

**In the United States Court Of Appeals, 5th Circuit**

<p>Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer we 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 Appellees</p>	<p>Case No. <b>26-10025</b>  <b>Verified<sup>1</sup> Motion to Reconsider Dismissal, Suspend Briefing and Expedite</b> Certificate of Conference – OPPOSED<sup>2</sup></p>
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**Motion to Reconsider Dismissal, Suspend Briefing and Expedite  
With Notice of Future Motions for Sanctions and Procedural Reform**

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**I. Relief Requested and Request for Expedited Review**

We respectfully move this Court to reconsider and vacate the administrative dismissal order [5CC33-1](#) entered against us under [5CCLR 42.3](#). We also request that the court suspend the briefing schedule or hold the case in abeyance until the ROA and other issues are fully resolved.

We further request expedited review of this motion. There are several motions before the court which must be resolved before any brief can be prepared. It would be a serious injustice for these important motions to be declared moot as the matter has been dismissed leaving the matters unresolved, effectively denying all avenues for appeal without any consideration of the actual issues.

## II. Motion for Reconsideration is Both Authorized and Timely

[5CCLR 27.1](#) states:

27.1 Clerk May Rule on Certain Motions. Under...[\[FRAP\] 27\(b\)](#), the clerk has discretion to act on... the procedural motions listed below. The clerk's action is subject to review by a single judge upon a motion for reconsideration made within the 14 or 45 day period set by...[\[FRAP\] 40\(d\)](#) (1).

As the Denial Order [5CC33-1](#) was filed on 2 Jun 2026 this motion is timely and as [5CC33-1](#) was issued by the Clerk's Office [5CCLR 27.1](#) authorizes this motion.

## III. Abbreviations Used in This Document

### A. Basic Abbreviations Used

The following abbreviations are utilized throughout this document to ensure concise, clear arguments and explanations:

- CFR: Code of Federal Regulations
- FRAP: Federal Rules of Appellate Procedure
- FRCP: Federal Rules of Civil Procedure
- TXND: United States District Court for the Northern District of Texas
- USCA5 or 5CC: United States Court of Appeals for the Fifth Circuit
- CM/ECF or ECF: Case Management/Electronic Case Files system
- ROA: Electronic Record on Appeal
- 5CCLR: Rules and Internal Operating Procedures of the Fifth Circuit

### B. Understanding Hyperlinks Provided With Case / ROA Citations

To enhance readability and provide easy access to the cited material, our citations embed hyperlinks using the following conventions:

[ECFdktN](#): Links to a copy of TXND ECF case 3:23-cv-02875-S where dktN represents the document number.

Example: [ECF10-5](#) links to a copy of TXND ECF case 3:23-cv-02875-S document 10-5.

[5CCdktN](#): Links to a copy of USCA5 ECF Case No. 26-10025 where dktN represents the document number.

Example: [5CC35-5](#) links to a copy of USCA5 ECF document 35-5, an exhibit attached to motion [5CC35-1](#).

[ROAdktNpgNNN](#): A dual-link citation for documents from the Record on Appeal for Case No. 26-10025. The first portion ([ROAdktN](#)) links to the document from the TXND ECF, while the end page number ([NNN](#)) links to the document which starts at the specific page number from the USCA5 ROA file.

Example: In [ROA10-5pg177](#), [ROA10-5](#) has a link to [ECF10-5](#), the document 10-5 from the TXND ECF. [177](#) has a different link to the same document extracted from page 177 of the ROA (but none of the preceding or following documents).

Privacy Exceptions: To comply with federal privacy mandates, no hyperlinks are provided for properly sealed documents. Sealed records are referenced using the text format above, but there is no link which prevents public access to the sealed document.

#### **IV. Existing Records and Decisions Are Not Attached as Exhibits**

While it is customary in this court for every motion to have an exhibit for each referenced document, we have chosen not to clutter the court's record with multiple copies of the same exhibits. If an exhibit is already in 5CC ECF we instead simple cite 5CCxxx to accurately describe the document referred to and provide easy access to a copy of the document, e.g. [5CC35-5](#) has link to an important exhibit which was first provided in a previous motion, [5CC35-1](#).

If an adjudicator, opposing counsel, or a member of the public wishes to inspect a referenced docket entry, they can click the blue hyperlink to open the file and later easily return to the text of our argument.

#### **Two Exhibits Added to the Record With This Motion**

This motion itself has two Exhibits [A](#) and [B](#) which are attached as they have not been included in any previous motion. These email communications from TXND make it apparent that the 'new' ROA of 28 May 2026 is actually a counterfeit ROA as there is no 5CC certification of the 28 May 2026 ROA while [5CC15](#) clearly certifies the 2 Mar 2026 ROA.

It is expected that several future motions will also refer to these same exhibits.

#### **V. Overview of Current and Future Motions**

This emergency motion is the first motion in a three-part motion series to address systemic breakdowns in the administration of this appeal:

1. The Present Emergency Motion: To immediately vacate the dismissal order, toll all briefing deadlines, and establish that:
  - the clerk did not have the authority to dismiss the matter and

- multiple substantive motions were pending when the dismissal was ordered.
2. Future Motion for Investigation into Misconduct: A motion seeking a formal inquiry into collusion between TXND and 5CC clerks to substitute a "counterfeit" ROA to "resolve" the font-corruption errors and improperly sealed records, and the improper issuance of a dismissal notice without the mandatory 15-day warning. There are several other artifacts which such collusion.
  3. Future Motion for Appellate Rule Reform: A formal petition seeking:
    - Structural improvements to pro se electronic access, specifically providing pro se litigants who hold active ECF filing credentials access to the ROA on USCA5 ECF
    - Formalize clerks role in case management with
      - sample motions for common requests,
      - clear, specific, public accessible, written standing orders for how clerks handle common matters,
      - sample memorandum for clerks to use to provide notice to all parties of their actions in resolving the request

## **VI. Argument: Pending Motions Must Automatically Toll Briefing Clock**

An appeal cannot be dismissed for want of prosecution while the caption, ROA text accuracy, and security of the underlying ROA are actively being litigated.

It is inefficient and error prone to insist that each motion similar to the above should also be consolidated with a Motion to Suspend Briefing. Such doubling of motion practice needlessly increases the workload of the court at a time when the court already has a burdensome workload.

**A. There Were Four Pending Motions Which Prevent Dismissal**

Indeed due process requires that the briefing schedule be held in abeyance whenever there are motions to update the caption or ROA. In this matter there were four such motions:

1. Our Motion to Amend Captions and Extend Time [5CC25](#)

Filed: 7 May 2026 (Prior to the revised 13 May deadline established in [5CC24](#)).

Status: Pending.

Impact: This motion seeks to correct structural identity errors in the case caption by adding co-appellants and co-appellees. A brief cannot be filed under an incomplete case header.

2. Our Motion to Correct Garbled Records [5CC26](#)

Status: Denied without a reasoned legal basis.

Impact: This motion targeted the physical corruption of two exhibits in the ROA provided by TXND (missing text layers and dropped letters). We cannot brief an appeal when the physical text of our core evidence is rendered as unreadable electronic artifacts.

3. Our Motion to Strike the Unauthenticated, PII-Violating ROA [5CC32](#)

Status: Pending.

Impact: Filed to address an unauthorized 28 May 2026 ROA transmission that left sensitive Personally Identifiable Information (PII) - including unredacted Social Security number and birth date - exposed on the public layer. While there are questions as to which ROA is valid no brief can prepared. See exhibits [A](#) and [B](#).

4. Our Motion for Reconsideration of the Denial [5CC31](#) of Motion to Correct Garbled Records [5CC26](#) is [5CC35-1](#)

Status: Pending.

Until the relief sought in [5CC35-1](#) is provided, no brief can be prepared without access to a clean, authenticated, non-garbled ROA. We cannot be forced to brief an appeal when the physical text of critical exhibits are corrupted. To illustrate why access to a legible record is mandatory, we provide the following breakdown of the core evidence currently being suppressed by the record corruption:

**B. [5CC26](#) Correction of Garbled Record Analyzed in Depth**

One of the records required to be corrected in [5CC26](#) is [ECF16-1](#) which is a critical element in one of several facets of the USCIS complaint.

**USCIS Delay in Notice (26 Days) Negates Failure to Appear Denial**

This facet of the USCIS complaint depends on the physical postmark date and delivery date preserved in [ECF16-1](#) which remains corrupted in the ROA provided to us. A chronological analysis based on this exhibit exposes a systemic, legally

fatal USCIS defect:

6 Sep 2023 USCIS N-400 Interview Notice Face Date, [ROA10-7pg179](#)

12 Sep 2023 Actual Physical Postmark Date - six-day mailing lag,  
see [ROA16-1pg182](#)

15 Sep 2023 Actual Delivery Date, see [ROA16-1pg182](#)

11 Oct 2023 Scheduled Hearing Date, [ROA10-7pg179](#)

While the notice provides a theoretical 35 days notice (well within the required 33 days notice) the delay in mailing the notice reduced the actual notice to period to 29 days which is inadequate. The actual delivery date of 15 Sep 2023 (actual three days for delivery) provides only 26 days of notice before the 11 Oct 2023 interview date which is legally deficient.

Under [8 CFR § 103.8](#), when USCIS sends a notice by mail, it is a statutory requirement that three days be added to the mandatory 30-day notice window. USCIS was required to provide us with 33 days of advance notice from the date they actually mailed the document (postmark date).

By listing the notice date as 6 Sep but waiting six days before mailing it on 12 Sept, USCIS reduced our notice period to 26 days.

Further, this six-day mailing lag was not an isolated incident; multiple notices from USCIS during this period consistently had a postmark date exactly six days after the listed document date, demonstrating an agency practice at that time which shortened applicants' statutory response times.

### **Statutory Notice Times Have A Purpose, Can Not Just Be Ignored**

International Travel Plans Conflicted With Scheduled Interview Date  
Statutory notice times are required to insure that the applicant has an adequate opportunity to comply. It would violate due process to deny an application for 'failure to appear' if the notice was made the day before and the applicant was out of the country and unable to return in time.

While 26 days might seem reasonable under most circumstances in this case it was not as we had made conflicting complex international travel arrangements months prior:

The Travel Scope: We had finalized an extensive 14-country itinerary spanning Europe and Thailand, utilizing entirely non-refundable paid airline tickets and lodging accommodations.

- The Schengen Visa Trap: To secure our European tourist visas, we were required to submit non-refundable bookings. Our visas were issued under strict European border regulations based on the Netherlands being our primary country which we visited.
- The One-Day Entry Risk: Had we delayed our departure by even a single day to accommodate the USCIS hearing date, the Netherlands Border Management (CPB equivalent) could have denied us entry and revoked our visas on the spot. A date shift would alter our travel itinerary, rendering our visas invalid under Schengen rules because the primary stay would shift to Italy.

26 days was not sufficient to alter such travel plans though it did provide sufficient

time for us to ask that the interview be rescheduled.

### **Administrative Denial and Refusal to Reschedule**

We did not ignore the notice. We had notified USCIS of our travel dates even before the interview was scheduled. Furthermore, upon receiving the delayed notice, we submitted at least three separate, formal requests to reschedule the hearing (see [ROA30-7pg844](#)).

USCIS denied all three requests. However, the final agency denial text makes no mention of our repeated requests to reschedule ([ROA10-10pg185](#)).

As a tenet of administrative law, an adjudicative tribunal must consider and address material evidence and timely requests filed by the parties within the body of its final decision. Failing to include or reason through our three rescheduling requests constitutes an abuse of discretion. These defects in the USCIS notification framework demonstrate why a thorough review of the authentic record is required to correct these formatting and procedural defects.

This exhibit is critical in refuting the later denial by USCIS in [ROA10-10pg185](#) which improperly denies my wife's N-400 application for citizenship (even though it was previously approved in [ROA10-5pg177](#)) for 'failure to appear' without any discussion of notice. The systemic delays in mailing notices were the basis for the ancillary prospective relief in [ROA84-1pg2219 para210pg41](#) and [relief34-38pg75](#) requesting remands for similar USCIS denials 'for failure to appear' where there was no mailing date in the record for notice and the notice date did not allow for the systemic delays in mailing such notices.

For N-400 citizenship interviews because of the low denial rate and the underlying causes of the high acceptance rate, it is estimated that would only be a few hundred decisions which must be remanded. However, with asylum applications with the high denial rate and underlying causes of the high denial rate, it is estimated there could be well over 100,000 denials which need to be remanded. As most of these denials likely resulted in deportation of the applicant correcting the error can be problematic. However, the requirement for due process for all individuals is not restricted to when it is easy or convenient.

Significant facets of the USCIS appeal are dependent on having a legible copy of [ROA16-1pg18](#).

#### **VII. Dismissal in [5CC31](#) Directly Violates [5CCLR 42.3.1.2](#)**

The dismissal of our appeal at this time was expressly prohibited under [5CCLR 42.3.1.2](#).

[5CCLR 42.3.1.2](#) mandates a two-step notice procedure prior to any dismissal and states:

Appeals without Counsel. The clerk must issue a notice to appellant that 15 days from the date of the notice the appeal will be dismissed for want of prosecution, unless the default is remedied before that date. If the default is remedied within that time, the clerk must not dismiss the appeal.

A plain reading of this rule establishes that the clerk can issue a notice of an impending dismissal providing a mandatory 15-day window to remedy the default. The rule precludes an immediate dismissal.

No such 15-day warning notice was ever generated or served upon us. Bypassing this explicit notice requirement to dismiss an active appeal - while four separate motions regarding the caption, corruption and security of the underlying ROA remain unresolved - constitutes an unauthorized clerical action.

This matter must be held in abeyance until all pending caption and ROA issues are judicially resolved.

### **VIII. Conclusion and Prayer for Relief**

For the foregoing reasons, we respectfully request that this Court:

Vacate the administrative order dismissing this appeal;

- Reinstated this matter to the active docket;
- Order this matter must be held in abeyance until all four pending record motions [5CC25](#), [5CC26](#), [5CC28](#) , and [5CC35-1](#) are conclusively decided; and
- Order that the appeal be redocketed and that a new reasonable briefing schedule be provided only after a clean, certified, and fully authenticated record is successfully provided.

Respectfully Submitted,

### **Verification of Motion**

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

1. I have reviewed the above motion and certifications below 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*

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Brian P. Carr  
1201 Brady Dr  
Irving, TX 75061

Date: 9. June 2026

Location: Irving, TX

### Other Signatories

*/s Air Carr*

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Rueangrong Carr  
1201 Brady Dr  
Irving, TX 75061

Date: 19 Aug 2025

Location: Irving, TX

*/s Buakhao Von Kramer*

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

Date: 20 Aug 2025

Location: Bangkok, Thailand

*/s Rujipas Lawichai*

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

Date: 20 Apr 2026

Location: Phuket, Thailand

*/s Tanapon Lawichai*

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

Date: 21 Apr 2026

Location: Lopburi, Thailand

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## **Required Certificates of Compliance**

The undersigned hereby certifies under penalty of perjury:

### **A. Certificate Of Interested Persons**

The undersigned certifies that the following listed persons and entities as described in [5CCLR 28.2.1](#) have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

1. Brian P. Carr, Appellant
2. Rueangrong Carr, Appellant
3. Buakhao Von Kramer, Appellant
4. Tanapon Lawichai, potential Appellant
5. Rujipas Lawichai, potential Appellant
6. United States of America, et al., App appellees
7. Tami C. Parker, Counsel for Appellees with appealed motion for Sanctions, potential Appellee
8. George Monroe Padis, previous Counsel for Appellees with appealed motion for Sanctions, potential Appellee
9. TXDN Magistrate Rebecca Ann Rutherford with misconduct complaint and motion to recuse, potential Appellee
10. TXDN Judge Karen Gren Scholer with misconduct complaint and motion to recuse, potential Appellee

### **B. Certificate of Conference Compliance<sup>3</sup>**

This Motion to Reconsider Clerk's Order Denying Motion to Amend the ROA Pursuant to [5CCLR 27.2](#) is OPPOSED.

The conference was held via an email from AUSA Parker on 2 Jun 2026 which

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<sup>3</sup> According to the Fifth Circuit Court's [Electronic Noticing and Filing Options Available to Pro Se Parties](#): All parties filing motions must also conduct a conference with all parties regarding the motion, the filer must contact all parties, advise what the motion will seek and ask each if they are opposed or unopposed to the motion

stated:

Defendants oppose all your other proposed motions

As such, appellees / defendants are considered to be OPPOSED to this motion.

**C. FRAP 32(g)(1) Length Compliance**

This document complies with the type-volume limitation of FRAP 27(d)(2)(A) because, excluding the parts of the document exempted by FRAP 32(f), this document contains 3,749 words (which is less than the nominal 5,200 words for a single motion), as determined by LibreOffice Writer word processing software<sup>4</sup>.

**D. FRAP 32(a)(5) Typeface Compliance**

This document complies with the typeface requirement of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6) because this document has been prepared in a proportionally spaced typeface using LibreOffice Writer using Times New Roman (14-point).

**E. Certification Of Electronic Signatures**

In accordance with 5CCLR 25.2.10 which states:

25.2.10 Signatures... Documents which require more than one party's signature must be filed electronically by... showing the consent of the other parties on the document; or any other manner approved by the court.

I hereby certify that I did indeed receive the consent of the other parties to include their signatures on this document.

**F. FRAP 25(b) Service**

On the recorded date of this document, I electronically submitted the foregoing document with the clerk of 5th Circuit United States Court Of Appeals using the electronic case filing system (ECF) of the court. I also hereby certify that on this

<sup>4</sup> LibreOffice Writer does not have an ability to count words in a document excluding sections but instead can count words in the entire document (not useful or correct for this purpose) or in the selected section. By selecting everything below the Table of Contents but above the first signature block I can get the word count and then manually enter the count in the certification. The certified word count was accurate on 9 Jun 2026 at 12PM.

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

Date: 9. June 2026

Location: Irving, TX