

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

29. Jul. 2026

Circuit Clerk
United States Court of Appeals for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: Judicial Misconduct Complaint Nos. 05-26-90151 and 05-26-90152

To the Circuit Clerk:

I hereby petition the judicial council for review of the chief judge's order of 17 Jul 2026, dismissing the complaints of judicial misconduct in the above-referenced matters.

I. Introduction and Statement of the Chief Judge's Error

The Chief Judge's dismissal of the complaints under [28 USCS 352\(b\)\(1\)\(A\)\(ii\)](#) as "merits-related" constitutes a clear misapplication of the statutory framework. The initial complaints did not seek a merits-based reversal or reinstatement of the underlying civil action. In fact, the merits of the case are currently active on appeal under single-judge review in the regular appellate court track (Appeal 26-10025), see [5CC46-1](#) and [5CC46-2](#).

Rather, the complaints alleged a severe, non-merits breach of judicial integrity falling squarely within [28 USCS 351\(a\)](#): the subject judges' knowing and willful introduction of false statements / findings into successive court orders to insulate

an improper dismissal from appellate review. By categorizing a documented pattern of intentional deception as a mere "correctness of a ruling" issue, the Chief Judge erred as a matter of law.

Availability of the Public Record

The full record of the underlying proceedings is available on the internet for review. The complete timeline, including direct links to every filed document, can be accessed at https://governmentoflaw.info/3_23-cv-02875-S/TimeLine.html including this petition itself with electronic links as [5CCptn](#).

II. Chief Judge Misapplied Dual Test by Ignoring Intentional Fabrications

Under [28 USCS 352\(b\)\(1\)\(A\)\(ii\)](#), a chief judge must separate standard judicial errors from independent ethical violations. An accidental misstatement of fact in an opinion is a merits-related issue. However, when a judicial officer knowingly fabricates records or introduces false details to deliberately bypass a central legal claim, that action crosses into conduct "prejudicial to the effective and expeditious administration of the business of the courts." [28 USCS 352\(a\)](#)

The record demonstrates that the subject judges did not commit an honest mistake; they engaged in a succession of false statements:

1. In the findings (FCR) entered on 27 Feb 2025 ([ECF61](#)), Magistrate Judge Rutherford falsely stated that United States Citizenship and Immigration Services denied the visa applications. The record established that the Department of State issued the denials.
2. This false factual statement was material because it concealed the involvement of the Department of State. That alteration blocked my ability as a U.S. citizen with a foreign national wife to challenge the Doctrine of

Consular Non-Reviewability based on those actions as suggested in [Kleindienst v. Mandel, 408 U.S. 753 \(1972\)](#).

3. After I filed a formal motion to correct the record and recuse ([ECF73](#)), Magistrate Judge Rutherford did not fix the error. Instead, in the recommendations entered on 10 Nov 2025 ([ECF91](#)), the judge replaced the original false statement with a different false statement taken from the defendants' filings.
4. On 15 Dec 2025 ([ECF95](#)), District Judge Scholer entered an order claiming to have confirmed the accuracy of both recommendations, despite the clear public record proving that both the statements were false.

III. The Evidence Raises a Strong Inference of Misconduct

The Chief Judge incorrectly applied [28 USCS 352\(b\)\(1\)\(A\)\(iii\)](#) by citing [Liteky v. United States, 510 U.S. 540 \(1994\)](#), to conclude that the complaints lacked evidence of an improper motive. However, the [Liteky](#) decision states:

opinions arising during the course of judicial proceedings require disqualification under [§ 455\(a\)](#) only if they "display a deep-seated favoritism or antagonism that would make fair judgment impossible."

My complaints do not rely on adverse rulings alone. The inference of misconduct comes from the sequence of events. When a judge receives clear notice of a factual error and chooses to insert a second false statement rather than correct the record, that pattern provides strong circumstantial evidence of intentional wrongdoing.

This conduct violates [Canon 1](#) (Upholding Judicial Integrity) and [Canon 2](#) (Avoiding Impropriety) of the [Code of Conduct for United States Judges](#).

Repeatedly altering the 'facts' in court orders to protect an improper dismissal harms judicial integrity and public trust. We seek an investigation into these

actions under section [28 USCS 351\(a\)](#).

IV. Conclusion

For the foregoing reasons, the Judicial Council should reverse the Chief Judge's dismissal order and refer this matter to a special investigative committee under Rule 11 of the [Rules for Judicial-Conduct and Judicial-Disability Proceedings](#) to restore the public integrity of the court.

Respectfully submitted,

Verification of Petition

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

1. I have reviewed the above Petition 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. Jul. 2026
Location: Irving, Texas