipt, see ECF 10-6). Of course this is a completely false document (and hence a federal crime) as the N-400 interview was completed and this document contradicts several previous documents and verbal statements as well as the final decision in the I-751 case and later activity in the N-400 case.

208. On 5 Sep 2023 the Carrs called USCIS at the prescribed number and spoke with Destiny, ID G010590.

They asked that Destiny send an email to the appropriate party to promptly schedule Mrs. Carr's Oath of Allegiance as stated in the cited I-751 approval notice and, in the alternative, if an N-400 was not actually approved, that Mrs. Carr be sent a new 10 year Permanent Resident Card.

Destiny explained that **it is not uncommon for additional interviews to be required even after the I-751 and N-400 are approved** and that Mrs. Carr could not be sent the approved Permanent Resident card. Implicitly her statement indicates that such formal approvals were actually effective denials based on false premises.

At that time Mr. Carr asked that Destiny take notes for details to include in the email she would send on their behalf.

Mr. Carr cited 18 USC § 1001 which is one of many criminal codes for falsification of government records and states in part:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --
(1) falsifies, conceals, or covers up ... a material fact; ... 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

(3) prohibits taking any action based on a false document with the implicit exceptions that actions may be taken to: correct the false document or, if the individual is not authorized to correct the false document, to report the false document to their supervisor and / or the relevant OIG explaining that there is an existing false document and a possible federal crime when the document was created.

N-400 Interview Scheduled for 11 Oct 2023, Insufficient Notice

209. On 06 Sep 2023 USCIS scheduled an interview for 11 Oct 2023 as shown in ECF 10-7, but the actual notice was not received until 15 Sep 2023 when it was too late to respond until the

next week as Mrs. Carr worked Tuesday to Sunday and was not able to respond while she was working.

210. The arrival date of this notice is a critical issue as there must have been timely notice of the interview in order to justify the denial of the N-400 application for failure to appear. In ECF 16-1 is an email from USPS which shows the mail which arrived at their address on 15 Sep 2023. The notice of 06 Sep 2023 seems to have been mailed on 12 Sep 2023 according to the postmark shown in the USPS email. As 30 days notice is required for such interviews, the notice on 15 Sep 2023 was not timely for an 11 Oct 2023 interview and the denial of the N-400 application for failure to appear must be overturned due to lack of notice.

211. In the contested decision (see ECF 10-10, N-400 denied for failure to appear) there is no claim of any notice at all and it appears that USCIS routinely delays mailing documents a few days after the date of the 'notice'. In cases of mailed documents they adjust the 30 days to 33 days to allow for time in the mail, but there is no adjustment for delay in printing and actually mailing the notice. Given that this document took 9 days to arrive, a more realistic adjustment for mailing would be 45 days if mailed without the normal proof of mailing.

Complaint of Falsified Records, 01 Sep 2023 Cancellation

212. On 10 Sep 2023, Mr. Carr contacted the USCIS director, DoJ and DHS IG reporting the contradictory records (was the interview held on 30 Jan 2023 which approved the I-751 and N-400 or was it canceled with no results), ECF 49-3. With contradictory records, one or more of them must be false, the foundation of the federal crime of falsification of government records.

213. Mr. Carr also asked for acknowledgment of the report within 7 days. No such acknowledgment has been received to date.

214. On 06 Oct 2023, Mr. Carr asked that DoJ assist in correcting these serious defects in USCIS and DHS IG, ECF 17-4. (Note: Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2021 on 06 Sep 2023 when he first reported the crime).

215. On 12 Sep 2023 Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Umika, ID G20028112.

They complained of the 1 Sep 2023 I-797 Notice of the canceling of the 30 Jan 2023 N-400 interview due to unforeseen circumstances (described previously). They explained that the interview was held on that date and the 01 Sep 2023 document is a

false record (and federal crime) which also contradicts the I-751 final decision of 31 Jan 2023 which stated that the N-400 application was approved at that interview. They advised Umika that she must either correct the false record or, if she did not have the authority to correct the record, she must contact either her supervisor or the IG or both to report the crime. Failure to do so on her part would itself be a crime under 18 USC § 1001, part 3, which Mr. Carr read to her after asking her to take notes.

Mr. and Mrs. Carr also asked that Mrs. Carr immediately be sent the new 48 month extension letter which was publicly authorized by USCIS on 23 Jan 2023, one week before the interview (so USCIS was required to have mailed her a copy of the extension letter before the interview). The USCIS announcement was also about two months after they had complained to USCIS and the DHS OIG that USCIS had unlawfully left Mrs. Carr stranded in Thailand due to the absence of such a 48 month extension letter.

They also asked that USCIS send Mrs. Carr a permanent green card as soon as possible as there was now a record in the N-400 case indicating that her N-400 application had not been approved and so there was no basis for withholding the approved green card.

They also asked that the local representative contact the USCIS director in order to get copies of the emails which properly explained their complaints to date as that was the only method of sending written documents to USCIS for their consideration.

They also asked that the local representative call them back on Monday 18 Sep 2023 at 9AM as Mrs. Carr would be working during normal business hours on Tuesday through Sunday and unable to take calls. No such callback was made. (Note: At this time, Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2021 on 06 Sep 2023 and did not receive notice until 15 Sep 2023.)

First Request to Reschedule Interview

216. On 19 Sep 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with David, ID G009845. (Note: this request was timely as Mr. Carr only learned of the scheduled interview date on 15 Sep 2023)

They requested that the interview scheduled for 11 Oct 2023 be rescheduled as they had prior plans to be out of the country from 10 Oct 2023 to 25 Dec 2023.

Mrs. Carr asked if the interview could be scheduled for only a day or two earlier but they were told that it could not be scheduled earlier.

Their request to reschedule the interview was assigned ID T1B2622391513DAL.

Upon a lengthy description of the purpose of the ten week trip, David incorrectly summarized the reason for the trip as 'leisure' which raised concerns for Mr. Carr that their trip was not being given appropriate gravity. They asked that David request that USCIS reschedule for after the completion of their trip on 25 Dec 2023. It turned out that David was restricted to 80 characters in his request and so described the reason for rescheduling as Mrs. Carr will be out of the country from 10 Oct 2023 to 25 Dec 2023 to increase the likelihood that the individual who responded would be aware of the duration of their trip.

They also asked that Mrs. Carr be provided with a 12 month extension letter as her A-551 stamp would expire on 03 Jan 2023 and if there were health or other problems which delayed their return, she would no longer have proof that she was authorized to work and travel freely. David assigned sn 30214416 to a request that a local USCIS representative call Mrs. Carr from 2028382104 to discuss the extension letter.

Unsuccessful Call Back on 21 Sep 2023

217. The call back by the local USCIS representative was made on 21 Sep 2023 in the morning. Mrs. Carr was not home (as she was working) but it was rescheduled for later that evening at 7:30PM when Mrs. Carr was likely to be home. Mr. Carr called Mrs. Carr and she came home a little early and was home by 7PM but the USCIS representative did not return the call as agreed upon. No further return calls were made for this request.

Request that Mr. Carr be Mrs. Carr's Authorized Representative

218. Due to the confusion of not being able to get any response from USCIS, on 25 Sep 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Martha, ID

G029811.

They asked about how to submit a G-28 appointment of Mr. Carr as the representative in this matter. They were told to mail the application to:

ATTN: N-400, G28 submission
850 NW Chipman Rd, Suite 5000
Lees Summit, MO 64063

An online G-28 request had been submitted on 24 Sep 2023 and the hard copy request was mailed on 26 Sep 2023. Martha also explained how to submit a document directly to USCIS on their web site and an electronic copy of the G-28 was submitted on 28 Sep 2023. See ECF 30-5.

Martha also explained that USCIS responds to G-28 requests within 30 days. No response has been received to date on this G-28 request.

Denial of Reschedule Request, Not Sent to Authorized Email

219. While speaking with Martha on 25 Sep 2023, Mr. and Mrs. Carr also learned that on 19 Sep 2023, USCIS had denied their request to reschedule the interview and sent an email to airpk1961@gmail.com, an email address that is rarely monitored. See ECF 10-8.

220. This was not proper. Before they were married Mrs. Carr had used that email and Mr. Carr had used carrbp@gmail.com. However, since their marriage they have shared their emails with both parties having full access to both email addresses. As they have a legal union, they are not required to maintain separate personal email addresses and now reference all emails to carrbp@gmail.com which is regularly monitored. In rare cases when businesses insist on separate email addresses for separate persons, they provide Mrs. Carr's old email address, but that address is not regularly monitored. At no time have they agreed that USCIS should direct email notices to Mrs. Carr's old email address and none of the submissions to USCIS have authorized the use of that email address. The actual email from USCIS is ECF 10-8 which stated in part:

> Type of service requested: -- Appointment Reschedule ... USCIS has reviewed your request for a rescheduled appointment, and we regret to inform you that your request has been denied based on the information provided. Failure to comply with your appointment

notice or to appear for your scheduled interview may result in adjudication of your application based on the available information."

New request to Reschedule Interview

221. Due to the delay in their receipt of the denial of their request to reschedule the interview (sent on 19 Sep 2023, found on 25 Sep 2023), Mr. Carr uploaded a timely explanation of the reasons for rescheduling the interview on 27 Sep 2023 (see ECF 30-7) along with copies of the flight tickets, date restricted European visas, hotel reservations, required medical insurance coverage and European bus tour tickets, all of which are non-refundable. The document explains that the purpose of the trip is religious obligations, family obligations, business promotion, business training and education, and leisure. Planning for the trip was started in Feb 2023 and the leisure portion of the trip was to celebrate the approval of Mrs. Carr's N-400 application for naturalization as USCIS stated in the USCIS approval of I-751 and N-400 in ECF 10-5 on 31 Jan 2023.

222. On 2 Oct 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Crystal, ID G027432.

Mr. and Mrs. Carr asked that Crystal submit a new request to reschedule the interview based on the documents submitted on 27 Sep 2023. Crystal explained that they could not make a new request to reschedule the interview until 15 days after the previous denial on 19 Sep 2023, i.e. 04 Oct 2023 (after the start of Mrs. Carr work week).

They explained that they had provided additional justification for rescheduling the interview which has been uploaded for USCIS to consider.

They asked that USCIS review the uploaded G-28, separately filed online and sent via mail and submitted electronically 28 Sep 2023 (ECF 30-5). Crystal explained that USCIS has 30 days to act on G-28 requests.

223. On 10 Oct 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Antoinette, ID G0023588.

Mr. and Mrs. Carr asked that Antoinette submit a new request to reschedule the interview

explaining that it was more than 15 days after the previous denial of the request to reschedule and explained that they had submitted additional documentation.

Antoinette contradicted the previous representative, Crystal, and stated that new requests to reschedule can only be made more than 30 days after a previous denial. As interviews are scheduled with the nominal 30 days notice (33 days if notice is by mailing), this would ensure that USCIS never reconsiders any denial of rescheduling no matter what the extenuating circumstances. As this claim also contradicts the previous representative it is likely that Antoinette's and possibly Crystal's claims are false and, hence, federal crimes.

USCIS Denies N-400 Citizenship Application for Failure to Appear

224. The Decision from USCIS dated 13 October 2023 previously provided to relevant Defendants as ECF 10-8 states:

> On July 11, 2022, you filed a Form N-400, Application for Naturalization, with U.S. Citizenship and Immigration Services (USCIS) under section 319 of the Immigration and Nationality Act (INA). After a thorough review of the information provided in your application for naturalization, the documents supporting your application, and your testimony during your naturalization interview, USCIS has determined that you are not eligible for naturalization. Accordingly, USCIS must deny your application for naturalization. ...
>
> On November 13, 2018, you obtained conditional permanent resident status through your spouse and your conditions were removed on January 30, 2023. USCIS received your Form N-400 on July 11, 2022, and on January 30, 2023, you appeared for an interview to determine your eligibility for naturalization.
>
> At the beginning of your naturalization interview, an Immigration Services Officer placed you under oath and then administered the naturalization test. At that time you were unable to write a sentence in ordinary usage of the English language, and answer 6 of 10 U.S. Government and history (civics) questions correctly. Since you did not achieve a passing score on the English or civics portions of the naturalization test, on October 11, 2023, you were scheduled for a second interview to retake these portions of the naturalization test. On October 11, 2023, you did not appear as requested. Further, you have not provided USCIS with a good reason for your absence. Your failure to appear at the second interview means you have not passed the English or civics testing requirements for naturalization. As a result, you are ineligible for naturalization since you

have not demonstrated your ability to pass the English or civics requirements for naturalization. Therefore, USCIS must deny your application for naturalization. See INA 312 and Title 8, Code of Federal Regulations (8 CFR) 312.5(a) and (b).[9]

If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.[10]

USCIS Refuses to Provide New Green Card

225. On 19 Oct 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and requested that Mrs. Carr be sent a new Green Card as her I-751 was approved on 31 Jan 2023 but the Green Card was withheld as her N-400 was also approved and her Certificate of Naturalization was imminent. However, the purported Decision of 14 Oct 2023, ECF 10-8, clearly indicates that USCIS does not intend to provide Mrs. Carr with the promised Certificate of Naturalization in the foreseeable future.

226. This request resulted in a referral of T1B2922301353MSC which concerned 'Non Delivery of Permanent Resident Card'. It was answered on 27 Oct 2023 with the document previously provided to relevant Defendants as ECF 10-11 which listed 'Type of service requested: -- Non-Delivery of Permanent Resident Card' but answered with: "You ... contacted U.S. Citizenship and Immigration Services (USCIS) because you have not received your denial, termination or revocation notice. **We have enclosed a copy of the notice for your reference**. Please note that we are not able to extend the period for you to file an appeal from this decision. Therefore, follow the instructions on your notice carefully and submit accordingly."

227. **There was no notice attached** and the text does not make sense with respect to the request for a green card from an approved application. It appears to be the standard form letter message supporting a denial of a request. However, the actual notice (ECF 10-5) was in the form of an approval which was actually an 'effective denial based on false premises'. As such, it did not include the normal (and required) verbiage of notice of appeal requirements.

9 INA 312 is 8 USC § 1423, refers to 8 CFR § 312
10 INA 336 is 8 USC § 1447

228. The form letter does mention the requirement to contest an unfavorable decision within 30 days and, of course, pay the $700 fee first. However, as this decision referred to was an approval which was illegally contorted by false pretenses to be an effective denial, the text of the response is not responsive to actual request.

229. It appears that when USCIS attempts to effectively deny an I-751 application by claiming approval based on false pretenses, there is no way to appeal or correct the error other than the federal district courts.

230. In late May 2024, Mrs. Carr received her requested 10 year 'green card' (see ECF 49-3) from USCIS without any explanation. This was several months after the denied request of 19 Oct 2023 to USCIS as described above as well as the filing of this suit, the first USATXN Motion to Dismiss (ECF 15, 08 Mar 2024) and the second USATXN Motion to Dismiss (ECF 33, 09 May 2024). It is possible that USCIS had concluded that some of the relief sought in Plaintiffs; Motion for Partial Summary Judgment (ECF 18, 28 Mar 2024) was well justified and USCIS provided the requested relief rather than waiting for this court to order it.

231. As Mrs. Carr had her 10 year green card her fears of being deported without cause or notice if she failed her citizenship test (para 171 on page 34) were reduced and it appeared that further relief was not forthcoming, the Carr's submitted a new N-400 application on 10 Sep 2024 (receipt is ECF 49-4) with an application fee of $710 and an estimated first interview date in May of 2025. The actual interview was rescheduled for 10 Feb 2025 (ECF 70-10) and Mrs. Carr passed the citizen tests with an Oath Ceremony scheduled for 28 Feb 2025 (ECF 71-2). At the Oath Ceremony Mrs. Carr received her Certificate of Naturalization (ECF 71-3).

232. On 2 May 2025 Mrs. Carr completed her USCIS I-130 immigration petition for her son Rujipas Lawichai (Tin) which was accepted (ECF 71-4) with estimated visa availability of 2034 (ECF 71-11). On 15 May 2025 Tin requested to join the complaint seeking, among other things, a prompt immigration visa (ECF 71-6).

233. Mrs. Carr's son, Tanapon Lawichai, nickname Earth, requested to join complaint on 7 May 2025 while on active duty military service and deployed to an area with restricted access (ECF 71-1). On 13 May 2025 Mrs. Carr completed her USCIS I-130 immigration petition

for Earth which was accepted (ECF 71-5) with estimated visa availability in 2034 (ECF 71-11).

234. On 30 May 2025, USCIS accepted the I-130 immigration petition for Buakhao Von Kramer (ECF 71-7) with estimated visa availability in 2042 (ECF 71-11).

USCIS FOIA Failures

Access to Case Records Unlawfully Denied

235. On 01 Sep 2023, Mr. Carr submitted a request for the entire record in the I-751 and N-400 cases via an online submission of a G-639 FOIA request (ECF 70-21). Mr. Carr asked for every email, message, or other records which reference the two receipts in this matter (MSC2091582908 and IOE9752855294) including both audio and video recordings. The request was assigned request ID NRC2023277190 and the response was made on 05 Oct 2023 (ECF 16-3).

236. However, the response was only 32 pages and was only the original I-751 and N-400 applications. It did not include the requested audio or video recordings or electronic messages (results of phone calls to USCIS) as requested nor did it include notices which had been sent to the Carr's (machine readable format).

237. Note that this is a violation of the applicant's due process right to have access to the evidence against the applicant. Mr. Carr had requested access to every record which the tribunal relied on to deny the N-400 application, but was denied access to all such records. It is also possible that the claim that there were only two responsive documents was a federal crime of falsifying government records as it is clear that more records were requested and there was no justification for withholding the other documents.

238. On 31 Oct 2023 a new FOIA request was submitted via email a copy of which is (ECF 10-9) which was acknowledged on 20 Nov 2023 (ECF 70-23) as NRC2023371972. However, the response (ECF 70-24) on 2 Jan 2024 had extensive records but no video records, audio records or electronic records of documents provided to Plaintiffs (as specifically requested).

USCIS FOIA Cumulative N-400 and I-751 Data Request Denied

239. On 23 Dec 2023 Mr. Carr requested cumulative data for N-400 (citizenship) applications (ECF 16-6) which was accepted on 26 Dec 2025 (ECF 16-5). On 3 Mar 2025 USCIS FOIA

denied the request based on the need to create records (citing 5 USC § 552 FOIA)

240. On 23 Dec 2023 Mr. Carr requested cumulative data for I-751 (10 year Green Card) applications (ECF 16-5) as OPQ2023000041 which was accepted on 26 Dec 2025 (ECF 70-25). On 24 Apr 2025 USCIS FOIA denied the request based on the need to create records (ECF 70-26).

Cumulative Data Does not Meet FOIA 'New Data' Criteria

241. The two USCIS FOIA cumulative data requests specifically cited Ctr. for Investigative Reporting v. DOJ, No. 18-17356, 982 F.3d 668 (9th Cir. 2020) as listed on the DoJ web site[11] 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.

Legal Arguments

Lack of Jurisdiction

242. Of primary importance is the lack of jurisdiction for USCIS to revise or ignore a prior final decision.

243. It is well understood that in the interest of justice to all parties in an action, there must be some final closure of arguments and litigation. Final decisions are intended to provide that relief to all parties with the caveat that each party has 30 days to notify all other parties of any pending disagreements. This is normally done through a notice of appeal requirement, generally within 30 days after proof of service of the decision by the prevailing party.

244. If USCIS had any complaints or concerns with the findings of facts in the I-751 decision of 31 Jan 2023, they should have raised the concerns within 30 days of publication of the decision.

245. As there is no avenue for USCIS to submit a motion for reconsideration of a matter which was decided by USCIS, the only forum where USCIS can seek redress is a new action in the federal district courts.

11 The DoJ web site was accessed at https://www.justice.gov/oip/ctr-investigative-reporting-v-doj-no-18-17356-2021-wl-4314789-9th-cir-sept-23-2021-wardlaw-j on 26 Apr 2025.

246. To provide otherwise is to deny all applicants to USCIS from the justice of having any final decision.

Lack of Notice to Support Failure to Appear

247. Another fundamental principle of due process is that all participants must be given adequate and sufficient notice of any action. It is clearly a travesty of justice to deny an application because of failure to appear when there is no evidence of notice.

248. In particular, in this case there is compelling evidence showing that Mr. Carr did not receive notice of the upcoming interview until less than 30 days before the interview, i.e. 15 Sep 2023 for a hearing on 11 Oct 2023. As such, the improper denial must be overturned.

Lack of an Independent and Impartial Tribunal

249. One of the fundamental premises of due process is to have matters decided by an independent and impartial tribunal. It is important to recognize that Mr. Carr had filed numerous complaints with the DHS OIG concerning malfeasance and other unlawful activities by USCIS. His final complaints were for the federal crimes of falsifying government records by several employees who reported directly or indirectly to the director who made the final decision.

250. It is absurd to even consider that the Field Office Director, Ms. Montgomery, could be unbiased in resolving a matter in which several of her employees were accused of federal crimes which would surely reflect poorly on her own performance and future career opportunities.

Additional Federal Crimes by Ms Montgomery

251. One of the foundations of any government of law is to have accurate written records of all proceedings. That is almost certainly why Congress has decided to make it a serious federal crime to falsify any government record.

252. When Director Montgomery cited the approval of the I-751 application without mentioning the finding of an approval of the N-400 application, she falsified the record by omitting required facts and concealing material facts.

253. When Director Montgomery stated 'Further, you have not provided USCIS with a good reason for your absence.' without mentioning the original request to reschedule she committed the crime of falsifying the record by failing to include required facts and concealing material facts. Further, Director Montgomery does not mention the extensive

documentation of substantial financial and personal impact required to change long standing plans in order to attend the interview. This evidence was provided to USCIS, and she falsified the record by omitting critical facts and concealing material facts.

254. The entirety of her decision is based on timely notice and lack of response but she fails to discuss any of the factors which are critical elements of her decision.

Right of Appeal Prohibitive / Denied

255. The contested decision continues with the following text in ECF 10-10:

> If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.[12]

256. An initial reading of this paragraph suggests that there are administrative procedures for appealing such bad decisions. However, while USCIS borrows heavily from judicial terminology in describing their processes and procedures creating the semblance of 'due process', the reality is USCIS does not provide any of the elements of due process.

257. In particular, the required fee to file N-336, request for a hearing, was a hefty $700 (now $780) while the fee for filing a new N-400 is only $625. Similarly, the filing fee for a motion to reconsider was also $700 as was the fee for filing a 'Notice of Appeal'. For a budget minded applicant, the filing fees with federal district courts are a much more affordable $350 (admittedly heavily subsidized) so that applicants with limited assets may only be able to afford to file with the district courts rather than pursue the absurdly expensive administrative alternatives.

258. The likely reason that federal district courts are heavily subsidized is that justice should be provided to all persons and should not be restricted to the wealthy who can afford substantial fees.

Decision Misconstrues 8 CFR 336.2(a)

259. The decision listed above claims that a properly filed N-336 is required to appeal an illegal decision. This is incorrect as the relevant rule 8 CFR 336.2(a) states:

> (a) The applicant, or his or her authorized representative, may request a hearing on the

12 INA 336 is 8 USC § 1447

> denial of the applicant's application for naturalization by filing a request with USCIS within thirty days after the applicant receives the notice of denial.

There is no mention of N-336 and its exorbitant fee. Mr. Carr chose an alternative of emailing a request for assistance to the Director of USCIS (ECF 30-8) as well as the DHS IG, his Representative in Congress, and DoJ. This email was sent on 7 Nov 2023, well within the 30 day requirement. Not only did it meet the requirements of 8 CFR 336.2(a) and a timely request, it also completed exhaustion of remedies guideline by requesting assistance from numerous other sources.

Automated Phone System Prevents Applicants from Being Heard

260. It is a violation of due process for USCIS to restrict applicants to an automated phone system for all questions, concerns, requests, and evidence.

261. First of all, USCIS can not require all applicants to have phone access. They must provide a physical address where applicants and their representative or interpreter can ask questions and present concerns, requests, issues, and evidence. Appointments can not be required though substantial waits may be required without an appointment.

262. This in person access is required as each applicant must be permitted to be heard whether they have access to a phone or are technically savvy.

263. Further, it is a violation of due process when the automated phone system hangs up on applicants who are not able to correctly state their needs. The system must instead pass the request on to a human representative to hear the issues of the applicant though this option may be deferred during non-business hours and holidays.

264. While providing this human access can be a significant expense, it is required for the due process opportunity to be heard.

265. If USCIS chooses it can also provide online secure messaging to applicants and their representatives as a cost effective way of providing a reliable and less expensive method raising concerns and getting responses.

Difficult Appointment of Spouse as Representative

266. It is a violation of the due process for USCIS to restrict the ability of an I-751 applicant's spouse to represent the applicant.

267. Due process requires the right to representation though not necessarily by an attorney. As

the spouse is an American citizen, they almost certainly have better English and U.S. government skills. As such they are ideal representatives for their immigrant spouses.

268. In fact it is completely legal and proper for a spouse to represent the other party as needed in a real legal union (a.k.a. marriage). In truth, one of the signs of a fake marriage would be the absence of the citizen spouse to represent the immigrant spouse.

Inclusive Assumptions for Freedom of Information Act Requests

269. As due process requires that the applicant have full access to all of the evidence presented against him or her, the FOIA default must be to provide all records including audio and video recordings which the tribunal has access to.

Plaintiffs Were Damaged by USCIS's Unlawful Decisions and Actions

270. The refusal of USCIS to provide Mrs. Carr with her Certificate of Naturalization harmed Mrs. Carr by limiting her ability to vote and enjoy other privileges of citizenship. Also, Mrs. Carr has close family members (which includes two sons. a brother, and two sisters including Mrs. Von Kramer) who have been denied their right to apply for immigration and be placed in the queue for Permanent Residence (Green Card) as well as, potentially, citizenship.

Count 8

DHS OIG Takes No Action To Address Criminal Behavior

271. The Plaintiffs repeat and reaffirm paragraphs 1 through 270, as if fully set forth herein.

272. On 4 Dec 2022, Mr. Carr complained via DHS OIG Hotline that Mrs. Carr had been stranded in Thailand through the unlawful, knowing failure of USCIS to abide by the statutory mandates of 8 CFR § 216.4 ...

> 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 has adjudicated the petition.

273. Mr. Carr was assigned case number HLCN1670132157186 but has not received any further response from DHS OIG.

274. On 5 Dec 2022 expanded on his complaint against USCIS and received case number HLCN1670226793068 but has not received any further response.

275. It is possible that the announcement on 23 Jan 2023 of a new 48 month extension letter (ECF

48-2) was based on Mr. Carr's complaint on 4 Dec 2022 that Mrs. Carr was stranded in Thailand due to the expiration of her 24 month extension letter.

276. However, Mrs. Carr's freedom to work and travel freely was never restored as she never received the 48 month extension letter.

277. On 10 Sep 2023, Mr. Carr notified the DHS OIG directly through the IG of the federal crimes committed by USCIS (ECF 49-5). He also opened a complaint via DHS OIG Hotline and was assigned case number HLCN1694292030038.

278. On 13 Nov 2023, Mr. Carr notified the DHS OIG through an online hotline complaint of the additional federal crimes committed by USCIS as previously reported to the DHS IG in ECF 30-8 as well as the 'whistle blower' retaliation taken by USCIS against Mrs. Carr for Mr. Carr's widespread reports of federal crimes. The complaint via DHS OIG Hotline was assigned case number HLCN1699850033209.

279. It is the DHS OIG's responsibility to not only insure that such serious malfeasance and deprivation of a person's constitutionally guaranteed rights do not happen but also that the harm from failures is redressed to the degree possible by the monitored agency (USCIS in this case).

Count 9

DoJ Takes No Action To Address Criminal Behavior

280. The Plaintiffs repeat and reaffirm paragraphs 1 through 279, as if fully set forth herein.

281. The Plaintiffs refer to the Verified Brief (ECF 76-3) defending Count 6 and Count 9 which are against CIGIE and DoJ as well the Verified Brief (ECF 67-3) discussing Sovereign Immunity and Executive Discretion. ECF 76-3 also refers to another Verified Brief (ECF 76-4) which discusses the dangers of illegal orders and the importance of supporting the constitution and our government of law. The Plaintiffs also refer to the Verified Brief (ECF 75-7) which discusses the duties and responsibilities of IG's in general and the DoJ with respect to reporting crimes (IG) and enforcing the law (DoJ). In addition the right to representation in this matter is discussed in the Verified Brief (ECF 75-5) on the right to representation.

282. In addition, the Plaintiffs refer to Verified Briefs ECF 30-3, ECF 30-4, and ECF 30-6 concerning creative sanctions for government attorneys and pro se parties, USATXN's

criminal efforts to delay this matter, and violations of 5th Circuit Court's rules by including references to 'not precedent' decisions without properly identifying that the decisions are not precedent.

DoJ Does Not Defend the Constitution or Enforce the Law

283. On 3 Mar 2023 Mr. Carr notified the DoJ Attorney General via mail of the allegations raised against the USPS, USPS OIG, and USPS BoG (ECF 14-4). The DoJ had previously been copied on the allegations as they were raised to the relevant agencies.

284. On 5 Jun 2023, the DoJ opened reference NM301959635 for the matter with email contact of criminal.division@usdoj.gov, referring the matter to the Postal Inspection Service (ECF 17-1).

285. On 20 June 2023 Mr Carr notified the DoJ and other defendants via mail of federal crimes and malfeasance in the DoS and related agencies and asking assistance in correcting the unlawful actions (see ECF 14-2). Mr. Carr did not request the prosecution of any party. The DoJ had previously been copied on the various complaints with the DoS agencies.

286. On 10 Sep 2023 Mr. Carr asked for the assistance of the DoJ with respect to the USCIS and related agencies, ECF 49-3. The DoJ had previously been copied on the various complaints with the USCIS agencies. On 7 Nov 2023 an expanded notice of intent to contest the unwarranted denial of the N-400 application was sent to DoJ and the USCIS Director which is ECF 30-8. The request for assistance to the USCIS Director could be construed as a 8 USC § 1447(a) request for a hearing before an immigration officer due to the exorbitant cost of N-336 applications (para 223-253 and relief 38).

287. On 9 Oct 2023, Mr. Carr again asked the DoJ and other defendants for assistance with the USPS problems clarifying that he was not seeking prosecution of any party but instead seeking to end the federal crimes and other unlawful practices, ECF 14-5.

288. On 25 Oct 2023, Mr. Carr again asked the DoJ for assistance in correcting the unlawful practices by CIGIE with respect to failing to maintain proper standards for IG's and OIG employees. He did not request the prosecution of any party, only assistance in preventing unlawful conduct. ECF 30-8.

DoJ Commits Crimes to Violate Constitutional Rights

289. On 1 Mar 2024 AUSA Padis sent an email to Mr. Carr which violated 18 USC § 1001 (illegal falsification of governments records, i.e. lying in a government email) in order to

trick the Plaintiffs into granting an unwarranted delay even though he was sent a copy of ECF 10-5 (which the court and USATXN have steadfastly refused to address) and left Mrs. Carr in dire circumstances of being an apparent illegal during times when apparent illegals are arrested and deported to high security prisons in El Salvador without notice or opportunity to be heard (or the chance demonstrate they they are, in fact. legal, as in Mrs. Carr's case, a naturalized citizen as stated in ECF 10-5). The resulting email thread is ECF 28-1. Clearly DoJ's duty to enforce the law does not justify violating criminal statutes in order to deprive citizens or even permanent residents of their constitutional rights.

Count 10

IRS Violates Due Process and Statutes in Collections Process

2023 Form 1040 Filed, Minimum of 90% Estimated Taxes Paid

290. The Plaintiffs repeat and reaffirm paragraphs 1 through 288, as if fully set forth herein.

291. The Plaintiffs refer to the Verified Brief (ECF 76-5) defending Count 10 and Count 11 which are against the IRS and TIGTA as well the Verified Brief (ECF 67-3) discussing Sovereign Immunity and Executive Discretion. ECF 76-5 also refers to another Verified Brief (ECF 75-7) which discusses the duties and responsibilities of IG's in general and the DoJ with respect to reporting crimes (IG) and enforcing the law (DoJ). ECF 76-5 also refers to another Verified Brief (ECF 71-9) which argues that the IRS must provide estimated tax payment penalty relief when there is 'Annualized Income' as well as better tools. ECF 71-9 refers to the Verified Brief ECF 71-8 which explains that constitutional due process and pro se representation prevent any aspect of the government (congress, courts or executive) from requiring individuals to do that which is impossible or, penalizing individuals for failing to do that which is not possible (this is the foundation of what it means to have a fair hearing).

292. On 9 Apr 2024, the Carrs' joint Form 1040 was accepted electronically by the IRS as submission 4401182024100a1026fd with:

* $318,662 as IRA distributions,
* $334,813 as Adjusted Gross Income,
* $68,790 as Total Tax, and
* $63,500 as 2023 payments (all were estimated payments).

The payments were 92% of tax due with balance due of $5,290 posted on 11 Apr 2024 (ECF

67-6 redacted). The estimated tax payments were above the normal minimum of 90% requirement to avoid penalties.

IRS Sends Tax Penalty Notice Which is Unfounded and Incorrect

293. On 6 May 2024 the IRS sent the Carrs a CP30 notice which they received on 9 May 2024 with an amount due of $1,055.19 as a penalty for failing to pay sufficient estimated taxes (ECF 67-7). It should be noted that the Carrs had paid more than the minimum 90% in estimated taxes but that the estimated payments were made predominately in the second half of 2023 which was when the income was received.

294. Mr. Carr immediately contacted the IRS to find out how to correct the problem and on 9 May 2024 at 10:55AM spoke with Ms Pelosia (ID 1004987031) at the number provided of 800-829-8374 and was advised that he should file Form 843 Request for Abatement. She was unable to answer his other questions about how estimated taxes should be paid when substantial income is received late in the year. She advised instead that he should contact 'Tax Law'. She then transferred the call to a number which was no longer functioning but referred callers to IRS.gov for tax law help. Mr Carr could not find any references to how estimated tax payments should be made under these circumstances.

295. It should be noted that Ms. Pelosia was incorrect as IRS Form 2210 is the form which should have been submitted with an appeal letter as stated by the IRS in ECF 67-11. IRS Form 2210 determines the amount of penalties based on when estimated payments are made and could, theoretically, be used to compute the amount of estimated payments required to avoid penalties when significant income is received as a one time payment. However, the computation of penalties on IRS Form 2210 is quite complex and it is doubtful that even 1% of IRS employees really understand the underlying mechanics of IRS Form 2210 and its requisite IRS Form 1040 Schedule D tax worksheet. The IRS appears to be trying to trick taxpayers into overpaying their estimated taxes through absent and incorrect guidance. However, separate reliefs will be suggested for the IRS:

* to provide a simple explanation of heuristics to permit taxpayers to avoid penalties, and
* to provide OpenDocument Spreadsheets (ODS) for the requisite schedule D tax worksheet

and IRS Form 2210 and its schedules and worksheets.

296. On 10 May 2024 Mr. Carr mailed the requested Form 843 Abatement Request (ECF 67-8 redacted)[13] along with an explanation (ECF 67-9 redacted) and documentation of the significant income sources (stock broker statements). These documents were received by the IRS on 16 May 2024 (ECF 67-10).

IRS Form 2210 Submitted With Payment of Computed Penalty, $340.81

297. There were delays in processing the appeal and another notice was mailed to Mr. Carr on 01 July 2024 for $1,068.18. On 19 Aug 2024 the IRS notified Mr. Carr of a delay in processing their Form 843. However, on 27 Aug 2024 the IRS notified Mr. Carr that his Abatement Request was denied but that he could file a IRS Form 2210 with the breakdown of income received through the year (see ECF 67-11).

298. It should be noted that Ms Pelosia (ID 1004987031) was incorrect in advising Mr. Carr to submit Form 843 as this form can not be used for the relief sought, but instead an appeal with IRS Form 2210 is required as explained in ECF 67-11.

299. Ms Pelosia did not receive appropriate training to know how to correctly answer Mr. Carr's questions and should have referred the matter to another employee / supervisor who was aware of how to correct penalties in the case of income which was not evenly distributed throughout the year. She certainly should have known that the 'Tax Law' group that she attempted to transfer his call to had been disbanded so that she could have referred the matter to her supervisor for assistance.

300. Mr. Carr sent the IRS Form 2210 (ECF 67-12, redacted)[14] along with a direct appeal (ECF

13 All documents identified as redacted have been modified to remove sensitive personal information using normal redaction procedures as required by FRCP Rule 5.2. The documents originally provided to the Defendants were unredacted and included the sensitive personal information.

14 IRS Form 2210 is quite complex and Mr. Carr found it ambiguous and confusing, especially the worksheet required to compute the actual penalties. He made several iterations in a spreadsheet which he developed to insure that all income and estimated payments were correctly distributed to appropriate quarters. There was an additional column to verify that the totals matched the amounts listed on the Form 1040 filed previously, which had been computed in a similar fashion on different pages of the same spreadsheet. He had transcribed the results into the

69-1, redacted) on 6 Sep 2024 and it arrived with the IRS on 8 Sep 2024 (ECF 67-14). The IRS Form 2210 computed the appropriate penalty as $340.81 which was deposited electronically with the IRS on 3 Sep 2024.

301. On 23 Sep 2024 the IRS sent a notice which claimed that the Carrs owed 745.67 (recognizing the payment of $340.81, but not the IRS Form 2210).

302. On 10 Oct 2024 the IRS Form 2210 and direct appeal were forwarded by the IRS to the 'office that can best process your request' (ECF 67-15), i.e. IRS 'Independent Office of Appeals' in Fresno, CA.

Final Notice and Seizure While Appeal Pending

303. On 11 Nov 2024 the IRS sent the Carrs each via USPS 'Signature Required' certified mail two otherwise identical CP504 Notices (ECF 67-16) stating that they owed $753.70 which was due immediately and that the IRS would commence to seize (or Levy) their property. The Carrs' appeal was still pending at that time and this notice violated IRS policy of permitting taxpayers to contest penalty payments and prevent seizure until the appeal was resolved.

304. The CP504 from IRS dated 11 Nov 2024, ECF 67-16, stated:

⚠ Final Balance Due Reminder – Notice Intent to Seize (Levy) Your Property or Rights to Property

As of November 11, 2024, we have not received your overdue tax after sending several notices to you. You must pay your balance immediately or we may levy (seize) your property. If you don't make your payment now, we'll consider your noncompliance an active choice and you could face a

IRS Form 2210 manually, but, sadly, he did that on early iterations but did not correctly transcribe all the final values before sending the pdf file to the printer. He made pen and ink corrections to the IRS Form 2210 before signing and mailing, but in the rush to send in the appeal, he did not make a copy (picture) of the signed Form 2210 with the corrections. The redacted pdf file provided to the court reflects the corrected values from the spreadsheet along with removing personal identification information (specifically, the full SSAN). A separate FOIA request is outstanding to retrieve a copy of the IRS Form 2210 which Mr. Carr mailed.

levy.

Amount Due Immediately: $753.70.

Payment must be received immediately.

What you must do immediately

305. On the 13 Nov 2024 the Carrs signed for the notices and that evening paid the disputed amount of 753.70 to the IRS. When Mr. Carr considered the disruption and damages which could result from the seizure of their car, house, and joint business accounts (a source of income), the comparatively paltry sum demanded by the IRS seemed a reasonable payment even though the demands by the IRS were unfounded and illegal.

306. On 25 Nov 2024 Mr. Carr sold sufficient (81.28 shares) Vanguard Total Stock ETF shares (VTI) for $298.07 each so that on 28 Nov 2024 he could make the planned tax payment of $24,000 to the IRS for their 2024 taxes (though formally a IRA withdrawal of 24,242.42 with 99% withholding). The improperly mandated payment of $753.70 required the early sale of 2.53 shares of VTI ETF / stock, their preferred investment at that time.

Appeal Decision of 18 Nov 2024

307. On 18 Nov 2024, the Carrs received the final findings of facts, decision, and order from IRS Appeals (ECF 67-17) which states in part:

> Appeals received your case on 10/09/2024. We are releasing jurisdiction and returning your case to the originating office because my initial review of your case file showed that the case submitted by the IRS to Appeals is incomplete.
>
> I am writing to let you know that your case file has been returned to the originating IRS office so that they may complete the information which Appeals requires. When they complete the information that is required, a notice will be sent to you to let you know that your case has been submitted again to Appeals.

308. This decision was woefully inadequate in that it did not clearly state that the IRS computed charges of $1,055.19 on 6 May 2024 were not supported by the evidence before Appeals and

that all IRS computed penalties are overturned (without prejudice) or remanded so that the IRS can compute new penalties as appropriate.

Request to Reconsider Appeals Decision

309. On 2 Dec 2024, Mr. Carr asked that IRS Appeals reconsider the decision of 18 Nov 2024 (ECF 67-18) and provide the requested relief considering the circumstances. It was received by IRS Appeals on 6 Dec 2024 (ECF 67-19) but no reply has been received to date.

Request for Assistance Sent to Defendants

310. On 17 Dec 2024 Mr. Carr sent an email to the IRS, TIGTA, CIGIE, DoJ, and USATXN (who is representing the U.S. government in this matter) asking for their assistance in resolving this matter. ECF 67-1 is the content of that request.

311. Mr. Carr also submitted an online request to TIGTA which was assigned ID TRN-2412-0282 to this complaint on 19 Dec 2024. No other response or relief has been received to date.

Apparently IRS Starts Numerous Minor Collections and Ignores Appeals

Most Taxpayers Pay After Threat to Seize Property then IRS Buries Appeal

312. The IRS does not track appeals to minor collections as necessary to provide a fair hearing and instead delays the appeal until the taxpayer is sent a threat of property seizure. The Taxpayer routinely pays the minor amount and then the IRS simply buries the appeal taking no action as the resolution of the appeal would almost certainly result in a refund (and they are trying to collect revenue, not refund it).

313. The initial appeal was received by the IRS Appeals on 16 May 2024 (ECF 67-10) but Mr. Carr did not receive any response. He found the IRS web site concerning appeals which states (ECF 67-20):

Contact Appeals

If your case was forwarded to Appeals, contact us to check the status at 855-865-3401.
Be ready to leave a message with:

Your name
Your tax ID number
A number where we can reach you

We'll research your case and return your call within 48 hours.
If we haven't received your case, you won't receive a call back from us. For assistance with your issue, get help online or by phone.

314. Mr. Carr called IRS Appeals at 855-865-3401 on 14 Jun 2024 (almost a month after it was received by IRS Appeals) and was told there was a backlog in processing appeals and that it normally took 30 days for the IRS to forward the file to Appeals and that they would not respond if the file had not been forwarded. Mr. Carr left a message (just under 30 days) but received to response.

315. Mr. Carr called IRS Appeals at 855-865-3401 on the following dates:

16 Jul 2024
24 Sep 2024
13 Nov 2024
13 Feb 2025

and left a message as requested but received no response until 13 Feb 2025 when he got a message which stated:

Hi Brian, my name is Tamara. I'm calling you back from IRS Appeals customer service office. It looks like the case was closed from appeals on 11/21 and sent back to the IRS basically because they didn't build the case correctly asking them to correct it and resubmit it. I suggest calling back in about a month for a status update. Again our number to call. This is 855-865-3401. Thank you, and have a good day. (transcription by Google Voice)

316. It is possible that some of the written responses by the IRS is this matter were a response to these calls, but there is no evidence to support this.

317. It is also apparent that while the appeals were sent to 'IRS Appeals', this correspondence was actually opened by an IRS group which prepares the IRS response to the appeal before routing the appeal to the actual IRS Appeals group. This routing group does not have the required independence for an appeal. This group can and does route appeals to IRS Appeals in such a fashion that appeals which are not advantageous to the IRS are delayed and in

some case, ignored indefinitely. This clearly precludes due process by denying any hearing when the IRS chooses (e.g. IRS knows that it will lose the appeal and have to make a refund).

318. It is apparent that the IRS has learned that with low value, low quality penalties such as this, it is more economical (better return on expenses) to simply ignore appeals until the customer is threatened with property seizure and pays the contested amount. Then, even if the taxpayer has a strong appeal, they can keep the amount paid by just burying the appeal (not submitting the appeal to IRS Appeals).

IRS Admits Correct Amount of Penalty Was $340.81, Initiates Refund

319. On 18 Feb 2025 the IRS sent a letter confirming that the IRS Form 2210 of 3 Sep 2024 had a correct computed penalty of $340.81 and that a refund could be issued in four to six weeks.

320. The refund check was actually recorded as 24 Feb 2025 and was for $758.72. There were no computations provided for that amount, but it is likely based on interest only as the alternative of losses the Carrs faced would be computed as $765.45 (maximum price of VTI ETF was on 14 Feb 2025 302.55 which is $765.45 for 2.53 shares) for a net credit due of $6.73.

Explanation of Uneven Income and Estimated Taxes Needlessly Obtuse

321. Questions about how to estimate taxes due referred to IRS Publication 505 which is titled 'Tax Withholding and Estimated Tax' and is 44 pages long. It has a section 'Annualized Income Installment Method' with what to do 'If you don't receive your income evenly throughout the year'.

322. The are several pages discussing estimated taxes but no simple clear guidelines as to the size of required estimated payments. There is a Worksheet on page 24 which is included in ECF 70-4. A careful review of the Worksheet reveals that it conceals the important fact that the four tax periods are unequal in length but required payments are for income which has not been received yet with:

Period	Payment Date	Income Date Range	Period Length (Months)	First Payment	Second Payment	Third Payment	Fourth Payment
1	15 Apr	Jan-Mar	3 (1 / 4)	1 / 4	1 / 4	1 / 4	1 / 4
2	15 Jun	Apr-May	2 (1 / 6)		1 / 2	1 / 4	1 / 4
3	15 Sep	Jun-Aug	3 (1 / 4)			3 / 4	1 / 4
4	15 Jan	Sep-Dec	4 (1 / 3)				All

The history of estimated tax payments and the injustice of the Internal Revenue code alonq the proposed relief is discussed more thoroughly in Mr. Carr's Verified Brief concerning estimated tax payments (ECF 71-9 based on due process in ECF 71-8).

323. In the relief section there are suggestions for more succinct and understandable guidelines and tools which the IRS could include in more general descriptions of making estimated tax payments in the case of uneven income through the year. This will help train employees such as Ms Pelosia (ID 1004987031), IRS Appeals Tribunal Diana M. Bushman (from ECF 67-19), and other unnamed IRS employees so that they can understand and correctly process estimated tax payments and the associated penalties. There will also be a suggestion for an open document format spreadsheet tool for estimated tax payments, IRS Form 2210 and IRS Form 1040 and common schedules to help IRS employees and taxpayers easily comply with estimated tax payment requirements. This is discussed in depth in Mr. Carr's Verified Brief concerning estimated tax payments (ECF 71-9).

IRS FOIA Requests

324. ECF 67-21 is a redacted copy of the IRS FOIA request 2025-06521 which requested the personal information for the Carrs received by the IRS on 13 Jan 2025 for documents related to this matter. They requested copies of all notices or penalties sent by the IRS to them as well as any documents provided to or from IRS Appeals to include Ms. Diana M. Bushman of Appeals in Ogden, UT concerning this matter.

325. On 6 Feb 2025 the IRS FOIA office sent the status of request 2025-06521 as 'in process' and initially due on 5 Jun 2025 as well as a promise of notice if there are any changes in the status of this request. ECF 70-1.

326. However, the status of 2025-06521 on 21 Apr 2025 was closed without any notice of changes in the status. ECF 70-2.

327. While it is inferred that the IRS did not single out the Carrs for such illegal treatment, the magnitude of the actual problem has not been determined. ECF 69-2 is a copy of the cumulative FOIA request 2025-06698 received on 13 Jan 2025 for information to determine the magnitude of the IRS violations beyond those of the Plaintiffs.

328. The status of IRS FOIA request 2025-06698 on 5 Feb 2025 was provided by the IRS (ECF 69-3) as in process with an estimated completion date of 12 May 2025 as well as a promise of notice if there are any changes in the status of this request. The delay exceeds statutory requirements and after 26 Feb 2025 the Plaintiffs can appeal this delay in this court.

329. However, the status of 2025-06698 on 21 Apr 2025 was closed without any notice of changes in the status. ECF 70-3.

Arguments

30 Day Notice Before Seizure Required by Statute

Federal statute requires 30 day notice before property seizure

330. Internal Revenue Code Section 6331(d) is 26 USC § 6331 which states: ...

(d) Requirement of notice before levy
(1) In general
Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.
(2) 30-day requirement
The notice required under paragraph (1) shall be ... or
(C) sent by certified or registered mail to such persons' last known address,
no less than 30 days before the day of the levy.

331. To summarize, before the IRS can seize property it must provide notice in writing and certified mail is acceptable but the notice must be at least 30 days before the levy / seizure.

332. No such notice was provided. The CP504, ECF 67-16, did not contain notice of '30 days', only 'immediately'.

333. The IRS provides a sample CP504 (ECF 70-5) which states:

> If you don't call us to make payment arrangements or we don't receive the amount due within 30 days from the date of this notice, we may levy your property or rights to property and apply it to the ...[amount] you owe.

334. This is in distinct contrast to the CP504 the Carrs received, ECF 67-16, described above, which focuses on the finality of the notice and the need to make payment immediately.

335. The omission of this mandatory 30 day notice from the CP504 and substitution of 'immediately' is, in fact, a federal crime of falsifying a government record.

18 USC § 1001 Crime To Omit 30 Day Notice

336. 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, ...

337. In this statute, the definition of falsification of government records is very broad including (2) any materially false representation or (1) covers up a material fact (such as omitting the fact that the taxpayer has thirty days to appeal or make a payment before the IRS can seize property). Further, with (3) and any use of a false document, anyone authorizing or sending a defective CP504 is guilty of this crime.

Seizures must be blocked by Active Appeals

338. It is a violation of the fundamental constitutional right to due process to seize property while an appeal is active. Further, every agent of the federal government must preserve individual constitutional rights, it is part of the oath of office for officers, employees, and contractors.

339. This is clearly stated in the IRS web page with the 'Taxpayer Bill of Rights', ECF 70-6, which states that Taxpayers have: ...

The Right to Challenge the IRS's Position and Be Heard
The Right to Appeal an IRS Decision in an Independent Forum

340. It is clear that the IRS is seeking to maximize revenue collection through increased enforcement, an admirable goal. However, this seems to include assessing penalties which, while plausible, are likely overestimates of the amount due (they are a stretch). Indeed once the facts are known, there might not be any penalty at all. However, if the IRS is aggressive in its computation of penalties, it should expect that there will be substantial appeals and many of these appeals will be valid.

341. Under these circumstances, rather than letting appeals lag, it is incumbent on the IRS to provide sufficient resources to keep appeals and taxpayers records thereof up to date. It is unacceptable to illegally seize taxpayer property because of delays in processing appeals.

Relief Sought

PRAYER FOR RELIEF

WHEREFORE, The Plaintiffs ask this Court to enter Orders:

USPS, OIG and DoJ Corrections

1. Directing USPS to provide a credit for future services for $26.35 to Mr. and Mrs. Carr; In the alternative, USPS can provide a credit to Mr. Carr's credit card (the same card which was charged initially) or a check in that amount to Mr. Carr in the event that USPS finds it too cumbersome to add support for credits for future services to its online web services.
2. Directing USPS to update its dispute / credit process so that postal customers can get guaranteed refunds for late deliveries with a single visit / web form with the presumption that the delivery was late as attested by the customer (and notice that falsifying a government record is a federal crime).
3. Directing USPS OIG to do a preliminary investigation whenever USPS delivery records conflict with the customer's attestation. USPS OIG must refer the matter to DoJ in all cases

where there is clear evidence that either the customer or the delivery driver falsified a government record. Due to the automated nature of many USPS records, this determination could be automated to a substantial degree so that USPS OIG staff only need to get involved with cases where there are clear indications of falsification of government records.

4. Directing USPS to promptly correct all incorrect delivery records, certainly before they are accumulated and reported to Congress and the U.S. public or used for computing management bonuses.
5. Directing USPS OIG, DoS OIG, and DHS OIG to expeditiously investigate all plausible allegations of federal crimes. In the event that an OIG does not have sufficient resources to expeditiously investigate all plausible allegations of a federal crime sufficiently to determine if a federal crime is likely, it can refer the matter to local management or other parties for resolution, but it must report all such plausible allegations of federal crimes to DoJ which it does not investigate itself. If an OIG finds that any allegation of a federal crime is likely it must expeditiously report the matter to DoJ whether or not the crime is deemed to be worthy of prosecution. The determination of prosecution is reserved solely to DoJ.
6. Directing DoJ to investigate USPS BoG, USPS management, USPS IG, and USPS OIG management to determine if there were illegal orders preventing USPS OIG staff from reporting federal crimes to the DoJ. If there is evidence of such illegal orders, all such orders must be properly rescinded. Any penalties or prosecution is solely at the discretion of DoJ.
7. Directing DoJ to investigate USPS BoG and USPS management to determine if there were illegal orders encouraging falsifying delivery records (a.k.a. improper 'Stop the Clock' scans). If there is evidence of such illegal orders, all such orders must be properly rescinded. Any penalties or prosecution is solely at the discretion of DoJ.

Department of State Corrections

8. Directing DoS to provide a credit for future services of $80.00 to Mr. and Mrs. Carr and $624 to Mrs. Von Kramer. These credits can be used by the parties themselves, their family, or their friends. In the alternative, the DoS can provide checks in those amounts to the Plaintiffs in the event that DoS finds it too cumbersome to support these credits in their otherwise automated payment system.
9. Directing DoS to ensure that all visa denials include clear and specific references to the evidence considered and rationale for denial. All visa denials must be reviewed by

supervisors and corrected if there is not clear and specific references to the evidence considered and the rationale for denial. The applicant must be promptly informed of the rationale for the rejection in writing in any case. Any visa denials which are not corrected in this fashion should be referred to the DoS OIG and reported to the DoJ for any such omissions for decisions on prosecution for falsification of government records through omission of required facts.

10. Directing DoJ to work with DoS to ensure that all the elements of due process are properly implemented in the visa application review process with particular attention to the right to representation and the right to access all the evidence presented against the applicant.
11. The European Schengen visas could be considered as a starting point as they are able to provide fair and consistent visitor visas at an affordable rate, often relying on global firms who handle much of the burden of collecting and reviewing the required paperwork.
12. Directing DoS OIG to investigate whether there were unpublished unlawful policies or guidance provided to interviewers such as denying non immigrant visas to older widows of deceased American citizens or applicants with concurrent immigration applications. All such policies must be rescinded and any decisions on prosecution is reserved to the DoJ.
13. Directing DoS to evaluate all non-immigrant visa applications since 1 Jan 2018 to the present on a per country basis to determine the denial rate for applications where according the applicant was over 57 years old and marital status listed in the application would be indicative of eligibility for SSA survivors' benefits, specifically deceased spouse who was an American citizen or permanent resident with more than ten years residence and not remarried.
14. DoS is further directed that if the denial rate for the identified applicants is more than one standard deviation higher than all applicants for the specific country, then all identified applicants must be contacted and offered a credit for the prior denied visa application(s), adjusted for any increases in the application fees. Further, the prior applicant must also be provided with the SSA's preliminary determination of current eligibility for survivors' benefits based on the deceased spouse's work history and other dates provided by DoS from the visa application.

SSA Order

15. Directing SSA to reconsider the finding that Mrs. Von Kramer's does not have five years of

lawful presence in the United States. As Mrs. Von Kramer was unlawfully prevented from visiting the United States in 2019, 2020 and 2021 with the stated goal of, among other things, establishing a lawful presence, the SSA is directed to credit her with having met the requirements of lawful presence for those three years. If her actions in 2022 and 2023 or later years meet the requirements for lawful presence, then Mrs. Von Kramer must be held to have established a lawful presence in the United States and granted the benefits thereof.

16. Any DoS identified applicants whose previous non-immigrant visas may have been improperly denied as determined above and who later are granted non-immigrant visas should also be given letters from the DoS stating that the applicant may have been denied prior visa applications unlawfully and asking that SSA credit the applicant with 'lawful presence' for the years when they may have been unlawfully denied the ability to visit the U.S. with the letter identifying the date of the first improper denial and the date of the first approved visa.

CIGIE Corrections

17. CIGIE must review its standards and policies to ensure that all IG's and OIG employees are aware of the requirements to expeditiously investigate and report federal crimes. In the event that a particular OIG does not have sufficient resources to expeditiously investigate all plausible allegations of a federal crime sufficiently to determine if a federal crime is likely, it can refer the matter to local management or other parties for resolution, but it must report all such plausible allegations of federal crimes to DoJ which it does not investigate itself. If a particular OIG finds that any allegation of a federal crime is likely it must expeditiously report the matter to DoJ whether or not the crime is deemed to be worthy of prosecution. The determination of prosecution is reserved solely to DoJ.
18. Directing the DoJ to investigate the failure of CIGIE to itself promptly investigate and report federal crimes. All such practices and policies which led to past failures must be rescinded. The decision on penalties and prosecution are reserved solely to the DoJ.

USCIS Relief

Credit for Visa Fees when Stranded Overseas

19. Directing USCIS to provide a credit for future services with USCIS to Mr. and Mrs. Carr for $80 for use on their behalf as well as their family members and friends. This credit is half of the business / tourist visa application fee which was required in order for Mrs. Carr to

return to the U.S. when she was stranded in Thailand in 2022. The fee was $160, but DoS has been requested to provide the other half for their unlawful denial of such a visa to Mrs. Carr in 2017. In the alternative USCIS may choose to provide checks to all injured parties as an alternative to credits for future services in this and other reparations, but this is solely at the option of USCIS. It is possible that the total reparations requested may justify handling them as credits for future services.

Credit for Extraneous I-751 and N-400 Fees

Directing that Mrs. Carr be given a credit for future services with USCIS for the extraneous I-751 application fees of $680 which were duplicated with N-400 services (interview and biometrics). Mrs. Carr never received any I-751 specific services and should not have been charged for the services.

In addition, Mrs. Carr should be given an additional credit for $710 for the additional N-400 application (ECF 49-4) as described in para 231.

These credits can be used for future services with USCIS for herself, her family, Mr. Carr's family, or Mr. or Mrs. Carr's friends.

Credit for Delay in Granting Citizenship

20. Directing USCIS to credit Mrs. Carr with additional credits for the deprivation of the rights of citizenship to include the rights for close family members to seek immigration authorizations as well as the right to vote and such. As it is not possible retroactively grant Mrs. Carr the right to vote and others rights of being a U.S. citizen (such as the right to visit Europe without a European visa) the family members should be credited with twice the delay in her citizenship, i.e. their position in the queue for immigration visas should be adjusted as if their application was received earlier. The doubling of their credit in queue position corrects not only the delay in their application but also they get their citizenship rights (e.g. voting) earlier in compensation for the deprivation of Mrs. Carr's citizenship rights (e.g. voting). For Mrs. Carr the computation of the credit for family members immigration should be based on the delay in citizenship which should be from 13 Nov 2021 (first eligibility date) to the date when her Certificate of Citizenship was received on 28 Feb 2025 or 39 months.. The 2021 date is used because that is the earliest date that Mrs. Carr

was eligible to become a citizen and is in recognition of the unwarranted challenges and barriers USCIS placed on her citizenship. Indeed Mrs. Carr would have become a citizen on that date had USCIS permitted it.

21. Doubling 39 months is 78 months (6.5 years) so that Mrs. Carr's sons visa availability would be an estimated visa availability of 2027 from 2034 (see para 232). However, for Mrs. Carr's sister, Mrs. Von Kramer, her estimated visa availability wold be reduced from 2042 to 2035 (siblings are in a significantly lower priority queue).
22. Given Mrs. Von Kramer's current age of 64, it is not clear if she will be able to travel in 10 years. The court is asked to direct that Mrs. Von Kramer visa availability be adjusted to the currently available date out of consideration of her age and the other stress that the violations of her constitutional rights created.
23. Similarly, the court is asked to further adjust the visa availability date of Mrs. Carr's sons, Tin and Earth, the few additional months required for immediate availability out of consideration of the stress which Mrs. Carr and her family were subjected to when she was stranded in Thailand and later had both 10 year green card and citizenship approved (ECF 10-5) only to later learn it was all a ruse (and possible retaliation for her complaints about being illegally stranded in Thailand) so that both her 10 year green card citizenship were denied and that she was left as an apparent illegal alien at a time when mass deportations were being implemented.

Review of Other I-751 and N-400 Records

24. Directing that USCIS databases should be queried for all I-751 records processed since 1 Jan 2018 to determine how many other records were similarly falsified. In particular, how many I-751 applications by quarter were approved but with no permanent resident card or Certificate of Naturalization issued within 90 days.
25. If the identified applicants are found to have a statement in the I-751 approval that the corresponding N-400 had been approved then these applicants should be issued a Certificate of Naturalization as soon as possible if they have not already been issued said certificate.
26. All such applicants should be similarly credited for future services with USCIS for their use, their families use, or their friends use for the cost of the I-751 application fee. In addition, any relatives who apply for immigration visas based on their citizenship status should be

credited with double the time of the original applicant's delay. The delay is computed to be from the date of the I-751 claim of N-400 approval to the actual date of issuance of a Certificate of Naturalization.

27. If the number of applicants and immigration credits are so large as to substantially impact current immigration queue members, USCIS is directed to apply to Congress to get sufficient additional slots for each country so as to preserve the integrity of the queue for that country.

Falsified Records Must Be Corrected

28. Further, all falsified records should be deleted (actually hidden to avoid potential database corruption) with new records of a falsified record being inserted at the same date and time of the deleted / hidden record. There should be an additional corresponding record at the current date and time which includes the content of the falsified record for later review.
29. All reports to Congress and other entities which relied on these falsified completion records must be revised to note the number of records which were previously recorded as processed, but were actually pending correction of the false resolution. The corrected resolutions should be added to current reports as approvals from previously denied falsified records (a new category).

Adjustments for Language / Cultural Differences

30. Just as USCIS has added exemptions for people with medical impairments, as well as exemptions based on age, USCIS is directed to extend these exemptions to consider the education opportunities presented to a particular individual before they were 21. They should also be extended to consider the difficulty in mastering English based on the nation of birth.
31. For example, there could be an annual review by country of the rate of application for citizenship as well as the rate of granting citizenship. Exemptions should be granted to individuals from countries like Thailand where mastering English is extremely difficult for those who are older and poorly educated. The exemptions should be granted based on age less years of formal training in English before they were 21 and sufficient to correct the rate of citizenship approvals to match those of countries such as Canada or the United Kingdom where the rate of granting citizenship is, presumably, highest.
32. The approval rate would be the number of approvals from a particular country divided by

the number of permanent residents from that country who are eligible to apply for citizenship, not the number who actually apply. It is expected that there will be a large backlog of residents from Buddhist / Muslim countries who would like to be citizens but did not apply because the English and Civics test were too difficult for them to pass based on their lack of exposure to English in their youth.

33. For countries such as Thailand and other Buddhist / Muslim countries, this would likely mean eliminating the English and civics test for all N-400 applicants for a few years until the rate of granting citizenship matches that of Canada or the United Kingdom. This would be a valuable correction to eliminate the past unlawful discrimination against certain groups based on religion, race, culture, and age.

USCIS Must Correct Time For Legal Notice

34. USCIS be directed to allow more time for timely notices of actions. If USCIS wishes to update its notice process to record and publish accurate records of the actual date of mailing of notices, 7 days could be added to the actual date of mailing for notices. Three days for first class mail is insufficient to be confident of prompt receipt.
35. As it generally takes USCIS 6 days to print a notice and prepare it for mailing, this would normally be 45 days after the date of the decision itself to allow for unforeseen delays in processing before and after mailing.
36. Of course, any denials based on assumed notice without an accurate record of delivery (signature required mailing or process server), would be conditional and must be easily contestable in the event that there was not actual timely delivery. The applicant must be able to contest the denial without any additional fees by explaining any extenuating circumstances which prevented timely notice or appearance (e.g. applicant was in the hospital and did not receive the notice or was not able to appear or answer while hospitalized).
37. For all cases where USCIS denied an application for failure to appear and there was not 45 days notice nor any record of the actual date of mailing, all such actions since 1 Jan 2018 must be remanded to USCIS for proper processing overturning all denials where there was not proof of timely notice.
38. The applicant must be given a credit for the filing fees for the original application as well as having the application opened again for proper consideration. All denial records must be

updated to note the denial was overturned due to lack of notice. All reports to Congress and others which were based on the improper denial (showing an application was processed) must be corrected to show that the application was incorrectly denied and has been returned to an active status.

Adjustment of USCIS Fees for Appeal, Reconsideration

39. USCIS fees for N-336 requests to review, motions to reconsider, notice of appeal, and actual appeal filing must be reduced so that they are not prohibitive. It is suggested that no motion to re-argue or motion to reconsider should cost more than 5% of the federal district court filing fee (now $350, hence no more than $17.50). Actual appeal filing fees should not exceed half the district court filing fees, e.g. $175. There must be no fee for N-336 and other motions to reconsider when the applicant is contesting presumptive / conditional denials for failure to appear as the applicant must be provided the opportunity to explain failures in actual notice or extenuating circumstances which prevented appearance or answering (e.g. hospitalization).
40. The justification for this is to encourage applicants to seek redress with the USCIS rather than going directly to the district courts. It also furthers due process by making the proceedings fair and providing opportunities for applicants to be heard / argue their cases as necessary.

USCIS Must Restore Interview Waivers and
Cease Criminal Background Reviews for I-751 Applications

41. The administrative policies implemented by the prior USCIS director in the 2018 time frame must be rescinded. They do not provide any improvement in enforcement and greatly harm applicants' rights in these matters. They are also in direct violation of the waiver or interview within 90 days requirement explicitly stated in 8 CFR § 216.4(b)(1) and cited above.
42. Mrs. Carr is requesting that interview waivers be resumed at an accelerated rate so that at least 2 months of backlog are eliminated each month. Realistically that means that three months of applications must be granted their permanent resident card each month without the optional interview and without further delay.
43. This should eliminate the current illegal four year backlog within two years.
44. Once the backlog is reduced to three months the accelerated approvals can be eliminated

and mandatory approvals without interview will only be for those applications which have languished in the queue for up to three months and the total number of pending applications exceeds the number of new applications.

45. If there are concerns about applicants not understanding the criminal background questions in English, USCIS can provide written copies of the criminal background questions translated into all the appropriate languages. However, these questions should only be applied to new applicants for immigration visas, not approved permanent residents.
46. USCIS should immediately begin with interview waivers for the oldest applications, but if USCIS wishes, it can send out new forms to potential waiver recipients asking for authorization to access all of their social media, mobile and credit rating records for both spouses. Failure to provide authorization or the appropriate accounts and addresses would result in a delay of any interview waivers. All applicants who authorized full electronic access to their records could be granted waivers before applicants who did not provide such access though the delay in the scheduling of an interview is restricted to 90 days in 8 CFR § 216.4(b)(1) in all cases.
47. Over time, USCIS could develop AI programs which very accurately identify fake marriages based on the contents or lack of social media and other records. Given the vast amount of information available through phone records (e.g. Google's timeline which could show the location of each spouse for every day and night of their purported marriage), social media and credit histories, the interview itself appears to be a highly ineffective and very expensive method of identifying fake marriages. A well trained AI program could identify fake marriages with substantially greater accuracy at a fraction of the cost of interviews. Of course an actual interview would be required before deportation, but the interviewer would be able to confirm the problems identified by the AI program such time lines which indicate that the couple had lived apart for an excessive period.
48. While extensions for conditional ‘green cards’ may continue to be necessary under limited circumstances (specified by statute), the extensions can not be in the form of a simple printed letter. They must have the same form factor and durability as the ‘green card’ itself. USCIS could simply manufacture another conditional ‘green card’ with each extension or, if that poses security concerns (too many copies of the same ‘green card’ in circulation), manufacture an extension card with suitable measures to restrict counterfeiting but with the

alien number (matching the 'green card') and revised expiration date in clear bold text (the largest and boldest text on the extension card). The current extension letter had so much text and such fine print that even government agents were unable to accurately compute the actual revised expiration date.

Required Access Provided to Applicants

49. USCIS must immediately disable hang ups by the automated phone system and instead fail over to a human representative. Further, USCIS must send notices to all active applicants of the address where they can go without any appointment to ask questions and raise concerns. USCIS must respond to in person questions, concerns and requests.
50. Secure messaging systems are now relatively routine technology and should be offered as an addition to the MyUSCIS web page to provide a more reliable and cost effective alternative for those applicants who choose to use this option. It is absurd to require technically savvy applicants or their representatives to navigate the lengthy automated phone system to get to speak to a person who will reduce their input to 80 characters at great expense to USCIS and great information loss from incomplete or inaccurate transcription.

USCIS Must Guarantee Applicants' Right to Representation

51. USCIS must grant immediate approval to any spouse who files to become an applicant's representative. Further, the application form itself must be adjusted to allow that option on the application itself.
52. Pending I-751 applicants must be notified immediately of their ability to add their spouse as a representative via a simple phone call.

More Expansive FOIA Responses

53. USCIS must change its defaults for FOIA requests to provide access to every record including audio and video recordings which reference the requested receipt number.

DHS OIG Corrections

54. Directing DHS OIG to ensure that it promptly investigates and reports all federal crimes as described above. Further, while the decision to prosecute resides solely with the DoJ, the DHS OIG needs to ensure that serious malfeasance such as depriving foreign nationals of their constitutional rights is promptly investigated and corrected. Further, the DHS OIG must ensure that appropriate and timely redress is provided to injured parties.

55. For example, if a foreign national is unlawfully stranded overseas, the DHS OIG must ensure that the offending agency corrects the defect promptly, perhaps sending a PDF file with the required extension letter via email to the stranded party in time to not hinder their travel plans. The 23 Jan 2023 approval of a 48 month extension letters was too late and was not provided to the injured party in this case.

DoJ Corrections

56. Directing the DoJ to monitor and track all plausible allegations of federal crimes as necessary to insure that the criminal behavior is not repeated and that injured parties receive appropriate redress. It is acceptable for local OIG's or even local management to complete the bulk of the investigations as long as the DoJ monitors the results and does not forego the option of criminal prosecution until adequate remediation is put in place to prevent future crimes and redress is provided to all injured parties.
57. Directing the DoJ to investigate all failures of OIG's to expeditiously report plausible federal crimes to the DoJ as described above. Any failures to report federal crimes must be investigated as potential 'obstruction of justice' crimes though prosecution remains the purview of the DoJ and the threat of prosecution should be used as a cudgel to insure future adherence as well as redress when appropriate.

IRS Corrections

58. The IRS must promptly record and process all appeals so that all IRS employees and individual taxpayers can know the status of each appeal. No collection notices (and certainly no CP504 property seizures) should be sent to taxpayers who have an active appeal other than the notice that they will have 30 days after their appeal is resolved before they need to make any payments.
59. The IRS must answer all outstanding FOIA requests from Mr. Carr to, among other things, allow the court to determine the magnitude of the problems with taxpayers getting notices of property seizures (CP504 notices) while their appeals were pending. This may support the addition of classes of taxpayers to this matter.
60. The IRS must make credits for future taxes to all taxpayers who paid contested penalties while their appeal was in process.
61. The IRS must provide the Carr's a credit for future taxes (or in the alternative a refund with interest) of $6.73 based on damages for the early sale of VTI ETF as discussed previously.

62. The IRS must also provide a tax credit for the penalty of $340.81 as the IRS provided incorrect and insufficient information about the amount of estimated taxes due when income received was not distributed equally throughout the year as discussed in ECF 71-9.
63. The IRS must also provide a credit for future taxes to all similar taxpayers who paid the required estimated taxes by 15 Jan (generally 90%) but were required pay penalties for the distribution of payments through the year as discussed in ECF 71-9 without proper explanations and guidance by the IRS.
64. The IRS must provide better explanations and guidance about estimated tax payments so that even low income 1099 workers can avoid penalties. The IRS must also automatically forgive penalties for the short second tax period (paid on 15 June) as specified by the Internal Revenue Code (and Congress) to the degree that those penalties violate due process (penalizing 1099 workers for not being prescient and omnipotent). This unusual infringement on apparent executive discretion is described in detail in ECF 71-9 and is based on an in depth analysis of due process in ECF 71-8.
65. The IRS must also develop better tools to allow taxpayers (and tax professionals as well as IRS employees) to determine the amount estimated taxes due at the end of each tax period as described in ECF 71-9.

TIGTA and DoJ Corrections

66. TIGTA and DoJ were notified of the federal crimes (falsifying government records) and violations of individual constitutional rights (due process) in Dec 2024, but took no apparent action until Feb 2025 when all the facets of this matter tidied up in anticipation of the dismissal by this court. Both TIGTA and DoJ have an obligation to promptly prevent future federal crimes and provide redress as possible for damaged parties. Such relief should not be delayed or accelerated for improved results in litigation.

Conclusion

67. Granting the Plaintiffs such additional relief as the interests of justice may require, together with their costs and disbursements in maintaining this action.

Respectfully submitted,

Verification of Complaint

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 statements 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: 22. August 2025
Location: Irving, TX

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061
Date: 19 Aug 2025
Location: Irving, TX

/s *Buakhao Von Kramer*

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140
THAILAND
Date: 20 Aug 2025
Location: Bangkok, Thailand

/s *Rujipas Lawichai*

Rujipas Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 19 Aug 2025
Location: Phuket, Thailand

/s Tanapon Lawichai

Tanapon Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 19 Aug 2025
Location: As ordered by Thai Army while deployed on combat assignment

Case, Statute, and Other Alphabetical Index

CERTIFICATE OF SERVICE

On the recorded date of submission, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter were enrolled in the court's electronic case filing (and service) system.

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with TXND LR 11.1(d), on the recorded date I received permission from Rueangrong Carr, Buakhao Von Kramer, Rujipas Lawichai, and Tanapon Lawichai to sign this document electronically on their behalf after sending them a copy of the Proposed Second Amended Complaint via Line (a secure and reliable messaging app popular in Japan, Thailand and other countries) and received their consent electronically via Line.

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.

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; …

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

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

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 22. Aug. 2025
Location: Irving, Texas

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 7 and 8 Against USCIS and DHS OIG

Brief of Mr. Carr Supporting Counts 7 and 8 Against USCIS and DHS OIG

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

Introduction

Standard Challenges and Defenses Discussed

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

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

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

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

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

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

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

Count 7, USCIS Claims

USCIS Violated Statutes and Left Mrs. Carr Stranded in Thailand

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

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

INA Statutes Require Due Process Hearings

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

Mrs. Carr Unlawfully Denied the Privileges of Citizenship

Mrs. Carr Left as an Apparent 'Illegal'

Even though USCIS informed my wife on 31 Jan **2023** that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5[2]) and she only needed to take the Oath of Allegiance to become a citizen, the reality is that for over two years she was not been permitted to take the Oath of Allegiance to become a citizen and was an apparent 'undocumented alien' (a.k.a. an 'illegal').

USCIS Retaliates, Falsifies Documents, Denies Citizenship

New Plaintiffs Because of Delayed Immigration Applications

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

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

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

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

We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship.

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

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

Count 7, USCIS Ignores INA Statutes and Constitutional

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

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

> ... The [USCIS] director must either waive the requirement for an interview and adjudicate the petition or arrange for an interview within 90 days of the date on which the petition was properly filed.

Further, in 2022 USCIS allowed the unlawful 2 year extension of her 2 year 'green card' to expire (ECF 18-6) and left my wife stranded in Thailand even though 8 CFR 216.4 requires USCIS to automatically extend her current 'green card' until

the I-751 has been adjudicated (ECF 29 para 151 to 153). 8 CFR 216.4 states:

> ... Upon receipt of a properly filed Form I-751, the alien's conditional permanent resident status shall be extended automatically, if necessary, until such time as the director [of USCIS] has adjudicated the petition.

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

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

Mrs. Carr Denied Privileges of Citizenship, Left as Apparent Illegal

Even though USCIS informed my wife on 31 Jan **2023** that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5[3]) and she only needed to take the Oath of Allegiance to become a citizen, the reality is that for over two years she was not been permitted to take the Oath of Allegiance to become a citizen and was an apparent 'undocumented alien' (a.k.a. an 'illegal').

The timeliness of the Oath of Allegiance is required in INA 337 which is 8 USC §

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

We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship.

1448 which states:

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

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

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

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

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

> (d) Certificate of alien registration or alien receipt card
> Every alien in the United States ... shall be issued a certificate of alien registration or an alien registration receipt card…
> (e) Personal possession of registration or receipt card; penalties
> ... Every alien... shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d).

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

4 Bold added by plaintiffs.

statute requirements). With no ten year 'green card' she had realistic fears of being deported at any time by ICE (she doesn't trust U.S. immigration), vigilantes (under Texas SB4), or National Guardsmen (on day one to deport millions of illegals who are poisoning the blood of our nation) and sent to a high security prison in another country such as El Salvador without cause or any hearing.

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

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

USCIS Retaliates, Falsifies Documents, Denies Citizenship

New Plaintiffs Because of Delayed Immigration Applications

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

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

USCIS Violates Criminal Statutes and Constitutional Rights

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

FOIA Requested Records Not Provided

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

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

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

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

Relief Sought Is Proper

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

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

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

USCIS OIG Failed to Intervene

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

DHS OIG Had Clear Duty to Perform

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

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

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

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

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

Conclusion

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

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

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

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

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

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

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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

Case, Statute, and Other Alphabetical Index

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 6 and 9 Against CIGIE and DoJ

Brief of Mr. Carr Supporting Counts 6 and 9 Against CIGIE and DoJ

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

Introduction

Standard Challenges and Defenses Discussed

This verified affirmation will present the legal arguments which demonstrate that both Count 6 and Count 9 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 which will be addressed is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress or the constitution with a special focus on the disbursement of government funds (the power of the purse) which the constitution specifically reserves for Congress (and not the courts).

There is also an extension of sovereign immunity which is executive discretion which says that when Congress gives conflicting or ambiguous statutes then it is up to the senior executive to decide what is the best course and the courts shouldn't

micro-manage decisions in areas where the executives are assumed to have the best knowledge and experience (that is what they were hired for).

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

Count 6, CIGIE Illegally Conceals and Supports Federal Crimes

CIGIE Bound By Statutes Requiring Reporting of Federal Crimes

Each IG member of CIGIE as well as OIG staff working with the CIGIE are bound by statute to report federal crimes to DoJ as well as monitoring their assigned agencies for violations of constitutional rights for individuals and lawful statutes.

They are also required to promote high standards of integrity so that illegal orders to not report federal crimes (itself a prima facie crime of obstruction of justice) must be addressed and forcefully opposed.

CIGIE Ignored Well Documented Complaints of Violations

However, when CIGIE was presented with complaints of such violations they took no action and instead provided tacit approval of these flagrant violations of the rule of law and our constitutional government.

Plaintiffs Damaged Through CIGIE Inaction

We were damaged by this through the failure of the different cited IGs to report and correct the deficiencies which we identified in their monitored agencies, specifically a prompt refund (from USPS), ability to travel freely and start Social

Security surviving spouse benefits (DoS), the right to enjoy the benefits of citizenship as well as immigration benefits (USCIS), and improper penalties collected through property seizure proceedings while an appeal was pending (IRS).

Ancillary Relief Sought To Prevent Future Violations

We are seeking relief of CIGIE institute programs to train IGs and OIG staff on their responsibilities to report federal crimes and support and defend the constitution through assisting DoJ in enforcing the law, particularly constitutional rights of individuals.

We will benefit from having monitored agencies perform required services in accordance with clear and specific statutes (as we are seeking credit for future services). Of course, good governance is a substantial benefit to all people.

Count 9, DoJ Must Uphold the Law

DoJ has by convention as well as court decisions and congressional statutes been given the overall responsibility of upholding the law as well as prosecuting federal crimes at its discretion (and within the framework of upholding the law). However, it the cases of USPS, DoS, USCIS, IRS, and their relevant OIG's as well as CIGIE, DoJ has simply ignored violations or clear and specific federal statutes, federal criminal statutes and even the constitutionally guaranteed rights of individuals.

Obviously DoJ does not have the resources to investigate and correct every violation of lawful statutes or the constitution, but with the cudgel of the threat of prosecution it can partner with other agencies (particularly relevant OIG's) as well as the problem agencies and monitor the results to ensure that there are not

violations in the future and that relief is provided to any victims if possible.

In the other counts, DoJ was always contacted and informed of the problems and took no action. The inaction of the DoJ led to continued damages to ourselves. The relief we are seeking is simply an order of the court that DoJ partner with other agencies whenever it is aware of violations and seek prompt prevention of future violations as well as prompt redress for any victims.

Count 6, CIGIE Illegally Conceals and Supports Federal Crimes

CIGIE Bound By Statutes Requiring Reporting of Federal Crimes

Each IG member of CIGIE is bound by the requirement to report federal crimes to DoJ in 5 USC § 404 (IG Act of 1978) as well as 5 USC § 424 (CIGIE) which requires the council to 'continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse'[2] as well as an Integrity Committee which 'shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members.'

As all IG's and OIG staff members are required to report all federal crimes to DoJ

2 5 USC § 424 states:
(c) Functions and Duties of Council. -
(1) In general. - The Council shall -
(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse; …
(B) in consultation with the Office of Special Counsel and Whistleblower Protection Coordinators from the member offices of the Inspector General, develop best practices for coordination and communication in promoting the timely and appropriate handling and consideration of protected disclosures, allegations of reprisal, and general matters regarding the implementation and administration of whistleblower protection laws, in accordance with Federal law.
(d) Integrity Committee. - (1) Establishment. -
The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C).

(a clear and unambiguous mandate) the failure to report such crimes is clearly 'wrongdoing' (as well as a potential crime of obstruction of justice) and so must be referred for correction which CIGIE did not do.

CIGIE Ignored Well Documented Complaints of Violations

IG's are not permitted to simply look away when plausible allegations of federal crimes are reported to them. In the two cases which were brought to CIGIE attention with USPS IG and DoS IG, the CIGIE took no action to correct their failure to report federal crimes to DoJ and we suffered the damages cited in Counts 1, 3, and 4.

Plaintiffs Damaged Through CIGIE Inaction

In contrast, had the CIGIE since its inception actively insisted that each IG and OIG report crimes to the DoJ and DoJ had done its job of insuring future compliance with federal criminal statutes and eliminating future violations of individual constitutional rights, none of the damages would have occurred.

For example, had the USPS OIG 2017 audit (see ECF 18-7 DR-AR-18-001) been reported to DoJ as 1.9 million federal crimes of falsifying government records and had DoJ done its job of insuring the suggested corrections were implemented, then the USPS problems with falsified documents and broken business processes would almost certainly not have led to the claim for a credit for future services of $26.35 in 2021.

Ancillary Relief Sought To Prevent Future Violations

The relief sought from CIGIE is simply that they insure that in the future IG and OIG staff report federal crimes to DoJ as required by statute.

The widespread falsification of delivery times and other records in USPS must be curtailed. Similarly, the widespread lack of due process in visa denials and the intrinsic omission of required information (the evidence considered in the denial) must be corrected.

CIGIE is asked to participate with DoJ, USPS OIG, DoS OIG, and DHS OIG in the process of putting in place procedures to resolve the problems in USPS, DoS, and USCIS as well as other problem areas.

The dangers of illegal orders and widespread falsified records is discussed in my brief on that subject (ECF 76-4) and the Afghan fiasco. My standing in that particular matter is tenuous at best but the solutions proposed herein addresses much wider concerns. It is hoped that by adopting the principles of good governance not only can future fiascos be avoided, but we also develop senior Military Service Officers (MSOs) who could refuse orders to use Seal Team Six to assassinate federal judges or federal attorneys and, if necessary, collude to insure that any commander which orders such heinous crimes is held accountable for those crimes. That is only possible with strong support of the appropriate IGs, DoJ, and courts.

Sovereign Immunity and Executive Discretion Do Not Apply

The primary relief sought is strict adherence to foundational statutes and mandates as supported in Marbury v. Madison (1803) and the APA 5 USC § 702. The restrictions on 'sovereign immunity' are discussed at length in my brief on that topic (ECF 76-4).

Further, contrary to the broad claims of executive discretion by USATXN, it is not

applicable here as the relief sought is simply a mandate that IG and OIG staff members be required to report federal crimes to DoJ as dictated in clear and unambiguous statutes. Executive discretion is discussed at length in my Response of 18 Mar 2024 (ECF 18) pages 4 to 6.

Conclusion

The court is asked to direct that CIGIE adapt its training and review standards to insure that all IG's and OIG staff report all federal crimes to DoJ. CIGIE is also asked to work with DoJ and relevant OIG's and their monitored agencies to insure future compliance with federal criminal statutes and individual constitutional rights with special training on how to deal with illegal orders as well special reporting mechanisms in CIGIE for OIG staff who are subjected to illegal orders.

Count 9, DoJ Did Not Uphold the Law

DoJ is Sole Federal Agency to Uphold the Law

The DoJ is given broad and exclusive powers to enforce the law, both the constitution and lawful congressional statutes in 28 USC Part II - Department Of Justice. The DoJ has adopted a DoJ Mission Statement with:

> The mission of the Department of Justice is to uphold the rule of law, to keep our country safe, and to protect civil rights.[3]

Congress and the courts have wisely given the DoJ sole authority and responsibility to 'uphold the law' to include prosecution as necessary. It simply would not work to have multiple agencies with ambiguous responsibilities to

3 These is also an expanded mission statement with:
The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law, to ensure public safety against foreign and domestic threats, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure the fair and impartial administration of justice for all Americans. In carrying out its mission, the Department is guided by four core values: (1) equal justice under the law; (2) honesty and integrity; (3) commitment to excellence; and (4) respect for the worth and dignity of each human being.

'uphold the law' and prosecute federal crimes.

However, that authority and responsibility to 'uphold the law' comes with a price. The constitution has three branches of government with Congress, the Courts, and the Executive branch. As the sole executive agency with authority and responsibility to 'uphold the law', DoJ is required to uphold all lawful statutes and court decisions.

DoJ Must Monitor Allegations of Federal Crimes

DoJ Can Refer Reported Allegations

This is not to say DoJ has no executive discretion. When faced with ambiguous or contradictory statutes, the DoJ can grant each agency executive discretion to choose the best solution for following the law just as the courts do in such situations. Of course, this never extends to violating clearly stated and unambiguous mandates of Congress such as federal crimes (which are never an option for a federal agency) or violating the Constitution, particularly individual rights guaranteed by the constitution.

That said, the DoJ still has significant executive discretion in how to 'uphold the law'. The DoJ has to exist within the same budgetary constraints as any other agency. The DoJ has the authority to refer matters to other agencies such as the relevant OIG and even local management as long as DoJ monitors the results to insure that future violations are eliminated, thereby upholding the law.

The DoJ can also use the threat of prosecution as necessary to get recalcitrant individuals or agencies to comply, offering immunity for testimony (to quickly get

to serious crimes) and plea deals as necessary and appropriate.

However, executive discretion for DoJ does not extend to ignoring lawful statutes or court decisions. The relief sought does not violate DoJ executive discretion as the requested orders simply require the DoJ to 'uphold the law' in whatever fashion it finds most expedient.

DoJ Took No Action When Violations Reported

In each of the other counts, DoJ was notified of the specific violations and took no discernible action to prevent future violations or to provide redress. Indeed this suit was necessary because of the inaction of DoJ.

The relief sought of working with other agencies to prevent future violations benefits ourselves as well as other similar victims in the future. As the separate reliefs sought commonly included a credit for future services, the assistance of DoJ to insure that those services are provided in a lawful fashion in the future benefits us directly as we expect to be future consumers of the services.

Sovereign Immunity and Executive Discretion Do Not Apply

The primary relief sought is for DoJ to enforce the law as in its mission and charter which is supported in Marbury v. Madison (1803) and APA 5 USC § 702. The restrictions on 'sovereign immunity' and 'executive discretion' are discussed at length in my brief on that topic (ECF 76-4).

Conclusion

The court is asked to direct CIGIE and DoJ to work with USPS OIG, DoS OIG, and DHS OIG as well as their monitored agencies (USPS, DoS, and USCIS) to avoid future violations of criminal statutes and individual constitutional rights.

Further, whenever CIGIE and / or DoJ become aware of other federal crimes (e.g. falsified readiness reports for Afghan government units) then they are asked to diligently pursue all violations to insure a culture of falsified records or other crimes do not become ingrained in the agency under consideration.

Verification of Brief

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: 7. Aug. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

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

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Importance of Vigilance by DoJ, CIGIE, and OIG's

The role of DoJ, CIGIE, and OIG's in supporting the constitution and good government can not be overemphasized.

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

Afghan Fiasco Result of Insufficient Oversight, Illegal Orders

The fiasco of the rapid fall of the Afghan government represented a serious tragedy for millions of Afghans as well as America as a whole. It can be argued that this fiasco was also the result of insufficient oversight by the relevant IG's (not defendants in this matter), CIGIE and DoJ.

Falsified Readiness Reports Caused Unexpected Collapse

The commonly stated cause of the fiasco was inaccurate estimates of the number and training / capabilities of Afghan government soldiers and para-military police as well as similarly inaccurate estimates of Taliban soldiers / combatants / terrorists. A good approximation would be that the Afghan government had about half as many soldiers as reported and the Taliban had about twice as many combatants as reported.

These substantial deviations from the 'readiness reports' can be attributed to the high level of corruption in Afghan culture. Indeed, corruption is, practically speaking, not even a concept in Afghan culture as it is just normal gift giving and ordinary business practices, no different from purchasing an item in a store.

The result was that a substantial portion of the American funding for the expansion of the Afghan military was misdirected with Afghan government commanders siphoning money into their own pockets rather than hiring soldiers as reported and even bribing Taliban units to not attack the areas of responsibility of their units. It was cheaper to pay the bribes to the Taliban rather than hiring the soldiers required to fight the Taliban. That left more money to pocket and better apparent results, the Taliban were no longer active in their area.

Officer Rotation and Illegal Orders Led to Massive Fraud

Of course there were American military service officers (MSOs) responsible for insuring that American funds were not misdirected in this fashion. But there is a problem with this as well.

In order to have well rounded senior MSOs, American MSOs are rotated through different assignments with about ten assignments in the critical first twenty years (to be eligible for retirement benefits as well as the potential for the most senior positions). As the required promotions are increasingly fiercely competitive, each MSOs must get an outstanding performance review from each assignment.

In the current environment, almost all soldiers in each unit are rotated. There is also an effort to stagger the rotations so that not too many soldiers are rotated at any one time. On arriving in a new two year assignment an MSO could expect that most of his subordinates would have about one year of experience as would the most of his / her superiors. This maintained some level of continuity for the various units.

An MSO on arriving in the assignment of monitoring Afghan units and the disbursement of American funds might find that his predecessor had attained an actual readiness of about 15% readiness but the reported readiness might have been 50%. The MSO would have received objectives from his / her commander to improve the readiness up to 60% with decreasing Taliban activity within the next year and before the superior rotated out.

In any discussions with the superior of inaccurate reports by the MSO's predecessor, the superior would almost certainly verbally inform the MSO that the superior doesn't care about the mistakes of the MSO's predecessor, the MSO had better get his / her numbers up to snuff (meeting the objectives) before the MSO's superior rotated out or the superior would give the MSO a negative review thereby ending the MSO's career. Needless to say this is a verbal illegal order to falsify records, but being ambiguous and verbal the superior would have plausible deniability.

If the MSO were to properly insure that American funds were being properly disbursed and Afghan unit readiness was accurately reported, his readiness reports might increase to an actual level of 20% (from 15%) but show an apparent decline from the 50% of his predecessor.

He would almost certainly also be removed from the position for some other reason by his / her superior. The MSO can only make real corrections by 'throwing under the bus' all his superiors and subordinates by being a 'whistleblower'. It is certainly unclear how successful such a strategy would be as longevity as an MSO through 10 assignments really depends on low risk successes (no one can depend on winning 10 flips of a coin).

If the MSO chose to instead ignore falsified reports by the Afghans and encouraged them to improve their reports (with illegal orders similar to those of the MSO's superior), then the Readiness Reports could easily improve to 70% though the actual readiness would likely decline to 10%.

In essence, because of the staggered rotations and the hyper competitive promotion process for MSO's, they are all playing 'hot potato' hoping that the whole thing won't explode on their watch, that they can rotate out before their negligence is found out.

Failure of OIG to Fully Investigate Led to Extensive Corruption

Throughout the Afghan occupation there were sporadic reports of corruption within the Afghan military but instead of a massive investigation by the Army IG and DoJ, the problems were mostly ignored. I believe that had there been an investigation of the magnitude of the Naval 'Tailhook' investigation then Afghan government military readiness would have been reported as much lower but could have improved over time.

Accurate Reporting Would Fiasco

The Afghan fiasco would have been completely different with Afghan government forces much stronger and the Taliban not as strong (and with accurate estimates of Taliban strength). Were a withdrawal made, the results would be more in line with the expectations of senior commanders.

Mr. Carr's Conjectures Based on Limited Experience

Of course all this is purely conjecture relying solely on publicly available sources and my experience as a junior MSO. When I graduated from West Point in 1975, I was allowed significant choice in first assignments due to his superior academic standing. I chose an academic assignment (graduate school at M.I.T.) for his first assignment. For my second assignment, I chose a short / hardship one year tour in Korea for my only normal military assignment. For my third and final assignment I chose a scientific / technology assignment at an Army Research and

Development Lab (Harry Diamonds Labs, HDL). I understood that choosing such assignments guaranteed that I would not be able to continue his career.

The Army 'passed over' my promotion to captain twice before granting the promotion. Three passes and you're out according to the 'move up or move out' rules of the time. The Army and I understood that it would be appropriate for me to separate once my military service obligation was completed (three and a half years at HDL instead of the normal three).

I am deeply appreciative of his excellent training and experience from the Army. I parted ways with the Army amiably after completing his service obligations.

Illegal Orders and Falsified Documents Undermine Government of Law

This discussion of the Afghan fiasco is included solely to explain my conclusion that illegal orders and federal crimes such as falsified documents must be addressed by DoJ and can not be overlooked based on executive discretion. The DoJ should be encouraged to enlist the assistance of relevant OIG's and the CIGIE as feasible. The DoJ should also be encouraged to use the cudgel of the threat of prosecution to efficiently promote future compliance and minimize the demands on DoJ and OIG resources.

Accuracy of Government Records, Disbursements Foundational

Democracy Depends on Accurate Records

I concede that there are many criminal statutes that the DoJ must enforce in precedence to falsifying government records or fraudulent disbursement of government funds. For example, assassinating a federal judge or federal attorney is most heinous. However, the question is how can the U.S. insure that Seal Team 6 is never ordered to commit such heinous acts.

The previous Secretary of Defense (SoD) was Lloyd Austin (Mr. Austin) who also graduated from West Point in 1975 with me. I am comfortable that Mr. Austin would resist an illegal order to misuse Seal Team 6. Unfortunately, due to Mr. Austin's age he was in a civilian position and was removed on 'Day One' of by the newly president elected who had promised to be a dictator on day one and deport millions of illegals on day one.

While it is my belief that the majority of senior MSO's would not obey an illegal order to misuse Seal Team 6, it is not clear how many would be successful in that having seen one or two of their predecessors jailed and silenced for disobeying a direct order. It takes strong and courageous senior MSO's to collude and overcome a president who ignores the law.

The best way to insure we have senior MSO's and executives in the federal government who will support the constitution when it is required is to develop a culture where short cuts like falsifying records and disbursements leads to termination, not success.

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: 5. Aug. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

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 Counts 10 and 11 Against IRS and TIGTA

Brief of Mr. Carr Supporting Counts 10 and 11 Against IRS and TIGTA

Table of Contents

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

Introduction

Standard Challenges and Defenses Discussed

This verified affirmation will present the legal arguments which demonstrate that both Count 10 and Count 11 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 which will be addressed is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress or the constitution with a special focus on the disbursement of government funds (the power of the purse) which the constitution specifically reserves for Congress (and not the courts).

There is also an extension of sovereign immunity which is executive discretion which says that when Congress gives conflicting or ambiguous statutes then it is up to the senior executive to decide what is the best course and the courts shouldn't micro-manage decisions in areas where the executives are assumed to have the best knowledge and experience (that is what they were hired for).

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

Count 10, IRS Ignores Due Process and Improperly Demands Payment

Contested Amount Paid Under Duress of Seizure, i.e. Improper 'Shakedown'

The IRS sent us tax penalty notices which were for an incorrect and over stated amount for estimated tax payments. We appealed but no one in IRS seemed to understand estimated tax payments and the penalties for 'Annualized Income' and so the appeal was passed off between groups without any resolution.

However the IRS convinced us to pay the over stated penalties which were not really due by making illegal threats to seize our property (even though the appeal was still bouncing around unresolved). Once we paid the contested penalties, the IRS simply forgot about the pending appeal (put the appeal into the metaphorical shredder) and ignored the matter.

The IRS only sent us the required refund when apparently DoJ encouraged them to resolve any outstanding issues as part of the February 2025 blitz just before the court dismissed this complaint.

IRS Ignored Due Process and Statute Mandated 30 Day Notice

The IRS failed its duty to perform through the absence of due process. Specifically the IRS is precluded from seizing property (or threatening to seize property) while an appeal is outstanding. Also, it is a crime of falsifying government records (18

USC § 1001) to claim that we must make payment immediately while an appeal is pending. Similarly, 8 USC § 6331 requires the IRS to provide 30 day notice before seizing property and to not include that notice is concealing a material fact, also a crime under (18 USC § 1001).

IRS Must Forgive Penalties Which Result From Incomprehensible Rules

In addition, the estimated tax Form 2210 is too complex to be comprehensible by an ordinary tax payer (or most IRS tax professionals it seems) and the IRS has a duty insure that directions for paying taxes are meaningful to individual taxpayers. The IRS also has the authority to waive penalties in the interest of justice and so inadvertent errors by individual taxpayers must be forgiven if they are the result of incomprehensible estimated tax payment requirements.

Plaintiffs Were Harmed By Illegal Shakedown, Incomprehensible Forms

The relief sought is damages from the illegal 'shakedown' of penalties which were not really due. While the contested amount was eventually refunded, the interest provided did not fully cover the damages.

Further, we had asked for a one time forgiveness of the penalties as we did not know how to compute the required estimated tax payments when there was 'Annualized Income' and this has not been provided.

The Court Can Order the IRS to Refund Penalties, Provide Better Tools

As stated previously, the IRS is authorized to waive penalties and so can comply with a court order to that effect. We are also seeking ancillary relief of the IRS answering FOIA requests to determine the magnitude of the problems with such penalties and potentially converting this count into a class action suit. Lastly we are asking that the court order the IRS to improve support for estimated tax

payments in the case of 'Annualized Income' which, as stated previously, is already required of the IRS.

TIGTA Failed to Report Crimes, Provide Relief

We complained to TIGTA, the IRS Commissioner, and DoJ of the due process violations and crimes of falsifying government records (see ECF 67-1), but it was ignored until the DoJ decided to wrap up the related matters in this suit in Feb 2025 blitz (perhaps in collusion with the court and their effort to bury the matter).

The precise details of the above interactions are listed in the proposed Second Amended Complaint (ECF 76-1)

Count 10, IRS Ignored Due Process and Lawful Statutes

IRS 'Shakedown' Was Illegal

The details of the IRS 'Shakedown' are listed in the Proposed Second Amended Complaint (ECF 76-1), but a summary is presented below.

The IRS sent us a notice that we owed penalties for under payment of estimated taxes even though we had paid the required 90% of total taxes due by the last payment. Of course our income was not evenly distributed through the year and so our estimated tax payments were not equal and the penalties were computed assuming equal income in each tax period (even though the tax periods are not all the same length and our income widely varied for each tax period).

I promptly appealed the penalty and inquired about how to compute estimated taxes when our income varies widely through the year. No one I spoke with (or wrote to) seems to have understood Form 2210 which is used to compute the

required estimated tax payments for each tax period through the 'Annualized Income' worksheets and the penalty due for any under payment for any tax period. As a result the appeal languished with IRS agents and the IRS appeals tribunal shuffling the appeal around as no one seems to have understood how to compute the required estimated tax payments and the penalty which results from under payment.

While the appeal was being passed off between groups, the collections department continued the notices (never mentioning the appeal) and finally sent a CP504 (ECF 67-16) demanding immediate payment of the balance due or they would seize our property (e.g. house, car, business accounts).

This CP504 was in error in two ways:

- Pending active appeals preclude any seizure of property and
- the IRS must provide 30 days notice before seizing property (by statute)

We paid the balance due at that time of pay $753.70[2] which was a paltry sum compared to the inconvenience and damages which would result from having our house, car, and business accounts seized.

Once we paid the balance the IRS claimed we owed (but which we thought was an illegal 'shakedown') the IRS simply ignored our appeal and did not respond to any queries about the appeal. From the IRS perspective, they had the money and any resolution to the appeal would surely entail a refund.

Duty to Perform, Damages, Relief Elaborated in Complaint

The Proposed Second Amended Complaint (ECF 76-1), in the IRS arguments

2 When I had submitted a completed Form 2210 to 'Appeals' as requested, I also made payment of a reduced penalty of $340.81 which I had computed using Form 2210.

sections provides a detailed explanation of the relevant statutes which demonstrate that the IRS had a duty to perform with Internal Revenue Code Section 6331(d) which is 26 USC § 6331 and 18 USC § 1001. The IRS has explained the constitutional due process rights for taxpayers in the widely published IRS 'Taxpayer Bill of Rights', ECF 70-6, and the IRS clearly violated two of these rights as elaborated in the complaint itself.

There is also a separate brief (ECF 71-9) concerning the failures of the IRS to provide sufficient documentation, advice, or tools for an individual taxpayer to determine the amount of estimated tax payments actually required in the case of 'Annualized Income'. It also discusses the duty to perform based substantially on the due process requirement that individuals can not be penalized for not being omniscient or omnipotent (from ECF 71-8). It suggests how the IRS can migrate from broad forgiveness of penalties until the appropriate staff and tools can provide the required support.

FOIA Requested Records Not Provided

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

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

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

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

Relief Sought Is Proper

The IRS is authorized to waive penalties and we are seeking a waiver of all penalties for the delay in estimated tax payments. We are also seeking ancillary relief of the IRS answering FOIA requests to determine the magnitude of the problems with such penalties and potentially converting this count into a class action suit. Lastly we are asking that the court order the IRS to improve support for estimated tax payments in the case of 'Annualized Income' which, as stated previously, is already required of the IRS.

Count 11, TIGTA Did Not Report Crimes or Support the Constitution

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).

TIGTA Had Clear Duty to Perform

TIGTA has clear statutory mandates to work with the IRS to resolve these problems and to report federal crimes to DoJ which it failed to do. The duties of OIGs and DoJ to support the constitution (protect individual constitutional rights and insure compliance with lawful statutes in their respective domains) and report federal crimes (OIG) and enforce the law (DoJ) is discussed in ECF 75-7, a brief on the duties of OIGs and DoJ.

Sovereign Immunity and Executive Discretion Do Not Apply

The primary relief sought is strict adherence to foundational statutes and mandates

as supported in Marbury v. Madison (1803) and the APA 5 USC § 702. The restrictions on 'sovereign immunity' and executive immunity are discussed at length in my brief on that topic (ECF 67-3).

Further, contrary to the broad claims of executive discretion by USATXN, it is not applicable here as the relief sought is simply a mandate that IG and OIG staff members be required to report federal crimes to DoJ as dictated in clear and unambiguous statutes.

Conclusion

The court is asked to direct that the IRS provide credits for future taxes to us for the damages we sustained from the illegal 'shakedown' as well as the base penalties which resulted from our lack of understanding on how to compute the amount of estimated tax payments in the event of 'Annualized Income'.

We also ask that the IRS release the requested FOIA records so that the court can determine the magnitude of this problem with other taxpayers. If necessary, the above relief could be expanded as a class action suit for similarly damaged taxpayers.

In addition, as ancillary relief the court is asked to order the IRS to cease its illegal 'shakedowns' as well as providing widespread relief from penalties for estimated tax payments when there could be 'annualized income' confusion.

This widespread relief from penalties will continue until the IRS can provide adequate support, documentation, and tools so that estimated tax payments in the 'annualized income' case are manageable for individual taxpayers.

Verification of Brief

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

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

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

/s *Brian P. Carr*

_____

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Date: 8. Aug. 2025
Location: Irving, Texas

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29 Aug 19	12-4	Pltf's affirmations available to DoS on 9 Sep 19
25 Sep 19	17-5	Pltf's accomodations 14 Oct 19 to 19 Oct 19
27 Mar 21	18-5	USPS Priority Mail delivery, 11 day delay, no refund
9 Apr 21	18-3	USPS Rcpt, $26.35, Overnight Express, Guaranteed Delivery
15 Apr 21	18-4	USPS Tracking, falsified delivery, still at Post Office
5 May 21	18-8	USPS refund request status, 6006595, Dispute Paid
9 Jun 21	11-2	USPS Hooper, scan on 15 Apr 21 false, early, no refund
1 Aug 21	11-3	to USPS IG, requests crimes reported to DoJ
16 Sep 21	18-9	to USPS, USPS Scarpelli $26.35 refunded, no transaction ID
19 Oct 21	11-4	USPS FOI Hefley, OIG workers decide on case by case basis
17 Nov 21	11-5	to USPS IG, report malfeasance in USPS OIG, not report
21 Nov 21	70-11	USPS FOIA request 2022-FPRO-00378 for all records relating to tracking number 9470103699300057573507, specifically bank transaction ID for credit card refund (item 2)
12 Dec 21	18-6	USCIS 24 month extension letter, expired 13 Nov 2022
13 Jan 22	70-13	USPS FOIA request 2022-FPRO-00378 tracking results including 'Refund Issued' but no bank transaction ID credit card refund (item 2)
21 Jan 22	70-12	USPS FOIA request 2022-FPRO-00378 for all records relating to tracking number 9470103699300057573507, specifically bank transaction ID for credit card refund (item 2)
31 Jan 22	30-2	Texas Disciplinary Rules of Professional Conduct
7 Jun 22	10-1	USPS Delaney, OIG decides prosecution, no report to DoJ
3 Aug 22	10-2	Mr. Carr, notice to USPS BoG of USPS OIG Malfeasance
12 Dec 22	10-3	USPS BoG response, referred USPS OIG complaint to USCIGIE
13 Dec 22	45-1	Mrs. Carr non immigrant visa which expires 08Dec2032
13 Dec 22	45-2	Mrs. Von Kramer non immigrant visa which expires 08Dec2032
3 Jan 23	20-2	USCIS A-551, expired 2 Jan 24
23 Jan 23	48-2	USCIS announces new 48 month extension for I-751 applctns, also ECF 58-1
30 Jan 23	16-4	USCIS FOIA NRC2023277190, unsigned interview results
31 Jan 23	10-5	USCIS, I-751 and N-400 approved, no green card provided
26 Feb 23	16-2	to USCIS FOIA, request for entire record including video
3 Mar 23	14-4	to DoJ: Notice / Request, cc: USPS, USPS BoG, USPS OIG
19 Apr 23	39-3	DoS OIG response to H20231749 2023, Complaint para 128
24 Apr 23	34-7	Complaint submitted online to DoS OIG
10 May 23	70-14	DoS FOIA email request for Mrs. Carr for personal records with audio and video
24 Jul 23	70-15	DoS FOIA email request for Mrs. Von Kramer for personal records with audio and video
24 Jul 23	70-16	DoS FOIA email request for Mrs. Carr for personal records with audio and video
5 Jun 23	17-1	DoJ Request forwarded to USPS, NRC2023277190
20 Jun 23	14-2	to DoS, DOS OIG, USCIGIE, DoJ: Notice / Request
24 Jul 23	12-5	DoS Stein FOIA response, no documents returned, INA 222(f)
9 Aug 23	14-3	USCIGIE close Case 23-083, no action taken

Exhibits

25 Aug 23	32-1	Status of Mrs. Carr I-751 and N-400 applications
25 Aug 23	32-2	Request to DHS OIG, USCIS Director, etc
1 Sep 23	10-6	USCIS, 30 Jan 23 interview did not occur
6 Sep 23	10-7	USCIS, interview scheduled for 11 Oct 23, no purpose stated
9 Sep 23	70-21	USCIS FOIA request NRC2023277190 for personal information for Mrs. Carr
10 Sep 23	49-5	DHS OIG, USCIS, DoJ notice of falsified cancellation
15 Sep 23	16-1	USPS mail, ECF 10-7 mailed 12 Sep 23, arrived 15 Sep 23
19 Sep 23	10-8	USCIS, rqst to reschedule denied, entire record considered
24 Sep 23	30-5	USCIS G-28 request Mr. Carr as Mrs. Carr's representative
26 Sep 23	30-7	Justification for delaying interview of 11 Oct 2023
5 Oct 23	16-3	USCIS FOIA Panter response NRC2023277190
6 Oct 23	17-3	DoJ, DoS request, cc: DoS IG, USCIGIE, DoS BCA
6 Oct 23	17-4	DoJ, USCIS request, cc: DHS IG, USCIGIE
9 Oct 23	14-5	to DoJ, clarify USPS request, re: NM301959635
9 Oct 23	17-2	(duplicate) to DoJ, clarify USPS request, re: NM301959635
13 Oct 23	10-10	USCIS, N-400 denied, unexplained contradicts prior records
19 Oct 23	70-17	DoS FOIA F-2023-1067 response for Mrs. Carr for personal records but no audio or video
24 Oct 23	49-6	CIGIE, DOJ and USPS request for assistance
27 Oct 23	10-11	USCIS, green card denied, too late to appeal 31Jan23
31 Oct 23	10-9	to USCIS FOIA, request for entire record including video
1 Nov 23	14-6	USCIGIE close Case 24-010, no action taken
7 Nov 23	30-8	Notice of Intent to Contest Denial of N-400 sent to DoJ
12 Nov 23	70-22	USCIS FOIA revised request for all documents related to Mrs. Carr's I751 and N-400 including audio and video recordings, substantial duplicate of 10-9
13 Nov 23	34-6	Response letter from DoS OIG FOIA to 2023-P-022
13 Nov 23	34-8	Response documents from DoS OIG FOIA to 2023-P-022
20 Nov 23	70-23	USCIS FOIA request NRC2023371972 accepted for all documents related to Mrs. Carr's I751 and N-400 including audio and video recordings
12 Dec 23	16-6	to USCIS FOIA request, cumulative N-400 data
12 Dec 23	16-5	to USCIS FOIA request, cumulative I-751 data
20 Dec 23	13-2	to DoS FOIA request, cumulative visa data
21 Dec 23	13-3	DoS FOIA acknowledgment F-2023-13477 for 20 Dec 23
26 Dec 23	70-25	USCIS FOIA request OPQ2023000041 accepted for cumulative I-751 (10 year Green Card) applications results broken down by country and delays
2 Jan 24	70-24	USCIS FOIA request NRC2023371972 response with extensive records but no video records, audio records
8 Jan 24	70-18	DoS FOIA F-2024-04752 acknowledge receipt of cumulative visa FOIA request at new FOIA office
5 Feb 24	70-19	DoS FOIA FP-2023-00325 transfer original Mrs. Carr personal request to Bureau of Consular Affairs FOIA office
10 Feb 24	13-4	DoS FOIA request statuses 10 Feb 24
28 Feb 24	70-20	DoS FOIA FP-2023-00325 transfer original Mrs. Carr personal request to Bureau of Consular Affairs FOIA office
1 Mar 24	28-1	Redacted Email Thread 1 Mar 24 to 18 Apr 24
17 Apr 24	30-1	email thread from 17 Apr 2024 to 26 Apr 2024
6 May 24	67-7	IRS CP30 notice of penalties of $1,055.19
10 May 24	67-8	Electronic copy of redacted f483 Abatement Request sent to the IRS
10 May 24	67-9	Electronic redacted copy of Abatement Request attached to form f483
16 May 24	67-10	USPS tracking delivery of form f843 and attached documents
28 May 24	49-3	10 year Green Carr for Mrs. Carr, complaint3 para 209

Exhibits

30 Jul 24	48-1	USCIS settles with Perez in asylum class action (also ECF 58)
14 Jun 24	67-20	IRS Web Page Describing how to access appeal status, first access on this date
27 Aug 24	67-11	IRS appeal initial response, no abatement, can submit F2210
3 Sep 24	67-6	redacted copy of IRS form 1040 submitted by the Carr's
3 Sep 24	67-12	redacted Form 2210 with computed penalties of $340.81
3 Sep 24	69-1	redacted appeal letter from Mr. Carr
8 Sep 24	67-14	USPS tracking delivery of appeal and Form 2210 on 8 Sep 2024
10 Sep 24	49-4	Receipt for new N-400 application, complaint3 para 209
10 Oct 24	67-15	IRS notice to the Carr's that appeal is being forwarded
11 Nov 24	67-16	IRS CP504 Notice of Seizure / Levy to the Carr's
18 Nov 24	67-17	IRS Appeal remanded to IRS, insufficient evidence to justify penalty
2 Dec 24	67-18	Carrs' Request to Reconsider IRS Appeal Decision
6 Dec 24	67-19	USPS tracking delivery of Request to Reconside
15 Dec 24	70-5	Sample CP504 provided by the IRS on their web site which clearly explains the taxpayer must respond within 30 days
17 Dec 24	67-1	Request for assistance sent to IRS, TIGTA, CIGIE, DoJ, and USATXN
7 Jan 25	70-10	USCIS notice that citizenship interview scheduled for 10 Feb 2025
10 Jan 25	67-21	IRS FOIA request 2025-06521 submission for personal information, initially sent on 10 Jan 2025
21 Jan 25	69-2	IRS FOIA cumulative request 2025-06698 concerning CP504 notices and appeals
2 Feb 25	70-4	Page 24 of IRS Publication 505 "Tax Withholding and Estimated Tax" with Worksheet 2-10. Amended Estimated Tax Worksheet
5 Feb 25	69-3	IRS FOIA cumulative request 2025-06698 delayed until 12 May 2025 or later
6 Feb 25	70-1	IRS FOIA personal request 2025-06521 (ECF 67-21) status on 6 Feb 2025 due 5 Jun 2025
10 Feb 25	71-2	USCIS Notice that Mrs. Carr passed citizen test and scheduled Oath ceremony for 28 Feb 2025
18 Feb 25	67-2	IRS notice that amount due was $340.81 as on form 2210 on 03 Sep 2024
28 Feb 25	71-3	Mrs. Carr Certificate of Naturalization provided by USCIS
28 Feb 25	69-4	DoS acknowledges receipt of FOIA request indivdual (RC) 2023-00325 submitted on 10 May 2023
9 Mar 25	75-1	Email thread with DoJ from 9 Mar 2025 to 13 Jun 2025 concluding that DoJ is UNOPPOSED (will not submit a response) to the Rule 60 Motions for relief (ECF 67, 71, and 73 and Leave to Amend Complaint)
11 Mar 25	70-7	USPS cumulative data FOIA request 2025-FPRO-01666 to determine how many 'guaranteed delivery' refunds were approved but there are not any records of payment
24 Mar 25	67-4	Mrs. Von Kramer experiences and the relief she is most focused on
24 Mar 25	67-5	Mrs. Von Kramer's request that the Amended Complaint be filed with her original signature
25 Mar 25	73-1	USPS tracking for ECF 64, Mrs. Carr's response asking to remain in this matter. Mailed 25 Mar 2025, received 27 Mar 2025
13 Apr 25	69-1	Properly redacted replacement for ECF 67-13, appeal letter sent on 3 Sep 2024
21 Apr 25	70-2	IRS FOIA request 2025-06521 status on 21 Apr 2025 is closed without any notice
21 Apr 25	70-3	IRS FOIA request 2025-06698 status on 21 Apr 2025 is closed without any notice
24 Apr 25	70-26	USCIS FOIA request OPQ2023000041 denied for cumulative I-751 (10 year Green Card) applications results broken down by country and delays
1 May 25	70-8	USPS cumulative data FOIA request 2025-FPRO-01666 noting cost of $336.00 but redacting all cumulative results based on "information of a commercial nature" under Section 410(c)(2)
1 May 25	70-9	Results for USPS FOIA 2025-FPRO-01666, all cumulative results redacted
2 May 25	71-4	USCIS receipt for I-130 immigration petition for Rujipas Lawichai (Tin)

Exhibits

7 May 25	71-1	Mrs. Carr's son, Tanapon Lawichai, nick name Earth, requests to join complaint
13 May 25	71-5	USCIS receipt for I-130 immigration petition for Tanapon Lawichai (Earth)
14 May 25	71-6	Mr. Carr's appeal of USPS cumulative FOIA request 2025-FPRO-01666 results with important results redacted
15 May 25	71-10	Mrs. Carr's son Rujipas Lawichai (nick name Tin) requests to join the complaint
30 May 25	71-7	USCIS receipt for I-130 immigration petition for Buakhao Von Kramer
12 Jun 25	75-3	USPS cumulative FOIA request 2025-FPRO-01666 denial of appeal 2025-APP-00110
12 Jun 25	75-4	USPS cumulative FOIA request 2025-FPRO-01666 letter denying 2025-APP-00110
Aug 25	76-6	Time Line of Filings in this matter to date

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

Importance of Vigilance by DoJ, CIGIE, and OIG's

The role of DoJ, CIGIE, and OIG's in supporting the constitution and good government can not be overemphasized.

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

Afghan Fiasco Result of Insufficient Oversight, Illegal Orders

The fiasco of the rapid fall of the Afghan government represented a serious tragedy for millions of Afghans as well as America as a whole. It can be argued that this fiasco was also the result of insufficient oversight by the relevant IG's (not defendants in this matter), CIGIE and DoJ.

Falsified Readiness Reports Caused Unexpected Collapse

The commonly stated cause of the fiasco was inaccurate estimates of the number and training / capabilities of Afghan government soldiers and para-military police as well as similarly inaccurate estimates of Taliban soldiers / combatants / terrorists. A good approximation would be that the Afghan government had about half as many soldiers as reported and the Taliban had about twice as many combatants as reported.

These substantial deviations from the 'readiness reports' can be attributed to the high level of corruption in Afghan culture. Indeed, corruption is, practically speaking, not even a concept in Afghan culture as it is just normal gift giving and ordinary business practices, no different from purchasing an item in a store.

The result was that a substantial portion of the American funding for the expansion of the Afghan military was misdirected with Afghan government commanders siphoning money into their own pockets rather than hiring soldiers as reported and even bribing Taliban units to not attack the areas of responsibility of their units. It was cheaper to pay the bribes to the Taliban rather than hiring the soldiers required to fight the Taliban. That left more money to pocket and better apparent results, the Taliban were no longer active in their area.

Officer Rotation and Illegal Orders Led to Massive Fraud

Of course there were American military service officers (MSOs) responsible for insuring that American funds were not misdirected in this fashion. But there is a problem with this as well.

In order to have well rounded senior MSOs, American MSOs are rotated through different assignments with about ten assignments in the critical first twenty years (to be eligible for retirement benefits as well as the potential for the most senior positions). As the required promotions are increasingly fiercely competitive, each MSOs must get an outstanding performance review from each assignment.

In the current environment, almost all soldiers in each unit are rotated. There is also an effort to stagger the rotations so that not too many soldiers are rotated at any one time. On arriving in a new two year assignment an MSO could expect that most of his subordinates would have about one year of experience as would the most of his / her superiors. This maintained some level of continuity for the various units.

An MSO on arriving in the assignment of monitoring Afghan units and the disbursement of American funds might find that his predecessor had attained an actual readiness of about 15% readiness but the reported readiness might have been 50%. The MSO would have received objectives from his / her commander to improve the readiness up to 60% with decreasing Taliban activity within the next year and before the superior rotated out.

In any discussions with the superior of inaccurate reports by the MSO's predecessor, the superior would almost certainly verbally inform the MSO that the superior doesn't care about the mistakes of the MSO's predecessor, the MSO had better get his / her numbers up to snuff (meeting the objectives) before the MSO's superior rotated out or the superior would give the MSO a negative review thereby ending the MSO's career. Needless to say this is a verbal illegal order to falsify records, but being ambiguous and verbal the superior would have plausible deniability.

If the MSO were to properly insure that American funds were being properly disbursed and Afghan unit readiness was accurately reported, his readiness reports might increase to an actual level of 20% (from 15%) but show an apparent decline from the 50% of his predecessor.

He would almost certainly also be removed from the position for some other reason by his / her superior. The MSO can only make real corrections by 'throwing under the bus' all his superiors and subordinates by being a 'whistleblower'. It is certainly unclear how successful such a strategy would be as longevity as an MSO through 10 assignments really depends on low risk successes (no one can depend on winning 10 flips of a coin).

If the MSO chose to instead ignore falsified reports by the Afghans and encouraged them to improve their reports (with illegal orders similar to those of the MSO's superior), then the Readiness Reports could easily improve to 70% though the actual readiness would likely decline to 10%.

In essence, because of the staggered rotations and the hyper competitive promotion process for MSO's, they are all playing 'hot potato' hoping that the whole thing won't explode on their watch, that they can rotate out before their negligence is found out.

Failure of OIG to Fully Investigate Led to Extensive Corruption

Throughout the Afghan occupation there were sporadic reports of corruption within the Afghan military but instead of a massive investigation by the Army IG and DoJ, the problems were mostly ignored. I believe that had there been an investigation of the magnitude of the Naval 'Tailhook' investigation then Afghan government military readiness would have been reported as much lower but could have improved over time.

Accurate Reporting Would Fiasco

The Afghan fiasco would have been completely different with Afghan government forces much stronger and the Taliban not as strong (and with accurate estimates of Taliban strength). Were a withdrawal made, the results would be more in line with the expectations of senior commanders.

Mr. Carr's Conjectures Based on Limited Experience

Of course all this is purely conjecture relying solely on publicly available sources and my experience as a junior MSO. When I graduated from West Point in 1975, I was allowed significant choice in first assignments due to his superior academic standing. I chose an academic assignment (graduate school at M.I.T.) for his first assignment. For my second assignment, I chose a short / hardship one year tour in Korea for my only normal military assignment. For my third and final assignment I chose a scientific / technology assignment at an Army Research and

Development Lab (Harry Diamonds Labs, HDL). I understood that choosing such assignments guaranteed that I would not be able to continue his career.

The Army 'passed over' my promotion to captain twice before granting the promotion. Three passes and you're out according to the 'move up or move out' rules of the time. The Army and I understood that it would be appropriate for me to separate once my military service obligation was completed (three and a half years at HDL instead of the normal three).

I am deeply appreciative of his excellent training and experience from the Army. I parted ways with the Army amiably after completing his service obligations.

Illegal Orders and Falsified Documents Undermine Government of Law

This discussion of the Afghan fiasco is included solely to explain my conclusion that illegal orders and federal crimes such as falsified documents must be addressed by DoJ and can not be overlooked based on executive discretion. The DoJ should be encouraged to enlist the assistance of relevant OIG's and the CIGIE as feasible. The DoJ should also be encouraged to use the cudgel of the threat of prosecution to efficiently promote future compliance and minimize the demands on DoJ and OIG resources.

Accuracy of Government Records, Disbursements Foundational

Democracy Depends on Accurate Records

I concede that there are many criminal statutes that the DoJ must enforce in precedence to falsifying government records or fraudulent disbursement of government funds. For example, assassinating a federal judge or federal attorney is most heinous. However, the question is how can the U.S. insure that Seal Team 6 is never ordered to commit such heinous acts.

The previous Secretary of Defense (SoD) was Lloyd Austin (Mr. Austin) who also graduated from West Point in 1975 with me. I am comfortable that Mr. Austin would resist an illegal order to misuse Seal Team 6. Unfortunately, due to Mr. Austin's age he was in a civilian position and was removed on 'Day One' of by the newly president elected who had promised to be a dictator on day one and deport millions of illegals on day one.

While it is my belief that the majority of senior MSO's would not obey an illegal order to misuse Seal Team 6, it is not clear how many would be successful in that having seen one or two of their predecessors jailed and silenced for disobeying a direct order. It takes strong and courageous senior MSO's to collude and overcome a president who ignores the law.

The best way to insure we have senior MSO's and executives in the federal government who will support the constitution when it is required is to develop a culture where short cuts like falsifying records and disbursements leads to termination, not success.

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: 5. Aug. 2025
Location: Irving, Texas

Case, Statute, and Other Alphabetical Index

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 FOR FRCP RULE 15(A)(2) LEAVE TO SUBMIT SECOND AMENDED COMPLAINT"

Plaintiff Brian P. Carr, pro se and ostensibly representing his wife, Rueangrong Carr (hereinafter Mrs. Carr), and Mrs. Carr's sister, Buakhao Von Kramer, now moves for leave to file a third amended complaint. (Doc. No. 76 (hereinafter "Motion").) His 24-page motion seeks not just leave to file another amended complaint, but also various forms of miscellaneous relief, to include requiring the Defendants to (1) answer the proposed 87-page complaint within 14 days, (2) address Plaintiff's "due process" concerns with respect to being given only 14 days to file objections to the Magistrate Judge's Findings, Conclusions and Recommendation (Motion at 3), and (3) demand that the Court "promptly" decide the numerous Fed. R. Civ. P. 60 motions filed by Carr since judgment was entered on March 21, 2025. (*Id*. at 4). Plaintiff also seeks to continue representing his family as additional plaintiffs in this case, having interpreted this Court's local rules to mean that he is "attorney" and thus can sign pleadings on behalf of other plaintiffs. (*Id*.) Plaintiff also ask this Court for leave to file an amended complaint which

seeks to correct all cited defects, add new counts and new plaintiffs, and add new defendants." (Doc. 73 at 4.)[1] Plaintiff's motion should be denied.

I. Procedural Background

Plaintiff filed his family's complaint on December 29, 2023 (Doc. 3.) Defendants, the United States of America and several other federal agencies, filed a motion to dismiss. (Doc. 15.) After responding to that motion (Doc.18), Plaintiffs filed an amended complaint on April 24, 2024. (Doc. 29.) That amended complaint is the operative complaint in this case.

In the amended complaint, Plaintiff sought damages from the United States Postal Service (USPS) for an allegedly delayed delivery of a package and alleged failure to pay for that late delivery. (Doc. 29 at 2, 7-9.) Plaintiff also complained that various federal defendants failed to investigate, or refer for possible investigation and criminal prosecution, those officials responsible for the non-payment. (*Id*. at 9-11.) The amended complaint also sought an order from the Court mandating that various federal agencies, including the U.S. Department of Justice, initiate 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 12-45.) According to Plaintiff, the process was procedurally infirm and dishonest, but no one would address his complaints. (*Id*.)

Defendants filed a second motion to dismiss. (Doc. 31.) As explained therein,

[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.

Plaintiffs did not meet their initial burden to identify an applicable waiver of the federal government's sovereign immunity for any of their claims. (*See generally*, *id* at 5.) Defendants explained that Plaintiff's claim regarding the alleged delivery of his mail was barred by 28 U.S.C. 2680 (*id*. at 6), his claims related to the naturalization process were proper only under the regime established by the naturalization statutes (*id*. at 6-7), and Plaintiff's family's claims related to visas was barred by the doctrine of consular nonreviewability. (*Id*. at 8-9.) Plaintiff objected to the motion to dismiss primarily with unsupported argument, but also citing, in part, the Administrative Procedures Act, 5 U.S.C. § 701, *et*. *seq*., and 8 U.S.C. § 1421(c), as waivers of sovereign immunity. (*See generally* Doc. 34). In response, Defendants explained that Plaintiff failed to demonstrate that any of the numerous actions about which Plaintiff complained were the sort of non-discretionary actions contemplated by the APA. (Doc. 41 at 1-2.) Defendantd further explained that Plaintiff and his family had not availed themselves of the remedies provided under the naturalization statutes. (*Id.* at 3-4).

On February 27, 2025, Magistrate Judge Rutherford entered Findings, Conclusions, and Recommendations of the United States Magistrate Judge. (Doc. 61). Therein, Magistrate Judge Rutherford explained that Mr. Carr, proceeding pro se, was essentially and impermissibly representing his wife and sister-in-law. (Doc. 61 at 1-3.) Because Mr. Carr was not authorized to give legal advice or sign pleadings on behalf of others, [2] Magistrate Judge Rutherford recommended that his family's claims be dismissed. She further explained that Plaintiff failed to identify a waiver of sovereign

[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".)

immunity that would permit the claims he raised on his own behalf. (*Id*. at 5-6). For those reasons, the Magistrate Judge issued recommending dismissal of the complaint. (Doc. 61.) No objections were filed, and this Court, having 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, Plaintiff and his family began filing various pleadings and motions seeking 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.) Plaintiff filed multiple pleadings complaining that he and his family were not given adequate time to prepare objections to the FCR and that the rules regarding how pro se plaintiffs should electronically sign pleadings was vague (*See generally* Docs. 67, 68, 71, 73.) For the most part, these documents reargue the same objections to dismissal. (*Id*.)

Having failed to obtain the relief he seeks through various post-judgment motions, Plaintiff and his family now move again for leave to amend their complaint. (Doc. 49.) Plaintiff explains that, as he construes this Court's local rules, he *is* in fact an attorney and thus capable of representing his family. (Doc. 76 at 4-5.) He seeks to reassert the dismissed claims, including those of his family, make additions and corrections based on events that occurred after the complaint was filed, correct typographical and clerical errors, and clarify some of his claims. (*Id*. at 5-6.)

Legal Standards

Plaintiff seeks to have this latest motion considered under Federal Rule of Civil Procedure 60. (Doc. 73 at 9.) 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] "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).

Plaintiff also seeks leave to file to another amended complaint, citing Fed. R. Civ. P. 15. (Doc. 76 at 2.) A party may automatically amend its pleadings once as a matter of course. *See* Fed. R. Civ. P. 15(a)(1); *see also Rodgers v. Lincoln Towing Serv., Inc.*, 771 F.2d 194, 203 (7th Cir. 1985) (explaining that a party is only allowed to amend his pleading once under the Federal Rules but must seek leave to further amend). Once a party has amended its pleadings, a party may further amend its pleadings "only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2).

The Rules provide leave to amend "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). However, leave to amend is "by no means automatic." *Addington v. Farmer's Elevator Mut. Ins. Co.*, 650 F.2d 663, 666 (5th Cir. Unit A), cert. denied, 454 U.S. 1098 (1981). Instead, the decision to grant or deny leave is one left to the sound discretion of this Court. In deciding whether leave should be granted, district courts can consider factors such as "undue delay, bad faith or dilatory motive on the part of the

[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.

movant, repeated failure to cure deficiencies by amendments previously allowed undue prejudice to the opposing party ... [and] futility of amendment." *Foman v. Davis*, 371 U.S. 178, 182 (1962). As the Fifth Circuit has explained, denying a motion to amend is not an abuse of discretion if allowing an amendment would be futile. *Briggs v. Miss.*, 331 F.3d 499, 508 (5th Cir. 2003).

II. Argument

A. Plaintiff is not entitled to relief under Rule 60.

Plaintiff continues to ask this Court to set aside the judgment in this case. But Plaintiff fails in this motion, as in all his previous Rule 60 motions, to demonstrate that this is an extraordinary situation that entitles him to such relief. Plaintiff's complaint was dismissed in part because, as a non-attorney, he could not represent the interests of his family members in federal court. It was also dismissed in part because Plaintiff failed to demonstrate a waiver of sovereign immunity. There was not extraordinary about that dismissal.

Plaintiff's motions, to include the instant motion, essentially urge this Court to set aside the judgment because Plaintiff did not understand that he only had 14 days to file objections to the FCR, and that he was prejudiced because the FCR did not make that clear in the body of the recommendation.[4] Plaintiff believes that had he had a chance to present his objections to the FCR, he would have refuted the Magistrate Judge's

[4] Plaintiff complains complications coordinating the objections with one of the overseas putative plaintiffs, coupled with his failure notice the Magistrate Judge's notice at the end of the FCR regarding a deadline to file objections, created unacceptable prejudice him as a pro se plaintiff. (.) He offers his opinions as to where this information should be provided in the FCR as to comply with due process and not prejudice pro se defendants. (.) But this Court specifically notified Carr at the start of this litigation that in choosing to proceeding pro se, he "must read and follow the Federal Rules of Civil Procedure (FRCP), this court's Local Civil Rules, and the orders entered by a judge in your case." (Doc. 2 at 1.). Both the Federal Rules and the FCR in this case explained to Carr that he had 14 days to file objections to the FCR. A pro se plaintiff's ignorance of the rules or failure to read a court's order is not a basis for relief under Rule 60.

conclusions that his complaint should be dismissed. But Plaintiff is wrong. 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.[5]

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 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] 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.

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." Plaintiff's motion fails to demonstrate that either of these grounds for relief are present in this case.

B. Plaintiff's motion for leave to file an amended complaint should be denied.

Because Plaintiffs' proposed amendment would not resolve the reasons why their claims should be dismissed, Plaintiffs should not be allowed to file their second amended complaint. An amendment is deemed futile when "the amended complaint would fail to state a claim upon which relief could be granted." *Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 873 (5th Cir. 2000). As a result, leave to amend does not need to be granted when the amended complaint would not defeat a motion to dismiss. *Id.*; *see also Briggs v. Miss.*, 331 F.3d 499, 508 (5th Cir. 2003) (affirming denial of motion for leave to amend as the proposed amended complaint "could not survive a Fed. R. Civ. P. 12(b)(6)

As an initial matter, Plaintiff not only continues his representation of his wife and sister-in-law, but he also now seeks to add two new plaintiffs: his wife's older children who are citizens and residents of Thailand. (Doc. 76-1 at 7-9.) But as the Magistrate Judge carefully explained in the FCR, Plaintiff, a non-lawyer, is not permitted to represent others in court. (Doc. 61 at 2-3.) Plaintiff provides his own interpretation of the law based on his reading of this Court's local rules (Doc. 76 at 4-5), but his reading does not change the well-established law that pro se plaintiffs must conduct their cases personally. (*Id.*)[6] Leave to file an amended complaint can be granted on that basis alone.

[6] The FCR recommended dismissal of Plaintiff's wife and sister-in-law without prejudice, and this Court adopted that recommendation. As such, these putative plaintiffs were free to file their own complaints, bearing their own signatures, to press any grievances they have with the immigration process.

Moreover, Defendants have articulated multiple reasons why dismissal of Plaintiffs' claims is appropriate. (*See* Doc. 31 (motion to dismiss first amended complaint), Doc. 41 (reply to motion to dismiss first amended complaint).) In short, Plaintiff, who bears the burden of demonstrating an applicable waiver of sovereign immunity, wholly fails to do so. (*Id*.) To address that concern, Plaintiff lists a number of federal statutes in the proposed amended complaint.[7] But it is not sufficient for Plaintiffs to merely lists federal statutes that may contain a waiver of sovereign immunity. Plaintiff must allege facts sufficient to state a plausible claim that a waiver exists. Plaintiffs' proposed third amended complaint fails to meet this burden. The claims set forth therein, such as complaints regarding the failure to investigate his complaints would not resolve the lack of subject-matter jurisdiction or failure to state a claim. [8] As such, Plaintiff's motion to amend his complaint should be denied as futile.

C. Plaintiff is not entitled to any of the other relief he seeks.

Last, Plaintiff seeks to have the Defendants answer the proposed 87-page complaint within 14 days and address Plaintiff's "due process" concerns with respect to

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[7] *See* Doc. 76-1 at 7 (asserting that [t]his Court has subject matter jurisdiction over this action pursuant to 28 USC § 1331 and 28 USC § 1367, 42 USC Ch. 21B, Administrative Procedure Act (APA, 5 USC § 551–559, 5 USC § 702), and 28 USC Chap 171 (FTCA) as a case arising under 18 USC § 1001, 18 USC § 1505, 18 USC § 1510, 18 USC § 201, 18 USC Ch 96 (RICO), 18 USC § 1038 18 USC § 10, 5 USC § 404 (IG Act of 1978), 5 USC § 424 CIGIE, 39 USC (Postal Service), INA 8 USC Ch 12, 8 CFR § 216.4, 5 USC § 2302(b)(9)(D), 8 USC § 1184, 8 USC § 1146, 8 USC § 1447, 8 USC § 1421(c), 8 CFR Part 1292.1, 5 USC § 552 FOIA, 5 USC § 2302, 26 USC Internal Revenue Code, 26 USC § 6331, 26 USC § 7803, 28 USC Part II - Department Of Justice as well as the Fifth Amendment of the U.S. Constitution right to due process.

[8] Plaintiff appended multiple "mini" briefs to his many Rule 60 motions, providing additional arguments and support for his alleged claims. (*See*, *e.g.*, Docs. 75-2, 67-3.) Although the Magistrate Judge explained to Plaintiff in the FCR that a party is not permitted to incorporate by reference contents from other pleadings and earlier motions, (FCR at 7), Plaintiff, in his 87-page proposed complaint, incorporates by reference several of these briefs, including briefs with Plaintiff's arguments attempting to overcome sovereign immunity. *See*, *e.g.*, (Doc. 76-1 at 12-13 (Doc. 75-2, 67-3).) Nothing in those briefs provide a plausible waiver of sovereign immunity in this case.

being given only 14 days to file objections to the Magistrate Judge's Findings, Conclusions and Recommendation (Motion at 3). But the Federal Rules already provide a 14-day period for a party to respond to an amended complaint. Fed. R. Civ. P. 15. And Plaintiff's due process concerns with respect to the time period for responding to a FCR are without merit. This Court directed Plaintiff at the outset of this case that he needed to read the Federal Rules of Civil Procedure and the court's orders. Both identify the 14-day window. Plaintiff's failure to read the rules or the FCR in its entirety does not implicate due process. And if he needed additional time, Plaintiff could have filed a motion seeking that time. He did not do so.

With respect to demanding that this Court "promptly" decide the numerous Fed. R. Civ. P. 60 motions filed by Carr since judgment was entered on March 21, 2025 (Doc. 76-1 at 4), Defendant respectfully declines. Plaintiff provides no reason to expeditated his case over the hundreds of cases pending in this Court, and he has unnecessarily burdened the process by filing multiple, lengthy, motions, with attached sub-briefs. And because is simply wrong that a definition in this Court's local rules has made him "attorney" capable of signing pleadings on behalf of other plaintiffs. (*Id.*)

III. Conclusion

Plaintiffs cannot show any error, much less plain error, in the Magistrate Judge's RFC, or any basis for setting aside this Court's judgment. The Rule 60 motion for leave to file an amended complaint should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On September 17, 2025, 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 Consolidated[1] Verified[2] FRCP Rule 60 Motions For Sanctions Under FRCP Rule 11(c) for * Bar Association Violations, and * Delay in MTD (ECF 15), * Apparent Collusion with Court Certificate of Conference - OPPOSED

FRCP Rule 60 Motion For Sanctions Under FRCP Rule 11(c)

Table of Contents

1 These consolidated motions are a consolidation of three motions for sanctions as indicated in the title. There was an FRCP Rule 60 Motion for Relief from LR 7.1 page restrictions (ECF 67, an unopposed motion) and particularly the ability to refer to other documents in the record, but that motion is still pending. Hence this is a consolidation of three motion rather than one motion with three sections.

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

Introduction

The Court is asked to sanction AUSA Padis, the previous USATXN counsel, for:

- lying in a government email (a federal crime and Bar Association violation) in a scheme to trick us (the plaintiffs) into granting a delay of almost 60 days,
- submitting a Motion to Dismiss (ECF 15) with no valid arguments and which only served to delay the proceedings,
- apparent colluding with the court to delay and subvert justice through violations of local rules, lawful statutes (including criminal statutes) and individual constitutional rights (due process)

Lying in Government Email, a Bar Association Violation

This particular attempted trick was particularly egregious as my wife was in dire circumstances as an apparent 'illegal' and terrified of being deported without cause or notice even though both her 10 year green card and citizenship had been approved in a final notice and decision from USCIS (ECF 10-5) over a year before.

Instead of agreeing to the requested delay I instead sent him the notice from USCIS (ECF 10-5) and asked for his assistance in resolving this serious problem. Instead AUSA Padis continued with his chicanery and managed to delay the matter for 66 days.

Delaying Through Meritless MTD

The Motion to Dismiss (MTD, ECF 15) had no meritorious arguments. There were numerous false and misleading statements which described some imaginary complaint, but nothing from the actual complaint. Each argument is addressed in turn. The result was a delay of 66 days and a set up for a longer delay coordinated with the court of over a year.

Apparent Collusion With The Court To Delay And Deny Justice

A review of the time line of important events in this matter make it apparent that the court and DoJ had a well choreographed scheme to efficiently (with little effort by the court or DoJ) dispense with pro se matters with the likely unintended consequence of denying justice to plaintiffs whether they had a valid claim or not. AUSA Padis did the initial set up, but the court completed the 'trap' early on. Then the court completed the dismissal through numerous false statements in the Findings, Conclusions, and Recommendation (FCR, ECF 61) which are criminal violations (18 USC § 1001) .

FRCP Rule 60 Motion Under FRCP Rule 11(c)(2) is Timely

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, raising questions for the court to consider and any response of the court will be appealable.

History of Previous Motion For Sanctions

In the Order (ECF 59) of 27 Feb 2025, this court denied our previous Motion for Sanctions (ECF 30), which relied on FRCP Rule 11(c)(3), whereas this motion relies on FRCP Rule 11(c)(2) and FRCP Rule 11(c)(3). The court in its Order stated:

> Carr's remaining authority for sanctions under the Federal Rules of Civil Procedure falls to the Court's inherent authority. See Fed. R. Civ. P. 11(c)(3) (allowing the Court on its own initiative to require litigants to show cause); Fed. R. Civ. P. 56(h) (allowing the Court to issue sanctions if it finds that a Rule 56 affidavit or declaration was submitted in bad faith or for delay). The Court does not find Defendants' conduct sanctionable and declines to issue sanctions under its inherent authority. Similarly, the Court declines to issue sanctions under Texas Disciplinary Rule of Professional Conduct 4.01 for false statements or Local Rule 83.3(b)(3) for unethical behavior.

At the time of the prior motion for sanctions, my wife was in dire straits fearing that she would be illegally arrested and deported without notice or cause, perhaps to a high security prison in El Salvador.[3] Because of those fears, the three week delay for a FRCP Rule 11(c)(2) Motion for Sanctions seemed interminable (what

3 Those illegal arrests and deportations did not occur until after my wife became a citizen but while she was an apparent illegal, Governor Abbot was threatening to send the National Guard into cities such as Dallas to find and arrest just such illegals for deportation.

if my wife was deported while we were waiting for relief from the court). However, now that my wife is a citizen I am happy to wait for a just hearing on the matter.

It is also important to note that in the Findings, Conclusions, and Recommendation (FCR, ECF 61), the magistrate made several demonstrably false statements which are prima facie evidence of federal crimes (18 USC § 1001) though until the court is given time to rule on the several FRCP Rule 60 Motions it won't be clear if the false statements were due to negligence (not even reading the Complaint, ECF 29), incompetence (only reading LR 11.1 without the essential preceding LR 1.1 which answers the question of how a pro se party can certify the electronic signature of another person), or willful intent (the last element to prosecute a crime).

As the ruling magistrate seems to have routinely falsified findings it is not surprising that the court would decline to investigate the allegations, but it is hoped that with a new judge there will be a fair hearing on the matter. It is also important to note that the court can apply whatever sanctions it deems appropriate though I have made suggestions for creative sanctions such as community service for government attorneys and pro se parties where costs are not effective.

AUSA Padis Lies in Email, Seeking Delays

In an exchange of emails with Mr. Carr (ECF 30-1), AUSA Padis made false statements which violated TXND Local Rules LR 83.8 (b)(3) through 'unethical behavior' as defined by Texas Disciplinary Rules of Professional Conduct (ECF 30-2) Rule 4.01 'Truthfulness in Statements to Others' and 18 USC § 1001 (falsification of government records).

It is clear that the underlying purpose of the false statements was to delay this proceeding. There is a verified brief (ECF 30-4) which discussed these false statements in depth. However, the summary is that AUSA Padis pretended that he had no copy of the complaint when, in fact, there were two copies of the complaint available. However, if he had stated that the two copies were not properly served then he couldn't get any delay as he would have admitted that the fundamental required 'notice' was completed and the court would have jurisdiction based on the statement that he had a copy of the complaint (the essential element of notice). Of course the reason for pretending that he never got a copy of the complaint was to get a delay of almost 60 days.

Meritless Pleadings and Other Improper Antics Caused Excessive Delays

Proper service with USATXN was completed on 9 Jan 2024 with an initial response date of 9 Mar 2024. However, due to various delaying tactics by AUSA Padis the required response date was delayed until May 14, a delay of 66 days.

One section of this motion is based on the Motion to Dismiss (MTD, ECF 15) submitted by USATXN on 08 Mar 2024 as well as an email exchange AUSA Padis initiated prior to submitting the MTD.

Need For Creative Alternatives in Sanctions

AUSA Padis has taken several sanctionable actions, but there was no apparent malicious intent, only taking ill-considered shortcuts in struggling with an excessive caseload. However, such actions seem widespread and the court is asked to consider creative sanctions to discourage such behavior in the future.

In particular as 'costs' are particularly ineffective with government agencies and

pro se parties, community service and 'early' filing requirements are suggested in such cases as elaborated in Mr. Carr's Affirmation (ECF 30-3).

The verified brief (ECF 30-4) also discusses sanctions and suggests sanctions of 10 hours of community service and 3 days of early filings are recommended though, obviously, the court has total discretion in this regard.

Citing 'Not Precedent' Cases De Facto Grounds for Sanctions

It appears to be moderately common for AUSA Padis and, perhaps, other attorneys to cite cases which explicitly state 'should not be published and is not precedent', e.g. Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018). Plaintiffs suggest that ignoring the courts clear guidance for precedent is de facto negligence and shows a lack of due diligence. It also suggests an effort to mislead the court through claiming (implicitly) that the cited cases provide relevant precedent when they explicitly do not.

Further, there is a verified brief (ECF 30-6) which suggests that the court implement a new precedent (or even additional Local Rule) declaring normal / routine creative sanctions of community service and early filings when cases are cited in a fashion to imply precedence even though they are clearly identified as 'not precedent' with the result in this matter of 16 hours of community service and 2 days of early filings.

AUSA Padis' Motion to Dismiss Totally Without Merit

In our response (ECF 18) to Defendants' Motion to Dismiss (ECF 15), each of AUSA Padis' arguments are dealt with in detail. Instead of repeating these rather lengthy responses they will be summarized herein citing the relevant sections of

each document.

Introduction Has Several False Statements

Money Back Falsely Claimed to Support Sovereign Immunity

On Page 1 of ECF 15, AUSA Padis falsely claims 'Plaintiffs seek money back from the United States Postal Service (USPS)'. While there are several places where Plaintiff seek credits for future services this is an example where AUSA Padis invents an imaginary complaint where he can cite 'Sovereign Immunity', but in the actual complaint we seek credits for future services which is clearly supported in Marbury v. Madison (1803) and APA 5 USC section 702. However, the important point is AUSA Padis claim is simply false.

Separate Counts Falsely Mixed Up to Create Nonsense

Actual Relief is Increased Reporting and Monitoring

AUSA Padis then goes on to say that we seek a:

> court order mandating that various federal 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.

This is false and another case where AUSA Padis is addressing an imaginary complaint which has nothing to do with the matter at hand.

In Counts 2, 5, 6, 8, and 8' (the second count 8, which has been renumbered as Count 9 in the pending Proposed Second Amended Complaint to correct typographical and clerical errors and to conform to the evidence) it is sought to have the OIG's and CIGIE report plausible allegations of crimes to the DoJ. They are not required to investigate anything and can refer matters to local management

after reporting them to DoJ. Local management can resolve the issues in the normal fashion.

There are no explicit requirements that local management investigate but OIG's and DoJ are required to monitor the results to insure that future crimes are prevented and appropriate redress is made to injured parties. DoJ is given absolute discretion on the decision to prosecute and is encouraged to use the threat of prosecution as a cudgel to prevent future crimes and provide redress to injured properties as appropriate.

In reality, we are expanding on a well established principle that no federal agent is permitted to commit federal crimes or infringe on the constitutionally protected rights of individuals. Further no federal agent can grant immunity preventing consequences for future crimes or future infringement on the rights of others. This is not a new restriction on executive discretion as there never was any such discretion.

Further, the rather lengthy descriptions of required actions carefully and clearly do not infringe on the DoJ discretion to prosecute which is reserved exclusively to DoJ (and for good reason).

No Investigations Mandated for OIGs, only Reporting Crimes

To simplify the requested limits on OIG and DoJ discretion with respect to plausible allegations of federal crimes:

* OIG must either

- investigate and report as necessary to DoJ **OR**
- report the matter to DoJ and refer the matter (likely to local management)

and monitor and report the results

* DoJ must either
  - investigate and resolve the matter **OR**
  - refer the matter (to OIG, local management, or another party) and monitor the results to insure future violations are discouraged and redress of victims is encouraged.

  DoJ may also use the threat of prosecution as well as actual prosecution to insure appropriate compliance

* Local management and other referred parties may process the matter in the normal fashion in accordance with the guidance of DoJ (no investigation is mandated though some form of investigation could be required by DoJ at its discretion).

In light of the simplified flow above, AUSA Padis' restatement 'mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into ' [a preposterously restricted set of plausible allegations of federal crimes] is false and misleading.

DoJ Only Required to Monitor To Insure Future Compliance, Redress

Criminal investigations implies prosecution which is explicitly reserved to the discretion of DoJ. Further no investigations are mandated as there is always the executive discretion to refer the matter (likely to local management) where the form of resolution is subject only to DoJ monitoring and review. The DoJ may require some level of investigations by local management but that is left to DoJ discretion as long as future violations are prevented and redress is provided as appropriate. The court would not be mandating any criminal investigations.

Reporting and Monitoring of Crimes Is Essential

Given the USPS OIG 2017 audit (see ECF 18-7 DR-AR-18-001) finding 1.9 million falsified delivery times (out of the 25.5 million scans) and the fact that no substantive corrections were made after the audit report (this problem has persisted for over a decade), substantial corrections are clearly necessary and DoJ guidance is required.

In the case of a plausible allegation of a false statement in a government email, there would be no substantive change at all. Local management could conduct appropriate inquiries but this is really no different than normal administrative procedures and local management could require additional training or something similar as the resolution. The proposed court 'mandate' would only require proper reporting to the appropriate OIG and DoJ (and possibly actual AG office in certain cases) and their monitoring of the results.

The focus of Plaintiffs' relief is clarification of OIG requirements to report plausible allegations of federal crimes (already required by statute) and DoJ to monitor and review resolutions.

With USPS, the USPS OIG has already demonstrated that there is a substantial problem with falsified records (delivery times) so the increased involvement of the OIG and DoJ are justified. The resolution could be as simple as implementing the recommendations of the USPS OIG (now with DoJ input and requirements for proper resolution) with no additional criminal investigations. USPS profits could suffer and there could be reduced USPS management bonuses but to the degree that those results are built on falsified records that could be a good thing.

With the requested FOIA requests and discovery it is expected that similar widespread violations of due process will be found with DoS visa applications and USCIS I-30, I-751, and N-400 applications (and the intrinsic falsified records from decisions which don't conform to the evidence). In that case there will likely be substantial input from both the OIGs and DoJ, but the result will be mostly about insuring that the revised procedures are correct from a constitutional and statutory requirements perspective.

We do need to demonstrate standing for any relief sought (how we were damaged by the Defendants' failure to perform). However, AUSA Padis falsely claims that the relief sought is directed exclusively to those specific damages when, in fact, we are seeking broad solutions to widespread problems not the absurd:

> 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

We are deeply concerned about much more serious problems such as the Afghan Fiasco (ECF 76-4 which discusses illegal orders and their repercussions) but we have at most a tenuous standing in that specific failure. The broad relief sought does address the wider problems to include the Afghan Fiasco as well as helping to insure that Seal Team 6 will never be used to assassinate federal judges or federal attorneys.

Sovereign Immunity cited Based on False Categorization

AUSA Padis goes on to claim:

> Because Plaintiffs cannot meet their initial burden to identify an applicable

> waiver of the federal government's sovereign immunity, the Court should dismiss Plaintiffs' entire complaint

which is another example of AUSA Padis making broad claims which are completely false as every relief sought is carefully worded to avoid 'sovereign immunity'. For example we never ask for 'money back' but instead seek credits for future services as described above and which will be elaborated further in great length. There are three fundamental causes of action and AUSA Padis 'denies' the first USPS cause of action by creating the imaginary 'money back' claim.

AUSA Padis' 'Background' Misleading

Picks Out Irrelevant Details and Omits Fundamental Allegations

Ignores Mrs. Carr Visa Denial, No Due Process

In section I, Background on page 2 of ECF 15, AUSA Padis cites irrelevant details concerning my wife's immigration visa but ignores foundational statements such as my wife's non-immigrant visa being denied in 2018 without due process (DoS did not permit my wife to present the evidence she had prepared) in the Complaint (ECF 11-1 and 29) paras 65 - 68.

It is misleading for AUSA Padis to cite irrelevant details and omit critical facts. This is particularly important as this visa denial was to the spouse of a U.S. citizen which is one of the well established exceptions to the offensive (to us) Doctrine of Consular Non Reviewability (DoCNR) which denies due process to aliens on the false premise that they are not people (perhaps vermin) unless they are the spouse of a citizen. Clearly AUSA Padis is just trying to confuse the court with extraneous and misleading claims in order to create donfusion.

By omitting references to Count 3, AUSA Padis seeks to remove the foundation to the second cause of action against DoS, but just because there is no Count 3 in AUSA Padis' imaginary complaint, the actual complaint demonstrates DoS failure to provide statutory mandated non immigrant visa decisions based on due process to spouses of U.S. citizens.

Ignores Lack of Due Process in Mrs. Von Kramer's Visa Denials

AUSA Padis mentions the denial of Buakhao's non immigrant visa application in 2019 citing only ECF 11-1 and 29 para 90 but ignores that the denial clearly violated her right to due process as the interviewer claimed the denial was based on 'lack of firm travel plans' even though he did not give Buakhao the opportunity to present any evidence which would have included flight tickets and an invitation from my wife and I covering accommodations for the 2 weeks. ECF 11-1 and 29, para 90-109.

Indeed Buakhao's three non immigrant visa denials provide an ideal opportunity for us to challenge the offensive (to us) DoCNR while still correcting the underlying lack of due process in such visa processing based on my wife's denial. It is quite legitimate for Buakhao to challenge DoCNR based on ECF 11-1 para 121 and 167.

AUSA Padis attempts to support his claims of failure to state a claim but that is only true in his imaginary complaint where all the required elements are not well pled. In the actual complaint all the required elements are well pled and AUSA Padis transparent effort to create confusion by ignoring relevant statements indicates that AUSA Padis' primary goal was to delay, mislead, and confuse, not to resolve issues.

Ignores USCIS Failure to Provide Required 10 Year Green Card

Mrs. Carr Stranded in Thailand

A particularly egregious example of this is AUSA Padis' ignoring of my wife's I-751 application on 04 Aug 2020 to have the conditions on her 2 year green card removed and receive a 10 year green card. Instead of issuing my wife a ten year green card within 90 days as required in 8 CFR 216.4(b)(1)[4], USCIS sent her temporary extension letters which finally left her stranded in Thailand in Nov 2022, unable to return without getting a non immigrant visa. See ECF 11-1 para 147-163.

Just because AUSA Padis doesn't mention critical elements does not mean they don't exist. Here AUSA Padis is trying to eliminate the third cause of action against USCIS by just pretending that the required elements are not in the complaint. However, AUSA Padis omission of critical elements does not demonstrate any fault in the actual complaint, it just demonstrates that AUSA Padis is attempting to confuse and delay, wasting our and the courts time.

10 Year Green Card and Citizenship Approved, Nothing Provided by USCIS

Final Decision, Order of USCIS Approves Both Green Card and Citizenship

The most egregious omission by AUSA Padis is his ignoring the USCIS final decision and order of 30 Jan 2023 in ECF 10-5 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

4 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.

Certificate of Naturalization, which will be proof of your U.S. citizenship. See ECF 11-1 para 163.

Mrs. Carr Left as an Apparent Illegal

My wife's 10 year green card was approved along with her N-400 citizenship. However, USCIS never provided my wife with a ten year green card and never scheduled the Oath of Allegiance or provided the Certificate of Naturalization, ECF 11-1 para 164-209

As a result, my wife has no documentation of her permanent resident status. All previous USCIS documentation is expired. See:

ECF 24-1 Mrs. Carr Permanent Resident Card, redacted, expired 13 Nov 2020
ECF 18-6 USCIS 24 month extension letter, expired 13 Nov 2022
ECF 20-2 USCIS A-551 passport stamp, expired 2 Jan 2024

My wife could not work or travel freely and, in light of Texas SB4 (which was in effect for four hours and is still pending) she was afraid of being deported without notice or cause by ICE or National Guardsmen sent into blue counties to deport illegals or even vigilantes (Texas SB4).

Further, while her citizenship was approved over a year before the MTD, she was prevented from voting or helping her sons find better work (Thailand is still suffering from the Covid closures and its economic impact) all of which is in violation of USCIS responsibilities under the INA.

AUSA Padis Knew Mrs. Carr Was in Dire Straits, USCIS Violating Rights

AUSA Padis can not claim ignorance of these facts as they were called out in the

early email exchange in ECF 28-1 (Redacted Email Thread 1 Mar 24 to 18 Apr 24) where AUSA Padis lied (falsified a government record) trying to trick us into a delay as explained in ECF 30-4.

USCIS has clearly failed to perform its required duties under the INA and there was a compelling case for relief, but AUSA Padis callously made false (failure to state a claim) and misleading statements (omitting critical details like the N-400 approval above).

It is clear that AUSA Padis was simply creating meritless delays without regard to the impact on the court or other parties.

False Claims of Sovereign Immunity

In II A on page 3 of the MTD (ECF 15), AUSA Padis raises the bogus claim of Sovereign Immunity which has no bearing on the actual complaint in this matter (ECF 11-1) as every relief sought is clearly beyond the scope of Sovereign Immunity and in accordance with Marbury v. Madison (1803) and APA 5 USC section 702.

The absurdity of the AUSA's sovereign immunity claim is described in great depth in the in our associated FRCP Rule 60 Motions for Relief (ECF 67 and ECF 73) but it clear that primary purpose of the false claims and misleading summarizations was to support an invalid claim, not supported by the facts or the law

This specious and spurious claim of sovereign immunity is just another example of how AUSA Padis omits important facts and makes false and misleading conclusions all in the interest of confusing the court and justifying further delay.

False Claims Lack of Pleading Standard

In II B on page 4 of the MTD (ECF 15) AUSA Padis relies on his intentionally misleading summary of the over 250 allegations in the Complaint to conclude that there are no allegations to support the requested relief. However, it is clear that AUSA Padis knew that my wife had been stranded in Thailand as a result of USCIS unlawful delay in adjudicating her I-751 (mandated to be within 90 days in INA) for over two years.

Further AUSA Padis knew that my wife was left as an apparent illegal in these troubled times. He also knew that USCIS had approved her N-400 application for citizenship and was unlawfully denying her fundamental rights as a citizen to vote and assist her son in seeking better employment.

His intentional omission of these critical facts from his summary does not indicate that they weren't there, it just shows that AUSA Padis was simply trying to delay with meritless pleadings that have no bearing on the matter at hand.

A. Absurd Claim of Sovereign Immunity

In III A on page 5 of USATXN Motion to Dismiss (ECF 15) AUSA Padis makes the absurd claim Sovereign Immunity protects DoJ and OIG from their statutory duties to investigate, refer, report, and monitor plausible allegations of federal crimes.

The absurdity of this claim is discussed above in the section ‘ pages 4 - 6, but AUSA Padis would have us believe that DoJ and OIG can allow other government agencies to commit crimes with impunity and there is nothing the courts can do to reign in this 'executive discretion' gone wild. To be clear, we believe that it is

never acceptable for any government agent to order Seal Team 6 to assassinate federal judges or federal attorneys and no other agency (OIG or DoJ) can permit such crimes to made with impunity. Every agent of the federal government must support and defend the constitution.

Falsifying government records are clearly less serious crimes, but lesser options of referring the matter to local management to resolve the problem is an acceptable alternative as long as it is reported to and monitored by the applicable OIG and DoJ.

B. Challenge to USPS Jurisdiction False and Misleading

AUSA Padis Denies Well Known Facts, Attempts to Create Legal Fiction

In III B on page 5 (ECF 18) challenges USPS jurisdiction and misconstrues the law in the matter with legal theories that are simply false. AUSA Padis states:

> **Although Congress through the Postal Reorganization Act waives sovereign immunity for certain categories of claims**, "the statute also provides that the [Federal Tort Claims Act or the] FTCA 'shall apply to tort claims arising out of activities of the Postal Service.'" Dolan v. U.S. Postal Serv., 546 U.S. 481, 484 (2006). The FTCA in turn limits the federal government's waiver of sovereign immunity with certain exceptions, 28 U.S.C. § 2680, including (pertinent here) that the federal government retains sovereign immunity from "[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter." Id. at 485. Here, because Plaintiffs' claim concerns an allegedly late-delivered package, that claim arises out of the allegedly "negligent transmission of letters or postal matter" such that the federal government retains sovereign immunity. See id. **Therefore, Plaintiffs' claims concerning the alleged one-day delayed delivery of Mr. Carr's package should be dismissed for lack of jurisdiction**.[5]

5 Bold added by the Plaintiffs. The logic error is that the first bolded statement is true but nowhere does AUSA Padis establish that the 'certain categories of claims' which are valid doesn't apply to the claim being presented

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. Any adult living in the U.S. has surely heard advertisements and seen USPS fliers which state this.

Cited Dolan Clearly States the Plaintiffs USPS Claim is Valid

The conclusion by AUSA Padis is blatantly false. 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

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to the court, so the last bolded statement is not a supported conclusion and is, in fact, false.

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.

AUSA Lies In False Conclusion

It appears that AUSA Padis was aware that our claim was valid (and sovereign immunity did not apply) by stating in the first bolded statement cited above:

> Although Congress through the Postal Reorganization Act waives sovereign immunity for certain categories of claims,

He then goes on to cite a lot of irrelevant limitations of the FTCA which is not the basis of refunds for 'Guaranteed Delivery' 'Overnight Express' which are supported (according to Dolan) by 39 USC § 245 (1940 ed. and Supp. V) or AUSA Padis' ambiguous 'Postal Reorganization Act'. It is apparent that AUSA knew that his claim of sovereign immunity was invalid and blatantly false as he included so much irrelevant information before his false conclusion:

> Therefore, Plaintiffs' claims concerning the alleged one-day delayed delivery of Mr. Carr's package should be dismissed for lack of jurisdiction

AUSA simply lied about the validity of the claim and attempted to cover up the lie through complex references to irrelevant case law.

Actual Claim in This Matter Supported by the FTCA

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

AUSA Lied About Seeking 'Money Back'

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. Of AUSA Padis lied and claimed that we were seeking 'money back'. Just because AUSA does not have any defense against this novel legal theory, he can not make statements which he knows to be false.

C. False Claim of Exhaustion of Remedies Doctrine

AUSA Padis includes a few seemingly random quotes from some of the underlying statutes making already convoluted statutes even more impenetrable. However, the conclusion is that AUSA Padis claims (falsely) that because we did not avail ourselves of the administrative appeals process provided by USCIS we can not

seek relief from the court.

Of course this nonsense. There is the Exhaustion of Remedies Doctrine which says that the courts prefer for parties to pursue simpler methods of resolving disputes before turning to the courts. This just makes plain good sense as the courts are generally slower and more expensive than the alternatives (and the courts have an excessive workload as well). However, this is not an absolute rule (as AUSA Padis falsely states) and if the court finds there was good cause for skipping the administrative appeals and the court has jurisdiction (such as a constitutional question, due process being a prime example) then the court can consider the matter. It happens that in this case we did have good cause for bypassing normal administrative appeal and also pursued an alternative (but still within the letter of the law) appeal.

AUSA Padis summation of the section (actually the entire section header) of:

> The naturalization statute provides an adequate remedy of which Plaintiffs have not availed themselves, requiring dismissal of Plaintiffs' naturalization-related claims.

is blatantly false.

Administrative Appeal Process Violated Due Process

The contested decision by USCIS (ECF 10-10) claimed that we had to file form N-336 if we wanted to appeal the decision but didn't mention the exorbitant fee required to file the form, $700. The N-400 application itself had a hefty $625 but it was still less than fee to appeal a bad decision. The complaint goes into this due process violation in depth and seeks relief from the court of lowering the N-336 fee. Certainly there was a constitutional question for the court to address so

jurisdiction was proper.

This is especially true for decisions which deny applications for 'failure to appear'. If the applicant was in the hospital in a coma and unable to appear at the hearing, the cost to correct the error must not be so high as prevent those with limited resources from appealing. Justice is not reserved for the rich and even the poor and uneducated are entitled to a fair hearing (via due process).

Administrative Appeal Was Pursued Via Novel Channels

INA 336 is actually three statutes 8 USC § 1445, 1446 and 1447.

section 1445 covers the application itself, completing the N-400, paying the fee, and having the N-400 accepted. section 1446 covers the interview and acceptance or denial. section 1447 describes the appeal process. AUSA Padis quoted random selections from those statutes apparently seeking to avoid making it clear that his claim was nonsense.

A much clearer description of the appeals process is described in the applicable federal rules 8 CFR 336.2(a) which was cited in the USCIS decision (ECF 10-10).

The relevant rule 8 CFR 336.2(a) states:

> (a) The applicant, or his or her authorized representative, may request a hearing on the denial of the applicant's application for naturalization by filing a request with USCIS within thirty days after the applicant receives the notice of denial.

It is important to note that there is no mention of form N-336 and its exorbitant fee in the actual rule. We chose an alternative method of 'filing a request with USCIS'

of emailing a request for assistance to the Director of USCIS (ECF 30-8) as well as the DHS IG, our Representative in Congress, and DoJ. This email was sent on 7 Nov 2023, well within the 30 day requirement. Not only did it meet the requirements of 8 CFR 336.2(a), it also completed the exhaustion of remedies guideline by requesting assistance from numerous other sources.

D. Visa Denials Not Discretionary

AUSA Padis goes on to challenge the DoS visa denial claims as if they were discretionary citing Aguilera v. Holder, 354 F. App'x 882, 884 (5th Cir. 2009). However, non-immigrant visas are governed by clear statutes and the denial cited a particular statute (INA 214(b)[6]) as the justification for the denial. AUSA Padis' claims are completely baseless. The insertion of text 'such as a non-immigrant tourist visa' is legal fiction designed to deceive the court.

It should also be noted that Aguilera includes the statement that it is not precedent and there is no explanation for its use. As such it should incur minimal additional sanctions as described in ECF 30-6 for citing a decision which was not precedent without any explanation.

D. Doctrine of Consular Non Reviewability (DoCNR)

The Complaint had two claims against DoS for failure to provide due process in their 4 visa denials to my wife (2018) and Buakhao (2019). Count 3 exclusively dealt with DoS lack of due process in denying my wife's visa (ECF 11-1 para 59 - 83), but AUSA Padis completely ignored that Count, perhaps because exceptions

6 INA 214(b) is 8 USC § 1184 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 nonimmigrant status under section 1101(a)(15) of this title.

to DoCNR are well established for spouses of U.S. citizens.

Further, in ECF 11-1 para 121 and 167 refer to unconstitutional restrictions made on foreign nationals (as in DoCNR) which we intend to challenge. This is elaborated at great length in our Response (ECF 18) pages 13 - 22 where we elaborated on the challenges to DoCNR we intend to bring but the foundation of those novel and untested challenges were already laid out in the complaint (ECF 11-1) para 121 and 167.

It was not proper for AUSA Padis to include DoCNR in the MTD as novel and untested legal theories are permitted at this stage of litigation and the foundations of that challenge were already present in our citing historical prejudice against aliens (such as the 1882 Chinese Exclusion Act) and the offspring of such offensive (to us) policies in the form of DoCNR.

E. Frivolous Allegations

Entire Argument (full page) Reduced to Eight Words

This is the most egregious of AUSA Padis arguments. He describes all the allegations of the complaint as frivolous but the actual allegations are reduced to 'infer conspiracy and false documents from administrative delays'. The first half of the argument is just quotes from Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018), another not precedent decision which warrants sanctions on its own.

The second half of this argument was simply mixing up unimportant allegations which were included to provide context with unrelated reliefs. Of course you can make any serious and well stated claim sound ‘frivolous’ by randomly choosing

words and phrases and mixing them until they are suitable nonsense. However, Starrett only concerns allegations which are on their face frivolous and not the relationship of the allegations and relief.

The remainder of this entire argument was simply eight words describing allegations which 'infer conspiracy and false documents from administrative delays'. While such allegations might be unfounded and rejected by the court they certainly would not rise to the level of Starrett to be called frivolous.

There Are No Such Frivolous Allegations in the Complaint

The problem is there are no allegations in the complaint which 'infer conspiracy and false documents from administrative delays' as shown in our Response (ECF 18) pages 41 – 50.

AUSA Padis admitted in later phone conversations that while there are numerous allegations of false documents, none are based on administrative delays.

AUSA Padis tried to justify the 'frivolous' argument from just the remaining 'infer conspiracy ... from administrative delays' with another false statement.

USATXN Makes Further False Claims To Justify Frivolous

In USATXN's response (ECF 35) of 28 May 2024, referring to ECF 3 (or ECF 11-1, a machine readable version of that complaint) they claimed that:

> Plaintiffs allege Mrs. Carr's N-400 interview was delayed and ultimately denied based on "falsified records" leading to her interview being missed. Id. at 3 paragraph 6-8.

However, there is no mention of any delay in the actual text cited which was:

> 6. On 31 Jan 2023 as a result of a joint interview held on 30 Jan 2023 for a

> permanent green card (I-751) and for citizenship (N-400), the United States Citizenship and Immigration Service (USCIS) approved Mrs. Carr's I-751 application for a permanent green card while not actually providing the green card as her N-400 citizenship application was also approved. [see ECF 10-1]
> 7. However, instead promptly providing Mrs. Carr with a Certificate of Naturalization, on 01 Sep 2023, USCIS updated her N-400 record to note that the interview of 30 Jan 2023 was canceled due to unforeseen circumstances. [see ECF 11-1]
> 8. Mr. Carr complained to USCIS, the Department of Homeland Security (DHS) OIG and DoJ of falsified records (the interview had been completed and the N-400 had been approved). Even so, USCIS scheduled a 'second' N-400 interview for 11 Oct 2023, a date when USCIS had been informed that Mrs. Carr would be out of the country. Mr. and Mrs. Carr made numerous efforts to reschedule the interview which were refused. USCIS denied Mrs. Carr's N-400 application on 14 Oct 2023 for 'failure to appear'. [ECF 10-10] Mr. Carr has since complained to DHS OIG of 'whistleblower' retaliation for his previous reports of federal crimes and other malfeasance by USCIS.

This was from the introductory overview of the claim with the details in paragraphs 161 to 204 on pages 26 to 39. A review of the affirmed statements in the verified Complaint (ECF 29) makes it clear that 'whistleblower' retaliation was actually a reasonable supposition based on:

- reporting problems to USCIS Director, DHS OIG and DoJ
- which was followed by several falsified documents and violations of due process and lawful statutes and
- finally illegal denial of citizenship.

There were no allegations which 'infer conspiracy and false documents from administrative delays' and the entire ‘frivolous’ argument was false wasting the time of all parties and resulting in unwarranted delays.

The Court May Have Colluded With USATXN to Delay and Dismiss Matter

Matter Dismissed Based On Courts "Misunderstanding" Local Rules

Local Rules Consider Pro Se Party As Attorney

The magistrate's Findings, Conclusions, and Recommendation (FCR, ECF 61) dismissed most of the Counts in this matter based on purportedly improper electronic signatures for my wife and her sister in ECF 29, when actually the problem was the courts not considering TXND Local Civil Rules LR 1.1 definitions which declares that:

> "attorney" means either:
> (1) a person licensed to practice law ... or
> (2) a party proceeding pro se in any civil action.

Court Declares Mr. Carr's Actions Improper Because Not An Attorney

In its FCR (ECF 61) the court stated:

> Rueangrong and Buakhao did not personally sign the Amended Complaint [ECF 29], ... Rather, they purportedly gave Brian permission to sign the Amended Complaint "electronically on their behalf" … But Brian, **who is not an attorney**, is not authorized to ... sign pleadings on behalf of others.[7]

Pro Se Party Can Certify the Signature of Another

But 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

7 Bold added by Plaintiffs.

> or required by the presiding judge; ...[8]

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

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

Timing of Motions, Responses, Orders Suggest Collusion

Apparent Well Choreographed Scheme to Deny Justice

A review of the time line of important events in this matter make it apparent that the court and DoJ had a well choreographed scheme to efficiently (with little effort by the court or DoJ) dispense with pro se matters with the likely unintended consequence of denying justice to plaintiffs whether they had a valid claim or not.

Scheme Requires Two or More Plaintiffs, USCIS as Likely Defendant

This particular trick or scheme seems to center on matters with two or more plaintiffs. USCIS would be the likely target of most of such suits as USCIS is so egregious in its dealing with foreign nationals (who are not yet citizens and, hence, have no proper representative in congress).

Also, in most USCIS suits there are likely to be at least two plaintiffs, a citizen or resident spouse or host (in common asylum or TPS cases) and the new immigrant who is being mistreated.

8 Bold added by Plaintiffs.

Overview of the Scheme to Deny a Just Hearing

While it is required that the initial complaint for pro se suits be on physical paper (as in ECF 3)[9] with physical signatures, the scheme requires tricking the plaintiffs into amending the complaint which they can now submit electronically.

Then the court orders 'the Plaintiffs' to 'file this same proposed Amended Complaint' without any guidance on how to do that (and violating LR 15.1(b) which specifies that the clerk should file the approved Amended Complaint).

Once the citizen / resident plaintiff files the complaint as directed, the court then takes no action for an extended period (close to a year in this case).

Then the FCR is a surprise to the plaintiffs and the 14 day notice is hidden under a 'service notice' and includes numerous incorrect demands such as specificity and inability to appeal rather than the real requirement of notice of objections (not yet perfected) and the alternative of FRCP Rule 60 Motions for Relief if the 14 day deadline was missed inadvertently.

The FCR is disingenuous with numerous unrelated and nonsensical citations (e.g. citing LR 11 incorrectly) and is designed to dishearten the plaintiffs with false claims about the injured (immigrant) party not being a party to the suit as they did not properly sign the amended complaint and the citizen / resident party having no standing because they can not represent another person.

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9 Court rules previously prevented pro se parties from filing any paper electronically when ECF was new. However, as the court became accustomed to the advantages of electronic filing and retrieval, the court switched to practically requiring all parties (even pro se) to file most papers electronically (LR 5.1(c)). For pro se parties, the initial complaint still has to be filed and served on paper, possibly to preserve the barrier of 'proper service' for pro se parties which is a kind of 'weeding out' process to eliminate those pro se plaintiffs who aren't really serious or even able to abide by basic rules.

After waiting almost a year, the 14 day notice is too short for the parties to understand their situation and options. The court and DoJ stonewall any efforts by the plaintiffs to correct the purported 'defects' and obtain a fair hearing in the hopes that the plaintiffs will just give up, accepting their mistreatment by USCIS as persisted by the DoJ and court.

Timeline Events For Scheme to Deny a Just Hearing In This Matter

In this matter, the scheme was implemented through coordinated filings by the DoJ and the court.

Time Line of Relevant Court Filings

Date	Filing
1 Mar 2024	AUSA Padis sends email with false statements about service to get 60 day delay (ECF 28-1). Mr. Carr responds and explains his wife's dire circumstances and just cause of action (ECF 10-5). Delay seems to be the fundamental strategy for AUSA Padis hoping the plaintiffs will: * Resolve the matter on their own, * Die, get deported or otherwise become unable to continue to dispute the matter, or * Give up on seeking a fair hearing
8 Mar 2024	AUSA Padis files 1st MTD (ECF 15) with disingenuous arguments from unrelated cases, e.g. citing USCIS deportation proceedings with truly discretionary decisions and falsely claiming that those statutes apply to INA non immigration visas by DoS. The arguments are minimally adapted to this matter using names and a few select details but carefully avoiding critical issues such as Mrs. Carr's dire circumstances and USCIS failures to perform (ECF 10-5)
28 Mar 2024	Mr. Carr files Response (ECF 18) opposing MTD (ECF 15) with Motion for Partial Summary Judgment (MfPSM), to provide relief for Mrs. Carr's dire circumstances) as well as Motion to Amend Complaint to correct typographical errors and to conform to the evidence.
2 Apr 2024	AUSA Padis attempts to delay matter via email through mooting of MTD (ECF 15) and MfPSM (ECF 18) based on acceptance of Amended Complaint via email

	(ECF 28-1).
5 Apr 2024	Mr. Carr files Certificate of Conference opposing the mooting of pending motions or permitting any further delay which would leave Mrs. Carr in unjustified dire circumstances (ECF 20 citing ECF 10-5, ECF 20-1, ECF 18-6 and ECF 20-1)
8 Apr 2024	AUSA Padis filed a separate Certificate of Conference (ECF 21) and argued that the Plaintiff's should file the Amended Complaint as it was uncontested though it would reset the clock for an alternative MTD.
12 Apr 2024	Mr. Carr sent an email (exhibit 1 attached to this motion) to AUSA Padis asking for his response in redacting the email thread submitted as ECF 28-1. It appears that this email warned USATXN that the sanctions requested in ECF 18 of 28 Mar 2024 were likely to be expanded to include the federal crimes of falsifying government records (18 USC § 1001) from the false statements AUSA Padis made in his original email of 1 Mar 2024 (ECF 28-1). It is likely that the process of substituting AUSA Owen as counsel began on receipt of that email.
17 Apr 2024	AUSA Padis submitted the Rule 56(d) Motion (or Rule 56(d) Response) as ECF 22 opposing MfPSJ (ECF 18) with an affidavit purporting to justify why more time was required (ECF 23) but the affidavit was woefully inadequate citing nothing specific, just broad claims of needing more time to understand the issues which, according to case law, is insufficient. It did not address the relief sought of Mrs. Carr's dire circumstances and its urgent nature nor the documents from USCIS which were the sole basis for the claim and her dire circumstances (ECF 10-5).
22 Apr 2024	Magistrate Rutherford files Order resolving pending motions (ECF 26). It is here that DoJ and the Court close their trap with the order that: > Plaintiffs must file their Amended Complaint on the docket by **April 30, 2024**. ...Plaintiffs should file this same proposed Amended Complaint as a separate docket entry titled "Amended Complaint." This order was improper as the court should have directed the clerk file the Amended Complaint in accordance with LR 15.1. However, that would have confirmed that the electronic signatures on ECF 18 and ECF 18-1 were accepted by the court. Then the court could not complete the trap. Instead the court violated LR 15.1 providing ambiguous (or impossible) directions. It is really not possible for Plaintiffs (all three) to file an electronic docket entry (singular) in ECF. Only one ECF user can file a document under their ECF account. By presenting the Plaintiffs with impossible directions, the court completed the trap. The court later withdrew its acceptance of the signatures on the Amended

	Complaint and, on its own initiative almost a year later, contested the validity of the signatures (violating res judicata by waiting almost a year) This order was premature in the sense that Plaintiffs were never permitted to Reply in support of their MfPSJ (ECF 18) which was being prepared and was completed and submitted on the same day. It is possible that the court would withdraw their Amended Complaint to avoid further delay being argued about in the dueling certificates of 5 Apr 2024 and 8 Apr 2024. The order also was a federal crime (18 USC § 1001) as it concealed material facts concerning what the plaintiffs were seeking and what the basis for their claim was. It relied heavily on the MTD (ECF 15) without any apparent consideration of the MfPSJ (ECF 18) or the complaint (ECF 3). The plaintiffs have separately sought sanctions for the false and misleading statements by AUSA Padis in the MTD (ECF 15), but there are lesser standards of truthfulness for motion papers (18 USC § 1001 does not apply). However, decisions of the court are held to the standards of 18 USC § 1001.
22 Apr 2024	USATXN substituted AUSA Owen as Counsel (ECF 27) in this matter just hours after the previous MTD (ECF 15) was declared moot. This creates the appearance of collusion as the court was only waiting for the USATXN Response and not the plaintiffs' Reply and USATXN expected this, perhaps through back channel communications through the clerks in the different offices. This substitution was the likely response to the redacted email thread sent to AUSA Padis on 12 Apr 2024 (ECF 28-1) documenting his federal crime (18 USC § 1001) and bar association violations.
22 Apr 2024	Mr. Carr filed his Reply (ECF 28) supporting MfPSJ (ECF 18) on the evening of the same day, but it was after the order. In it Mr. Carr cited the propensity of AUSA Padis to delay (even while Mrs. Carr was in dire circumstances after her 10 year green card and citizenship were approved (ECF 10-5)) and referred to the false statements in AUSA Padis email of 1 Mar 2024 (ECF 28-1).
22 Apr 2024	Mr. Carr files the proposed Amended Complaint (ECF 18-1) as the Amended Complaint even though LR 15.1 required the clerk to file the complaint. He was unaware that the court was actually demanding that all three plaintiffs file the complaint electronically so that there would be three complaints in the record, one for each plaintiff (making answering and other references tedious)
8 May 2024	Mr. Carr filed the motion for sanctions (ECF 30) which this motion argues was denied in error.
14 May 2024	AUSA Owen files a second MTD (ECF 31) which is virtually identical to ECF 15 with the omission of the 'Frivolous' argument.

14 May 2024	Mr. Carr filed a Motion to Reconsider (ECF 32) which challenged the false statements in the findings of ECF 27 where Mrs. Carr dire circumstances of being left an apparent illegal after USCIS approved both her applications for a 10 year green card and citizenship (ECF 10-5) were described as 'various attempts by Ms. Carr and Ms. Von Kramer to obtain immigration benefits'
15 May 2024	Mr. Carr filed a second MfPSJ as ECF 33
29 May 2024	AUSA Owen filed a Motion to Strike the MfPSJ (ECF 33). This was actually a Rule 56(d) motion with attached affidavit (ECF 38) which was equally flawed as the original, ECF 23.
9 Jun 2024	Mr. Carr filed their Response (ECF 39) opposing Motion to Strike (ECF 33) and Reply Supporting MfPSJ (ECF 33).
11 Jun 2024	AUSA Owen filed Reply (ECF 41) Supporting Motion to Dismiss (ECF 31).
13 Jun 2024	Mr. Carr filed Reply (ECF 42) Supporting Motion to Reconsider (ECF 32).
17 Jun 24	The court filed Order (ECF 43) that the Motion to Strike (ECF 37) was actually a Rule 56(d) motion which was granted and Denying MfPSJ (ECF 32) as premature. It contained the same false statements (another crime under 18 USC § 1001 of concealing material facts) as the original in ECF 26, but it should be noted that court accepted the papers signed by Mr. Carr supporting the claims by Mrs. Von Kramer and Mrs. Carr. According to res judicata the court had accepted that the Amended Complaint (ECF 29) was properly signed by all three plaintiffs. The court left the MTD (ECF 31) as pending even though the MfPSJ was denied as premature, thereby leaving Mrs. Carr in dire circumstances indefinitely as the court delayed any decision on the MTD for almost a year.
26 Feb 2025	The court Order (ECF 59) denying Motion for Sanctions (ECF 30) and Order (ECF 60) Denying Motion for Reconsideration (ECF 32 referring to ECF 18, ECF 22).
27 Feb 25	Findings, Conclusions, Recommendations (ECF 61) granting MTD (ECF 31) with hidden 14 day notice and denying status of Mrs. Carr and Mrs. Von Kramer in the complaint (ECF 29) as their electronic signature was not valid (no previous objections to their signatures by any party including the court). Irrelevant and nonsensical FRCP Rule 11 references conceal the fundamental complaint. This is a series of false statements (and crimes under 18 USC § 1001) as LR 1.1 and LR 11.1 in combination demonstrate the signatures were submitted correctly according to local rules
21 Mar 2025	Order (ECF 62) Accepting Findings, Conclusions, Recommendations (ECF 61) and Order (ECF 63) dismissing matter by Judge Scholer. This is also a crime under 18 USC § 1001 as relying on a known false document is also a crime. Any

	judge should be familiar with local rules and know the procedure for electronic signatures by pro se parties (who are attorneys according to local rules, which is certainly the prerogative to the court to accept individuals to appear before the court and act as counsel).

Questions Raised By Apparent Scheme

By leaving Mrs. Carr in dire circumstances (and concealing her status as an apparent illegal) for an extended period the court and DoJ colluded to deprive her of the rights of being a citizen (and even of being secure in her status as a permanent resident) as provided for in the decision by USCIS (ECF 10-5) which approved both her 10 year green card and citizenship well over two years ago.

Why were the MfPSJ's resolved almost immediately and the Motion to Amend forced to create additional delays (which is contrary to law)?

Why did it take over a year to get any decision from the court but only 22 days to close the matter (with hidden 14 day notice)?

Why did the court make false statements such as 'Brian, who is not an attorney, is not authorized to ... sign pleadings on behalf of others' which is directly contradicted by LR 1.1 and LR 11.1 which declare that Mr. Carr is an attorney (LR 1.1) and can certify the electronic signatures of other through their consent (LR 11.1)

Community Service Requested as Sanctions

Estimates of Time Wasted Adjusted for Community Service

It took Mr. Carr roughly 140 hours preparing the Response (ECF 18) to AUSA Padis

However, that does nothing to alleviate the delay created by the meritless Motion to Dismiss or the time wasted by Mr. Carr and the court in refuting and reviewing the MTD.

Nature and Amount of Sanctions Requested

It took Mr. Carr roughly 140 hours preparing the Response to AUSA Padis meritless Motion to Dismiss (MTD) and associated papers which adjusts to 35 hours of community service for AUSA Padis. Of course if the court finds that some portions of the MTD had some merit, the court can adjust hours as it deems appropriate.

In addition the total delay from the MTD to the next response from USATXN is now 66 days so that figure is used as the number of days early filing for USATXN in this matter. Sadly that will likely be AUSA Parker but the Defendants have had the benefit of additional time to prepare in this matter and it will be incumbent on them to prioritize this matter.

In this case Community Service for AUSA Padis is particularly appropriate as he has callously ignored my wife's plight of not being able to work and travel freely as she has no documentation of her permanent resident status. This is particularly difficult in times of the still pending Texas SB4 law to deport 'illegals' with unknown due process. My wife is also wrongfully being denied her rights as a citizen to vote and, of importance to her, help her son seek better employment opportunities. These also justified early filings for the Defendants until some relief is provided to my wife.

In addition to the above, it took Mr. Carr about 32 hours to prepare this Motion for Sanctions which results in an adjusted 8 hours of Community Service.

It should be noted that there will likely be additional Motions for Sanctions for later filings by AUSA Padis but that will only result in additional Community Service hours as the cumulative early filing days is already covered in this motion.

As such sanctions are requested as follows:

CS	EF	Relevant Pleadings / Interaction
10	3	Email Interactions Prior to Initial Motion to Dismiss
16	2	Citing Two Decisions which are 'Not Precedent'
35	60	Delay from meritless Motion to Dismiss and time spent defending
8	NA	Time preparing first Motion for Sanctions

CS Community Service Hours Required

EF Number of days for Early Filing Required

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 (lying 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 Salvador) 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 offered 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)[10] 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 equitable justice.

The court should recuse itself and new justices should issue consider this motion for sanctions.

Conclusion

The court is asked to consider the actions of AUSA Padis in conjunction with the court and impose sanctions appropriate for the violations and the damages which resulted. Community service and early filings are suggested as possible sanctions, but the court is, of course, to choose whatever sanctions it seems appropriate.

10 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.

The court is also asked to provide such other and further relief as it deems appropriate.

Respectfully submitted,

Verification of Motion

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

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

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

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 29. Aug. 2025
Location: Irving, Texas

Alphabetical Index

Certificate of Conference

This Motion for Sanctions under FRCP Rule 11(c) is OPPOSED.

While this is a timely FRCP Rule 60 Motion For Relief (as required for a 'closed' case), it is also a Motion for Sanctions under FRCP Rule 11(c) (the specific relief sought). In LR 7.1, there is not a specific listing for FRCP Rule 60 Motions For Relief but it is also a Motion for Sanctions Under FRCP Rule 11(c) which is listed in LR 7.1 as conference required. Also, as this motion will be provided to defendants at least 21 days before it is submitted to the court (to comply with FRCP Rule 11(c)), it is assumed that if the motion is submitted it was because the parties could not agree on an alternative.

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

CERTIFICATE OF SERVICE

In accordance with FRCP Rule 11(c) requirement for preliminary service not including the court and FRCP Rule 5 service by mailing, on 29. Aug. 2025 I mailed this document to AUSA Padis in a USPS Priority Mail Flat Rate Envelope with a prepaid shipping label addressed to:

George M Padis (Assistant United States Attorney)
Texas Bar No. 24088173
1100 COMMERCE ST FLOOR NUMBER 3
DALLAS, TX, 75242-1001

by placing the envelope into a blue United States Postal Service mail box.

Further, 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

From: **Brian Carr** <carrbp@gmail.com>
Date: Fri, Apr 12, 2024 at 8:15 AM
Subject: Re: [EXTERNAL] Re: Carr v. United States, No. 3:23-cv-2875-S (N.D. Texas)
To: George Padis (USATXN) <George.Padis@usdoj.gov>

Mr. Padis,

It is my understanding that any Reply to your Motion to Dismiss was due yesterday, 11 Apr 2024. While you previously claimed that the Federal Governments' acceptance of the Plaintiffs Motion to Amend should moot all pending motions with:

> You have the federal government's written consent to file an amended complaint by this email. So please file the amended complaint; otherwise I will file a certificate of conference indicating the federal government has consented to the filing of an amended complaint - which should moot all pending motions.

I do not believe that the process of mooting your pending Motion to Dismiss was accomplished by my filing of Defendants consent to the Motion to Amend. I believe that such a determination can only be made by the court based on the entire record and input of all the parties.

In particular, it does not address the request in my Response of 28 Mar 2024 which asked for sanctions for the specious 'Argument E' in your Motion to Dismiss. In particular, it asked that you withdraw 'Argument E'. Your agreement to the Motion to Amend does not address that concern or the underlying concern that the primary purpose of your Motion to Dismiss was to delay actually answering the serious concerns in the original complaint.

Indeed, your attempt to abandon the entirety of your Motion to Dismiss is indicative that there was little merit in any aspect of the Motion to Dismiss. The only changes in the Amended Complaint which address concerns in the Motion to Dismiss was to expand the existing APA reference to include specific statutes and the addition of INA references of 8 USC section 1421. I do concede that your Argument C is mooted by the changes in the Amended Complaint and was a legitimate concern in the Motion to Dismiss.

Similarly, the second half of Argument D concerning the Doctrine of Consular Non-Reviewability (DoCNR) does raise interesting legal questions concerning the arcane and, to the Plaintiffs, offensive doctrine which the Plaintiffs intend to vigorously challenge. It certainly was a legitimate issue to raise in a Motion to Dismiss but in light of our response, it no longer qualifies as a ground for a Motion to Dismiss as I have clarified that there are new and untested legal challenges to the doctrine based on the premise that Mrs. Von Kramer is a person and as such is entitled to all the constitutional guarantees of the Fifth Amendment.

As such I intend to submit a Motion for Sanctions under FRCP Rule 11 as the Defendants' Motion to Dismiss primary purpose seems to have been to create unnecessary delays. I will ask that court review the Motion to Dismiss and my response as well as relevant discussions concerning delays and your apparent abandonment of the Motion to Dismiss without good cause. If the court finds sufficient grounds, I will ask that the Court issue an Order to Show Cause for Sanctions requiring you to file all future papers early until the computed delay is reversed. I will submit a possible worksheet / formula

for computing delay and reversal though the actual sanctions are clearly a matter of the court'sscretion.

The Plaintiffs will, of course, file a Certificate of Conference in accordance with Local Civil Rule LR 7.1 for this Motion for Sanctions. We have previously discussed this matter and on that basis the Plaintiffs will note that the Defendants intend to contest the motion. However, if you wish to discuss the matter further, please feel free to call me and we can discuss any matters of concern which you may have an interest in.

Also, if you would like to more formally convey USATXN's position on this matter in the Certificate you can send an email in response.

I am also planning on incorporating a redacted copy of this email thread (prior to this email) in accordance with FRCP Rule 408 concerning the intent to delay. I have shared a redacted document with you which I expect to meet the requirements of Rule 408, but appreciate any comments / suggestions you have about what can / should be redacted. With: https://drive.google.com/file/d/1h7oitCPOF_VsvU2X89uv7dxBrZOB4yR9/view?usp=sharing you should be able to submit comments for proposed changes. Please let me know if you have any problem accessing the document and we can sort something out.

Your attention to this matter is appreciated.

Brian

On Fri, Apr 5, 2024 at 4:06 PM Padis, George (USATXN) <George.Padis@usdoj.gov> wrote:

> Hi Brian,
> Sorry, this isn’t let’s make a deal. But thanks for sharing those documents.

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

Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs versus United States, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Defendants	Civil No. 3-23CV2875 - S Verified[1] Reply Supporting FRCP Rule 60 Motions for: • FRCP Rule 15(a)(2) Leave to Submit Second Amended Complaint, • Due Process Corrections to Court Rules, • And Expedited Decisions for Motions

Reply Supporting FRCP Rule 60 Motions for:

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

Table of Contents

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

Introduction

Court and Defendants Misconstrue Appeal Options and Relief Requested

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

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

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

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

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

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

Rule 72(b) Notice Provided by Magistrate Was Inadequate

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

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

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

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

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

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

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

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

Required Rule 72(b) Notice Was Intentionally Inconspicuous

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

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

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

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

> The text must be double-spaced...

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

3 Bold added by Plaintiffs.

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

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

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

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

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

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

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

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

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

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

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

Fifth Circuit Court FRCP Rule 60 Standards Satisfied

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

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

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

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

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

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

Original FRCP Rule 60 Motion (ECF 67) Unopposed

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

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

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

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

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

USATXN Improperly Claims that Our Objections Were Not Timely

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

Failure to Timely Respond or Object Precludes Later Objections

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

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

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

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

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

USATXN Response Contrary to Prior Conference, No Justification

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

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

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

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

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

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

The Court and USATXN Falsely Claim Mr. Carr Representing Plaintiffs

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

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

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

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

In ECF 61 page 1, the court claims that:

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

But in the Complaints (ECF 3, 29 and 76-1) the paragraph for my wife (12) states:

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

and the paragraph for her sister (13) states:

> Mrs. Von Kramer is ... **a Plaintiff appearing Pro Se in this matter**. ... and ... has also requested that Mr. Carr represent Mrs. Von Kramer to the degree that it is legally permissible ...[10]

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

Possible Federal Crime by Court

Making False or Misleading Statements Violates 18 USC § 1001

18 USC § 1001 states:

> (a) ... whoever ... knowingly and willfully ...
> (1) falsifies, conceals, or covers up by any trick, scheme, or device a

10 Bold added by Plaintiffs.

> material fact; …
> shall be fined under this title, imprisoned not more than 5 years or, …

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

To intentionally conceal the unequivocal pro se status of my wife and her sister in the recommendation to dismiss an otherwise valid claim would certainly qualify as a federal crime. The primary question is intent which can be ameliorated if the court promptly resolves the outstanding motions and addresses the numerous errors before the matter is referred to other forums where such crimes can be considered.

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

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

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

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

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

The Court and USATXN Falsely Challenge Signatures on Complaints

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

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

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

> In accordance with TXND LR 11.1(d), on the recorded date I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf

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

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

Local Rule LR 1.1 Expands Meaning of Attorney

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

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

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

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

LR 11.1 Allows Certification of Signature of Another Person Electronically

In this context, LR 11.1 states:

> (c) Certification of Signature of Another Person. By submitting a document by electronic means and representing the consent of another person on the document, **an attorney** who submits the document certifies that the document has been properly signed.
> (d) Requirements for Another Person's Electronic Signature. **An attorney** who submits a document by electronic means that is signed by another person ... must:
> (1) ... or **represent the consent of the other person** in a manner permitted or required by the presiding judge; ...[12]

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

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

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

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

> CERTIFICATION OF ELECTRONIC SIGNATURES
> In accordance with TXND LR 11.1(d), on the recorded date I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document

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

12 Bold added by Plaintiffs.

electronically on their behalf ...

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

Court Apparently Agreed That Signatures Were Valid

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

Court's Expanded Definition of Attorney Presents an Enigma

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

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

13 Bold added by Plaintiffs.

Considering LR 1.1, Court's Decision is Demonstrably False

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

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

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

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

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

14 Bold added by Plaintiffs.

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

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

Physical Signatures Provided to Court In Compliance ECF 26

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

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

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

USPS Claim Not Precluded By Sovereign Immunity

USPS Can Offer Refunds for Select Services

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

FCR had Plain Error Dismissing USPS Claim

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

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

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

USPS Does Offer Guaranteed Delivery with Potential Refunds

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

Dolan Explicitly Affirms USPS Ability to Offer Refunds

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

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

USPS Follows Good Practices and Clearly States When Refunds Available

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

By Not Reading Dolan The Court Made Plain Error

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

It Was Plain Error To Dismiss Based on Inadvertent Error

Cases Cited Did Not Justify Dismissal of Cause of Action

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

> With respect to Brian's causes of action regarding various agencies' alleged failure to investigate crime, Brian does not respond to Defendants' arguments regarding sovereign immunity and instead merely—and improperly—refers to briefing he filed in response to Defendants' earlier motion to dismiss. See Resp. 3 (ECF No. 34) ("The restrictions on Sovereign Immunity are discussed at length in my Response of 18 Mar 2024 (ECF 18)

> pages 1 to 4 and won't be repeated here")[16]

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

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

Dismissing Causes of Action Not Sanction Available to Court

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

> Brian does not respond to Defendants' arguments regarding sovereign immunity and instead merely - and improperly - refers to briefing he filed in response to Defendants' earlier motion to dismiss.

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

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

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

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

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

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

Unfounded Conclusory Claims by USATXN Justify Need to Answer

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

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

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

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

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

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

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

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

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

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

USCIS Example of Properly Pled Claim

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

17 Bold added by Plaintiffs.

which USCIS and the court left my wife in.

Mrs. Carr Left In Dire Circumstances As Apparent Illegal Alien

Even though USCIS informed my wife on 31 Jan **2023** (more than 2.5 years ago) that her I-751 application (for a ten year green card) and N-400 application (for citizenship) were both approved (ECF 10-5), she was actually left as an apparent 'undocumented alien' (a.k.a. an 'illegal'). Without any documentation of her legal status, she was terrified that immigration police (a.k.a. I.C.E.) would deport her without cause or notice, perhaps to a high security prison in El Salvador.

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

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

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

Thailand unable to return home.

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

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

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

ECF 76-2 explains that the basic form of a claim is to demonstrate that each defendant:

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

Mrs. Carr Was Left Stranded in Thailand

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

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

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

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

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

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

circumstances.

There was a Valid Claim for a Certificate of Naturalization

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

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

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

Apparent Collusion Between USATXN and the Court Cause Delays

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

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

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

Excessive Delays Require Changes to USCIS Claims

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

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

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

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

Each Cause of Action is Proper and Fully Stated

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

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

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

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

FOIA Requests Ignored Though Court Has Clear Jurisdiction

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

Conclusion

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

Respectfully submitted,

Verification of Motion

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

1. I have reviewed the above motion and believe all of the statements to be true to the best of my knowledge.

2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered in accordance with normal redaction procedures to remove sensitive personal information or other sensitive information as identified in the redaction.

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

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

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

Case, Statute, and Other Alphabetical Index

CERTIFICATE OF SERVICE

On the recorded date of submission, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter are enrolled in the court's electronic case filing (and service) system.

/s Brian P. Carr

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061