

**No. 22-40378**  
**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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JOE BLESSETT,

Plaintiff-Appellant

v.

GREG ABBOTT; KEN PAXTON; STEVEN C MC CRAW; XAVIER  
BECERRA; UNITED STATES DEPARTMENT OF HEALTH AND  
HUMAN SERVICES; ANTONY BLINKEN; UNITED STATES  
DEPARTMENT OF STATE; UNITED STATES; CITY OF  
GALVESTON; SINKIN LAW FIRM

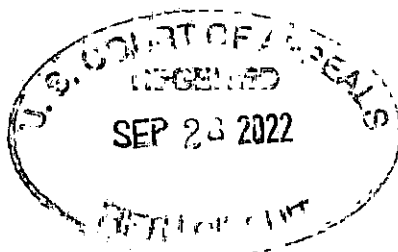
Defendant – Appellees

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**APPELLANT JOE BLESSETT'S REPLY BRIEF FOR**

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Joe Blessett / Pro Se  
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STE 101-708  
San Antonio, TX 78229  
Telephone: 281-667-1174



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## **TABLE OF CONTENTS**

|   | <u>Page</u> |
|---|-------------|
| <b>Table of Contents .....</b>  | <b>2</b>    |
| <b>Table of Authorities .....</b>   | <b>3</b>    |
| <b>Statement of Issues Presented For Review.....</b>  | <b>6</b>    |
| <b>Issue I: The State Appellees miss the point. ....</b>  | <b>6</b>    |
| In 2016 Beverly A Garcia, the custodial, assigned Sinkin Law Firm the fiduciary responsibility for collecting the support arrearage.  |             |
| <b>Issue II: Sinkin Law Firm misses the point. ....</b>   | <b>8</b>    |
| Sinkin Law Firm failed to follow adopted federal civil procedures or comply with U.S. 5 <sup>th</sup> Circuit Appellate Court legal precedent.  |             |
| <b>Issue III: The Federal Appellees miss the point .....</b>  | <b>9</b>    |
| U.S. Department of Health and Human Services (HHS) was notified in 2020 as an interested party.   |             |
| <b>Summary of the Argument.....</b>   | <b>11</b>   |
| <b>Argument .....</b>   | <b>13</b>   |
| <b>Issue I: In the Notice of Appeal, the Appellant did not seek to appeal or intrude on the sovereign will and 11<sup>th</sup> amendment protection of the State of Texas .....</b>             | <b>14</b>   |
| <b>Issue II: Sinkin Law Firm agent and natural person Steven A Sinkin received process service as Texas recorded legal representative of the artificial entity Sinkin and Barretto P.L.L.C.</b> | <b>19</b>   |
| <b>Issue III: Just as Xavier Becerra is protected for his performance as Secretary, immunity protections do not extend to incompetence in</b>   |             |

|   |           |
|---|-----------|
| protecting the United States interest and the U.S. Constitution.<br>..... | 22        |
| <b>Conclusion .....</b>   | <b>27</b> |
| <b>Certificate of Service.....</b>  | <b>28</b> |
| <b>Certificate of Compliance .....</b>                                    | <b>29</b> |

### **TABLE OF AUTHORITIES**

|  |    |
|--|----|
| Anniston Mfg. Co. v. Davis, 301 US 337 - Supreme Court 1937.....                         | 13 |
| Barrera–Montenegro v. United States, 74 F.3d 657, 659 (5th Cir. 1996).....               | 16 |
| Bell v. Hood, 327 U.S 678, 684 (1946).....   | 22 |
| Harlow v. Fitzgerald, 457 U.S. 800, 815 (1982) .....                                     | 24 |
| Hubbard v. EPA 809 F.2d 1, 11 n.15 (D.C. Cir. 1986).....                                 | 22 |
| Hostetter v. United States, 739 F.2d 983, 985 (4th Cir.1984).....                        | 26 |
| Jaffee v. United States, 592 F.2d 712, 719 (3d Cir.1979).....                            | 26 |
| Joe Blessett v. Texas Office of the Atty Gen,<br>No. 18-40142 (5th Cir. 2019) .....      | 15 |
| Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)).....                                   | 22 |
| Okpalobi v. Foster, 244 F.3d 405, 425 (5th Cir. 2001).....                               | 16 |
| Presbyterian Church (U.S.A.) v. United States,<br>870 F.2d 518, 525 (9th Cir. 1989)..... | 26 |
| Secs. & Exch. Comm'n ex rel. Glotzer,<br>374 F.3d 184, 190 (2d Cir. 2004) .....          | 26 |
| Simmat v. U.S. Bureau of Prisons, the Tenth Circuit .....                                | 23 |
| Truong v. Bank of Am., N.A., 717 F.3d 377, 382-84 (5th Cir. 2013) .....                  | 15 |

|   |    |
|---|----|
| Voluntary Purchasing Groups, Inc. v. Reilly,<br>889 F.2d 1380, 1384 (5th Cir. 1989))..... | 16 |
|---|----|

**STATUTES AND CODES**

|  |            |
|--|------------|
| UCC 1-201(b)(3) .....                                  | 7          |
| UCC 3-305(b) .....                                     | 12         |
| 5 U.S.C. § 101.....                                    | 10         |
| 5 U.S.C. §702 .....                                    | 11, 23, 26 |
| 5 U.S.C. §704 .....                                    | 26         |
| 18 U.S.C. § 371 .....                                  | 24         |
| 18 U.S.C. § 286 .....                                  | 24         |
| 28 U.S.C. 1738b .....                                  | 15         |
| 28 U.S.C. §2201 .....                                  | 13         |
| 42 CFR 302.34 .....                                    | 12         |
| 42 U.S.C. 603(a)(5)(C)(iii)(III) .....                 | 17         |
| 42 U.S.C. § §603(a)(5)(C)(iii)(III)(aa) and (bb) ..... | 23         |
| 42 U.S.C. 609 .....                                    | 18         |
| 42 U.S.C. 609(8)(a)(5) .....                           | 17         |
| 42 U.S.C. 652.....                                     | 25         |
| 42 U.S.C. 652(d)(2)(B) .....                           | 12         |
| 42 U.S.C. 654 .....                                    | 16         |
| 42 U.S.C. 654(12) .....                                | 12, 14, 25 |
| 42 U.S.C. 654(16) .....                                | 12         |
| 42 U.S.C. 654(24).....                                 | 25         |
| 42 U.S.C. 655(4).....                                  | 25         |
| 42 U.S.C 666(a)(5)(D)(iii) .....                       | 17         |

|  |            |
|--|------------|
| Administrative Procedure Act .....                                   | 26         |
| Declaratory Judgement Act .....                                      | 13         |
| Federal Rules of Evidence 103 .....                                  | 21         |
| Texas Civil Practice and Remedies Codes Title 2 Sec. 16.004(5) ..... | 20         |
| Texas Code of Criminal Procedure Title 1 Art 12.01(3)(A) .....       | 20         |
| Texas Code of Criminal Procedure Title 1 Art 12.01(2)(A) .....       | 20         |
| Texas Family Code 160.637(a)(2) .....                                | 17         |
| Texas Local Government Code Title 3 Sec. 87.012.....                 | 19         |
| Title IV of the Social Security Act .....                            | 11, 23, 26 |
| U.S. Const. art. III, § 2, cl. 1;.....                               | 15         |

## **STATEMENT OF ISSUES PRESENTED FOR REVIEW**

### **Issue I: The State Appellees miss the point**

In 2016 Beverly A Garcia, the custodial, assigned Sinkin Law Firm the fiduciary responsibility for collecting the support arrearage. Ratified in a Texas state court in the June of 2017. **ROA.1295-1297**

U.S. Congress cannot grant the waiving of an Individual's U.S. Constitutional rights to enforce Title IV-D of the Social Security Act (Act). A meeting of the minds and consent under the statutes of Title IV of the Act must occur before legal action can occur for noncompliance. The state officials did not uphold their sworn oath to the U.S. Constitution to implement and enforce Part D against JOSEPH C BLESSETT. Greg Abbott, Ken Paxton, and Steven McCraw's inaction after receiving private protest notice and agreement from Joe Blessett is direct live involvement in infringement of Blessett's rights. The defensive argument confuses and conflicts public laws and obligations with private law agreements, contracts, and commitments. Greg Abbott, Ken Paxton, and Steven McCraw consented in their unofficial capacity to an enforceable private law agreement before the civil litigation in the District Court without protest.

Points;

- A) The Appellants Brief, Federal Complaint attacks the failure to follow all the required federal statutes to enforce Title IV against JOSEPH C BLESSETT laid out with chronologically listed injuries **ROA. 1082** under administrative law.
- B) Ken Paxton and Steven McCraw's failure to have Title IV-D required documents to enforce Title IV-D penalties against JOSEPH C BLESSETT.

- C) Greg Abbott, Ken Paxton, and Steven McCraw failed to uphold their sworn oath to the U.S. Constitution in the enforcement of federal statutes of Title IV against JOSEPH C BLESSETT.
- D) Greg Abbott, Ken Paxton, and Steven McCraw's inaction after receiving private notice and agreement<sup>1</sup> from Joe Blessett to stop the enforcement of Title IV-D or produce the legal instrument for standing to enforce is direct live involvement in the infringement of Blessett's rights.
- E) Greg Abbott, Ken Paxton, and Steven McCraw's Appellee's Reply Brief argument item II page 5 fails to name the state court judgment to be reviewed and rejected; it is confusing and points to nothing to enhance the appellees defense argument as verifiable evidence against Blessett. *The June 2017 is, the relevant state court judgment, the custodial parent contracted and assigned the fiduciary duty for the outstanding child support debt collection and enforcement to a private law firm. The debt is no longer under the July 2015 default judgment public law government contract for debt collection.* Moreover, it contradicts the statement made in Blessett's request for summary judgment.<sup>2</sup>
- F) All the arguments by the State and Federal actors did not show specific language with particularity in the July 23, 1999, State court judgment for Part D services under the Act. Blessett agrees with the July 23, 1999, state court judgment as it is written. Blessett's complaint does not challenge the

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<sup>1</sup> Agreement 1, A mutual understanding between two or more persons about their relative rights and duties regarding past or future performances; a manifestation of mutual assent by two or more persons. 2. The parties actual bargain as found in their language or implications from other circumstances, including course of dealing, usage of trade and of course performance. UCC 1-201(b)(3) **Black's Law Dictionary Fifth Edition**

<sup>2</sup> **ROA.** 871, Therefore, in unambiguous language, Joe Blessett has made it clear his 5<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, and 14<sup>th</sup> amendment rights to enjoy his Divorce Decree judgment. The instrument is self-explanatory, in its unmodified state.

July 23, 1999, state court support order. Blessett has asked to enjoy his Final Divorce Decree. **ROA. 1094**

- G) Again, no meeting of the minds for Part D service or goods rendered to or accepted by Blessett. The defensive arguments are baseless without reasonable belief for merit and verifiable evidence to refute Blessett's claims and verified evidence. Blessett has provided information that a reasonable person of ordinary intelligence would infer that the facts in question exist and that there is a chance of existence if the District Court exercised basic reasoning and logic.
- H) For Blessett's private protest and agreement, a meeting of the minds took place with correspondence through U.S.P.S as verified evidence before submission to the District Court. Greg Abbott, Ken Paxton, and Steven Mc Craw chose not to address the Certificates of Nonresponse **ROA. 113-116, 145-146**, documented in Federal Court. It is overwhelming evidence of a meeting of the minds that satisfies Uniform Commercial Codes for enforcing the agreed terms of private debt.
- I) Blessett sent Antony Blinken and the U.S. Depart. Of State a protest and agreement **ROA. 653-658** in July of 2021. In September of 2021, Antony Blinken and the U.S. Depart. Of State satisfied the protest and agreement as agreed. **ROA. 631**. Antony Blinken upheld his oath of office and obligation to the U.S. Constitutional rights of a citizen he serves.

## **Issue II: Sinkin Law Firm misses the point.**

Sinkin Law Firm failed to follow adopted federal civil procedures or comply with U.S. 5th Circuit Appellate Court legal precedent. As a result, Sinkin Law Firm did not have an attorney on the record with the District Court Clerk before the due date of February 10, 2022.

Points;

- A) Federal Rules of Civil Procedure, Federal Statutes, Court Precedent, and local court rules produce a fixed outcome.
- B) Joe Blessett has applied Federal Rules of Civil Procedure and U.S. 5<sup>th</sup> Circuit Court precedent to produce a fixed outcome for Sinkin Law Firm's failure to follow the law procedures.
- C) Sinkin Law Firm defaulted because they did not follow the law.
- D) Sinkin Law Firm was sued because they did follow the laws for the fiduciary obligation to honor an interstate contracted debt<sup>3</sup> and a state court order.
- E) Blessett's ex-wife, the custodial parent contracted and assigned Sinkin Law firm the fiduciary duty to collect and enforce the outstanding child support debt. **ROA.1295-1297**
- F) In Interstate Commerce, the illegal conduct in the flow of federal notes to services interstate transactions are federal matters. Payments for Sinkin Law Firm client and Blessett's ex-wife flow outside the territorial boundaries of Texas jurisdiction.

**Issue III: The Federal Appellees Arguments miss the point.**

U.S. Department of Health and Human Services (HHS) was notified in 2020 as an interested party. **ROA. 632-651**

U.S. Congress gave Xavier Becerra, Secretary of HHS, the power and authority to look after the United States Government's interests. It is not the HHS Secretary

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<sup>3</sup> **United States v. Bongiorno, 106 F.3d 1027, 1032 (1st Cir. 1997)**, it was held that "state-court-imposed child support orders are 'functionally equivalent to interstate contracts,'" rejecting the idea that child support payment obligations are somehow a "different" kind of debt.

sworn duty to collude with the contracting states to help them receive maximum federal funds for Title IV programs. Citizen control may be exercised within the judicial branch through a Judicial Review of policies, actions, and orders involving 5 U.S. Code § 101 executive branch agencies.

1. The District Court's opinion and reasoning for dismissing the civil action erroneously omits and denies a plethora of verified evidence against the Appellees, which is favorable to Blessett.

**2. Local Rules of the U.S. District Court for the Southern District of Texas**

**A) LR44 PROOF OF OFFICIAL RECORD**

*LR44.1. Authentication of Exhibits. A party requiring authentication of an exhibit must notify the offering party in writing within 7 days after the exhibit is listed and made available. Failure to object in advance of the trial in writing concedes authenticity. (Amended by General Order 2009-17, effective December 1, 2009).*

**B) LR46 OBJECTIONS TO EXHIBITS**

*Objections to admissibility of exhibits must be made at least 7 days before trial by notifying the Court in writing of the disputes, with copies of the disputed exhibit and authority. (Amended by General Order 2009-17, effective December 1, 2009).*

3. The District Court's opinion and reasoning for dismissing the civil action erroneously omits and denies Title IV statutory law and protected U.S. Constitutional rights of United States interest. To administer Title IV without records of the events that prove due process protection or qualification for Title A services, the state agencies perform debt collection efforts and enforcement under the color of law.

4. The District Court's opinion and reasoning for dismissing the civil action erroneously omits and denies verified evidence of Greg Abbott, Ken Paxton, and Steven McCraw's tacit admission and acceptance of the term of Blessett's private protest and agreement. It is evidence of their knowledge of their inaction and indifference to Blessett's injuries, federal laws required for compliance with the Act, and the U.S. Constitution.
5. Xavier Becerra is incompetent as Secretary of HHS. He has failed to uphold his sworn oath to uphold the U.S. Constitution and competently administer Title IV of the Social Security Act as he swore before U.S. Congress. Xavier Becerra is responsible for his actions as Secretary, and running HHS is his sworn duty until his resignation or removal. This level of incompetence is unacceptable.
6. HHS failed to act after being notified as a party of interest in November of 2020 of statutory issues of one of its contracted state agencies reporting for debt certification may have been performed under the color of law. **ROA. 632-651**
7. The District Court's opinion and reasoning for dismissing the civil action erroneously omits and denies the evidence provided by law to protect the United States' interest in administering federal grants.
8. The District Court's erroneously dismissed Blessett's request for 5 U.S.C. §702 challenge to the United States agency's immunity.

### **SUMMARY OF THE ARGUMENT**

Blessett brought this civil action because of the Texas state 42 CFR 302. 34 contractor noncompliance with the Act's statutory laws in their collection and enforcement efforts. Blessett had no way of knowing the individual contractors

directly responsible for the noncompliance with the law. Blessett went straight to the top state officials Greg Abbott, Ken Paxton, and Steven C McCraw, demanding to see recorded copies of the notice required under 42 U.S.C. 654(12). to show standing to enforce Part D or stop enforcing the penalties under the Act. The penalties were enforced without modifying the July 23, 1999 support order before the 2015 state court judgment and after the 2017 state court judgment transfer of the debt to a private entity.

Blessett performed a private administrative process with terms and monetary penalties for nonresponse as a contractual agreement with UCC 3-305(b) enforcement available for the Certificates of Nonresponse now recorded with U.S. Federal Courts. A well-documented meeting of the minds has occurred with documented evidence of the terms of the private contract. Blessett's private administrative process is a fact-finding procedure that now stands as evidence against Greg Abbott, Ken Paxton, and Steven C McCraw for their knowledge of the noncompliance with federal statutes that caused injuries. The documentation requested and verified evidence should have been easy to provide if the state agency followed 42 U.S.C. §654(16), 654 § (24) and as required to be enforced by Secretary's duties under 42 U.S.C. 652(d)(2)(B).

Blessett claims that Xavier Becerra, Greg Abbott, Ken Paxton, and Steven C McCraw are either incompetent or willingly decided to ignore their sworn oaths of office obedience to federal statutes and the U.S. Constitution. Greg Abbott, Ken Paxton, and Steven C McCraw chose not to obey and protect their immunity by responding to Blessett's notice as state officials. *Texas did not give Greg Abbott, Ken Paxton, and Steven C McCraw the power to disobey their sworn oaths to acquiesce to a private monetary agreement as state officials representing Texas.* By disregarding their sworn oaths, Greg Abbott, Ken Paxton, and Steven C

McCraw actively participated in the noncompliance of Part D and the infringement of Blessett's rights. Xavier Becerra, Greg Abbott, Ken Paxton, and Steven C McCraw's acts of disobeying their sworn oaths removed their immunity against 28 U.S.C. 1331 jurisdiction. It has already been admitted and recorded with U.S. Federal Courts that Part D penalties have been enforced against Blessett. There is no modification of the original support order. *In the last relevant state court judgment of 2017, the custodial parent had contracted and assigned Sinkin Law Firm, a private firm with the fiduciary duty for collecting and enforcing the outstanding child support debt.*

Blessett recognizes and urges that this Court take jurisdiction over the requested Judicial Review. The U.S. 5<sup>th</sup> Circuit Court of Appeals can restrain itself to the Part D statutory noncompliance issues for Blessett's debt certification to HHS for a meeting of the minds for consent to the project, for Denial of U.S. Passport, and for Suspension of a state driver license before the July 2015 state court default judgment and after the 2017 reassignment of the support arrears to a private party. Blessett has requested declaratory relief as a legal judgment stating the relevant rights and obligations under the Declaratory Judgement Act. 28 U.S.C. §2201 was asked in the complaint. **ROA. 1079**

### **ARGUMENT**

Blessett's opinion, the District Court's opinion, and defending arguments ignore the precedent set by *Anniston Mfg. Co. v. Davis, 301 US 337 - Supreme Court 1937*. *Anniston Mfg. Co. v. Davis* allows a full and fair hearing and determination of all questions of fact and adequately protects the claimant's legal rights, embracing whatever rights Mr. Blessett is entitled to assert under the U.S. Constitution. The District Court's opinion voided statutory law. It dismissed 42 U.S.C. 654(12) without explicitly expressing how the Part D statute's conflict with

the U.S. Constitution would prevent the federal statute's judicial agreement. The U.S. Congress cannot deny the federal agency and the contracting states the obligation to remedy substantial errors because they recognize the obligation to the U.S. Constitution. Nor is a remedy for U.S. Constitution violations against Government official error an invasion of protected constitutional rights. Federal constitutional errors hold such gravity that considering them harmless would be inappropriate. We can also agree that an appeal based on a claim that the Federal Constitution has been violated and the presence of a strong federal interest militates a harmful judgment against Blessett of such violation according to a federal standard.

## I.

In the Notice of Appeal, the Appellant did not seek to appeal or intrude on the sovereign will and 11<sup>th</sup> amendment protection of the State of Texas, Texas Office of the Attorney General Child Support, and Texas Department of Public Safety in a U.S. Federal District Court or the U.S. 5<sup>th</sup> Circuit Court of Appeals. Instead, Mr. Blessett requested Ex parte Young under federal question against state officials and supplemental jurisdiction to settle the private law agreement with Greg Abbott, Ken Paxton, and Steven C McCraw. Blessett gave Greg Abbott, Ken Paxton, and Steven C McCraw legal privileges to defend themselves or mount effective litigation against legal challenges. Greg Abbott, Ken Paxton, and Steven C McCraw were given notice of protest with terms of a private agreement establishing a meeting of the mind as verified by District Court Local Rules and the opportunity to defend. **ROA.** 113-116, 145-146, 674-697, 706-722

### **Undisputable Facts:**

1. There is no evidence of the meeting minds with Joe Blessett to provide Part D service to JOSEPH C BLESSETT, no exchange of goods with JOSEPH C

BLESSETT, or Title IV-A funds Joe Blessett agreed to repay for JOSEPH C BLESSETT.

2. In the last relevant state court judgment, the custodial parent assigned a private law firm the right to collect the outstanding child support debt.
3. The District Court's opinion rejects 28 U.S.C. 1738b and Blessett's July 23, 1999, state court judgment for child support as it is written. **ROA.** 1168
4. Governor Greg Abbott, Attorney General Ken Paxton, and General Steven McCraw, as state officials, could have responded to Blessett's protest for U.S. Constitution violations and stopped them or presented a letter with evidence refuting the accusations of the private protest. **ROA.** 748-751
5. The federal court ignored the date of the passport denial, the date of license suspension, and the lack of statutory documentation under Part D to enforce. The U.S. 5<sup>th</sup> Circuit decision in *Joe Blessett v. Texas Office of the Atty Gen, No. 18-40142 (5th Cir. 2019)*<sup>4</sup> allowed relief for injuries before a court judgment because the claims do not require the court to review and reject a state court judgment.
6. As private citizens, Greg Abbott, Ken Paxton, and Steven McCraw can ignore Blessett's protest, deny their public law protections and accept the terms of a private agreement with Blessett. **ROA.** 1096-1107
7. Greg Abbott, Ken Paxton, and Steven McCraw's inaction as state officials failed to uphold their U.S. Constitution obligations as public servants. Their actions as mature individuals of age are tacit admission to the charges. Consent to the terms of a private agreement permits federal jurisdiction over

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<sup>4</sup> Blessett's claims that the defendant and its "contractors" engaged in fraud and violated his constitutional rights in their efforts to enforce and collect the state child support judgments. Because such claims do not ask the district court to review and reject a final order of a state court, they are not barred under the Rooker-Feldman doctrine. See *Truong v. Bank of Am., N.A.*, 717 F.3d 377, 382-84 (5th Cir. 2013).

a claim from Joe Blessett with federal statutory and constitutional controversy. U.S. Const. art. III, § 2, cl. 1; Okpalobi v. Foster, 244 F.3d 405, 425 (5th Cir. 2001).<sup>5</sup> The accused inactions continue to impede Blessett's right to travel and his state driver's license to be suspended under the color of law.

8. Blessett met the burden of proof test: "(1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts." ROA. 598-722 Barrera-Montenegro v. United States, 74 F.3d 657, 659 (5th Cir. 1996) (quoting Voluntary Purchasing Groups, Inc. v. Reilly, 889 F.2d 1380, 1384 (5th Cir. 1989)).
9. The District Court's opinion and Appellee's defense make a clear error in U.S. Congress intent under Part D 42 U.S.C. 654 state plan. *The federal statute requires states to, as part of their child-support plans, provide for notice of proceedings where support obligations might be modified. But Blessett has not alleged facts that his obligations have been modified. In fact, as Texas points out in its briefing, his obligations were not modified. Dkt. 82 at 3.* ROA. 1687 This litigation shows verified evidence of noncompliance with Part D. The state's admission declared in ROA. 601 submitted with the injunction that Blessett's state court support order falls under **Texas Family Code 160.637(a)(2)**, not the federal provisions of Part D and Blessett July 23, 1999, support order has not been modified<sup>6</sup> under 42

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<sup>5</sup> Federal courts have jurisdiction over a claim between parties only if the plaintiff presents an actual case or controversy.

<sup>6</sup> **42 U.S.C. 609(8)(a)(5) Failure to comply with paternity establishment and child support enforcement requirements under part D**

Notwithstanding any other provision of this chapter, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State

U.S.C 603(a)(5)(C)(iii)(III). Nor has opposing evidence been presented to oppose Blessett's claim.

10. Further, Blessett (*Plaintiff*) *did not execute or sign sic [a] an acknowledgment paternity which would be a prerequisite to exercise the contest procedures under 42 U.S.C 666(a)(5)(D)(iii)*. Therefore, it is a verified admission as a matter of record that the state agency and its state actors never had the rights under 42 U.S.C. 603(a)(5)(C)(iii)(III)<sup>7</sup> to enforce Title IV against Blessett. It is verified proof that the enforcement actions were performed without modifying the original support order and under the color of law. It is also confirmed evidence of the need for U.S. Department of Health and Human Services penalties against state agencies under federal statute 42 U.S.C. 609.

11. The Court's opinion **ROA**. 1687 is correct. Blessett has not claimed that his July 23, 1999, support obligation has been modified. Statutory law under

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program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 654(29) of this title, the Secretary shall reduce the grant payable to the State under section 603(a)(1) of this title for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

<sup>7</sup> **42 U.S.C. § 603(a)(5)(C)(iii)(III), Grants to States**

In the case of a noncustodial parent who becomes enrolled in the project on or after November 29, 1999, the noncustodial parent is in compliance with the terms of an oral or written personal responsibility contract entered into among the noncustodial parent, the entity, and (unless the entity demonstrates to the Secretary that the entity is not capable of coordinating with such agency) the agency responsible for administering the State plan under part D, which was developed taking into account the employment and child support status of the noncustodial parent, which was entered into not later than 30 (or, at the option of the entity, not later than 90) days after the noncustodial parent was enrolled in the project, and which, at a minimum, includes the following: **(aa)** A commitment by the noncustodial parent to cooperate, at the earliest opportunity, in the establishment of the paternity of the minor child, *through voluntary acknowledgement or other procedures*, and in the establishment of a child support order. **(bb)** A commitment by the noncustodial parent to cooperate in the payment of child support for the minor child, which may include a *modification of an existing support order* to take into account the ability of the noncustodial parent to pay such support and the participation of such parent in the project

Title IV-D requires modification to Blessett's prior commitment before enforcement and preserving citizens' private rights protected by public law.

**ROA. 1085-1089**

12. The state voluntarily participates in the Title IV of the Social Security under a Cooperative Federalism contract to receive money. Blessett is under no legal obligation to participate in Title IV services. **ROA. 1094-1096**
13. To enforce federal statute under Title IV-D with protection under Constitution, a state agency must show proof of compliance with statutory laws, noncustodial parent's consent with full disclosure, or proof of service of process notices for litigation to comply with the federal statutes of the Act.
14. A State can do as it pleases as sovereign within the limits of the U.S. Constitution. Still, a state agency cannot enforce federal statutes for government services or federal grants without compliance with the provisions of the Act.
15. **Title IV of the Act is not a protected government entitlement.**
16. Blessett's civil action is a documented protest against Part D enforcement under the color of law, with an HHS-contracted state agency receiving funds under Title IV of the Act. Therefore, any federal funds received to service enforcement against Blessett are a fraud against the United States. Under the presence of this legal protest, HHS has a legal obligation to demand that its contracted agency produce the required documentation to show proof of valid certification for a Title IV-A debt against Blessett or Blessett's consent with full disclosure or judicial obligation to the Title IV-D program.
17. The District Court filed its order to dismiss this civil action on the same day just before Blessett's Objection and Orders for Summary Judgment and Order to Present Legal Instrument were recorded to be used as evidence.

**ROA.** 1692-1699, **ROA.**1070 In Blessett's opinion, the Court's erroneous opinion and timing for dismissal can be interpreted by the people as prejudicial behavior against a particular group.

18. Texas Local Government Code Title 3 Sec. 87.012 is evidence provided by law that gives the City of Galveston to remove and penalize judges, court clerks, and sheriffs for U.S. Constitution violations or incompetence. The power to remove and discipline is the power to maintain lawful policies to protect the people from corruption and incompetent civil servants. Blessett Objected and rejected the City of Galveston's argument for dismissal. **ROA.** 854-857, **ROA.** 1124-1127
19. State Actor's defense does not refute the verified evidence brought against them. It is a weak and insufficient argument against the federal statutes of the Act. Moreover, it indicates that the District Court erroneously ignored the evidence that favored the Appellant.
20. State Actor's defense ignores Blessett's request for supplemental jurisdiction. **ROA.**1079

## **II.**

Sinkin Law Firm agent and natural person Steven A Sinkin received process service as Texas recorded legal representative of the artificial entity Sinkin and Barretto P.L.L.C. doing business under the name Sinkin Law Firm. As the litigant, the Sinkin Law Firm failed to follow adopted federal civil procedures or comply with U.S. 5<sup>th</sup> Circuit Appellate Court legal precedent. Mr. Blessett made this legal argument in his brief as a Pro Se litigant and will let that argument with the facts and evidence presented to the Court. In accordance with the Federal Rules of Civil Procedure and U.S. 5<sup>th</sup> Circuit Court precedent, Sinkin Law Firm defaulted. Blessett believes the District Court should consider the merits of Blessett's claims

and the evidence presented to dispel the allegations before defaulting Sinkin Law Firm.

As for Sinkin Law Firm, the fiduciary duty is to transfer credit for the funds within a reasonable time to fulfill the monetary obligations before civil litigation. The action is tolled from the federal civil case legal action end date, and there is a four-year statute of limitations for civil accountability under Texas Civil Practice and Remedies Codes Title 2 Sec. 16.004(5) for breach of fiduciary duty. Under Texas criminal code, there is a seven-year statute of limitations on criminal accountability under the Texas Code of Criminal Procedure Title 1 Art 12.01(3)(A) *misapplication of fiduciary property*<sup>8</sup>. And Ten-year statute of limitations criminal accountability under Texas Code of Criminal Procedure Title 1 Art 12.01(2)(A) theft of any estate, real, personal, or mixed, by an executor, administrator, guardian, or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate. Under the Texas criminal code, the accused have committed a cognizable felony exposed in federal jurisdictions, which is made known to the presiding judges in this document. Suppose Sinkin Law Firm fulfilled its obligations after the commencement of the civil litigation. It would be an admission of guilt and an extension of the tolling.

Sinkin Law firm is the contract private law firm with the fiduciary duty to collect the outstanding child support debt for the custodial parent. The District

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<sup>8</sup> Pursuant to **Section 32.45 of the Texas Penal Code**, a person commits the offense of misapplication of fiduciary property by intentionally, knowingly, or recklessly misapplying property he holds as a fiduciary in a manner that involves substantial risk of loss to the owner of the property. **Tex. Penal Code Ann. § 32.45(b)**. “Substantial risk of loss” means a real possibility of loss. **Casillas v. State**, 733 S.W.2d 158, 163—64 (Tex. Crim. App. 1986). However, the possibility need not rise to the level of a substantial certainty (which is required for theft)—the risk of loss need only be more likely than not.

Court should have provided Blessett with equal application of the law by ascertaining when the fiduciary obligation was fulfilled if the court wanted to proceed with the civil action on the merits. The time passed did not exceed the civil and criminal statute of limitation for relief. Mr. Blessett brought a civil suit on January 7, 2022, knowing that counsel for his ex-wife in Colorado, Sinkin Law Firm purchased the exempt property at an auction in 2017. After the civil action on April 24, 2018, in U.S. Federal court. What prevented Sinkin Law Firm from performing its fiduciary obligation to exchange credit for the debt after April 24, 2018, for final adjudication in federal Court? Four years did not expire between January 7, 2022, and April 24, 2018. The law firm's behavior toward Mr. Blessett's civil rights as a black man was racially motivated, or the Court is forced to go with criminal intent to harm that may be reported to the Federal Bureau of Investigation because of the interstate transfer of funds. Either civil or criminal, Blessett was harmed.

**Undisputed Facts:**

1. Blessett preserved an objection under Federal Rules of Evidence 103 against the District Court's decision not to default Sinkin Law Firm. **ROA.** 1175-1180
2. Sinkin Law Firm had a Fiduciary obligation to report the funds from the sale of Blessett's property to the Texas State Distribution Unit within a reasonable time. **ROA.** 1131-1132, **ROA.** 1462
3. Sinkin Law Firm did not have an attorney on the record with the District Court Clerk on or before February 10, 2022, the due date to answer the complaint.
4. Sinkin law Firm counsel made its first recorded Court appearance on February 23, 2022.

5. No Attorney on the Court Record from Sinkin Law Firm contacted Blessett before February 10, 2022.
6. Steven A Sinkin did not personally contact Blessett by U.S.P.S. mail or electronic before February 10, 2022.
7. Blessett is a black man, and racial motivation for Sinkin Law Firms' action is plausible or assumed to be an intentional criminal act to be reported.

### III.

Just as Xavier Becerra is protected for his performance as Secretary, immunity protections do not extend to incompetence in protecting the United States interest and the U.S. Constitution. In Blessett's opinion, ROA. 1071, the Supreme Court has recognized two implicit causes of action, where (1) the president or a federal agency acts unconstitutionally or (2) government conduct exceeds statutory authority. In such cases, federal subject matter jurisdiction is provided by 28 U.S.C. § 1331's grant of jurisdiction to federal district courts over all claims "arising under" the Constitution, treaties, or federal statutes. Citing Marbury v. Madison, the D.C. Circuit concluded that *"the judicial branch's power to enjoin unconstitutional acts by the government is inherent in the Constitution itself."* Hubbard v. EPA 809 F.2d 1, 11 n.15 (D.C. Cir. 1986) (citing Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)). In Bell v. Hood, the Supreme Court held that the *"jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution" is found in 28 U.S.C. §1331 (district courts have jurisdiction over all cases "arising under" federal law)*. Bell v. Hood, 327 U.S 678, 684 (1946) In Simmat v. U.S. Bureau of Prisons, the Tenth Circuit stated that where the government violates constitutional rights, *"equity ... provides the basis for relief—the cause of action, so to speak—in appropriate cases within the court's*

*jurisdiction" Simmat v. United States Bureau of Prisons, 413 F.3d 1225, 1232 (10th Cir. 2005).*

The reply for Xavier Becerra fails to specifically name which state court judgment with particularity Blessett is asking the court to reject, or how or where in the complaint or Appellant's brief Blessett makes a collateral attack on a state court judgment. The argument points to nothing to enhance Appellee's defense argument as verifiable or valid evidence against Blessett's claims. Instead, it is a pleading that offers labels and conclusions and a formulaic recitation of the elements of a cause of action that are too broad to be given legitimate consideration.

**Undisputed Facts:**

1. Blessett requested a Judicial Review of HHS under 5 U.S.C. §702. **ROA.** 1075, 1079
2. Title IV of the Social Security Act is not a guaranteed protected entitlement for custodial parents. Therefore, it cannot be administered without the noncustodial parent's consent and commitment to participate in the federal project. *See 42 U.S.C. § §603(a)(5)(C)(iii)(III)(aa) and (bb).*
3. **In the last relevant state court judgment, the custodial parent contracted and assigned a private law firm the right to collect the outstanding child support debt. Therefore, the debt is not under a public law contract for enforcement.**
4. U.S. Congress cannot grant HHS and the states the right to omit or deny U.S. constitutional protections to the noncustodial parents or child support debtors to administer the Title IV-D program.
5. In November of 2020, the U.S. Department of Justice in Washington, DC, U.S. Attorney's Office Southern District of Texas, U.S. Dept. of State, Steven C McCraw Texas Dept. of Public Safety, U.S. Department of Health

and Human Services, and a Legal Administrative Officer of the Office of the Solicitor General were made aware of the U.S. Constitution and statutory issues. **ROA.** 632-651 Several United States Agencies failed to act after being notified as parties of interest.

6. This Court has Greg Abbott, Ken Paxton, and Steven McCraw documented admission through silence and acceptance to the term of Blessett's private protest.
7. Xavier Becerra's and HHS's conduct and decision to defend the state agency's position against Blessett without requesting proof from the agency and presenting verified evidence is proof of incompetency, or it is intentional actions under the color of legal authority against the 5<sup>th</sup> amendment. The doctrine of qualified immunity protects federal government employees performing discretionary functions from being sued in their individual capacity in suits for damages unless their actions violate established constitutional rights. *Harlow v. Fitzgerald, 457 U.S. 800, 815 (1982).*
8. Xavier Becerra's conduct and decided to defend the state agency's position against Blessett without proof of compliance with the Part D program, the court may consider the actions a criminal conspiracy to defraud the United States under 18 U.S.C. § 371 or 18 U.S.C. § 286.
9. HHS does not refute the verified evidence brought against the agency.
10. Xavier Becerra and HHS have a duty to the United States after reviewing all litigation to ensure the Texas Agency has upheld its obligation under the U.S Constitution and Spending Clause obligations under the Act.
11. Xavier Becerra and HHS have a U.S. Constitutional obligation under 42 U.S.C. 652 to ascertain if Texas violated the terms of its state plan and Title IV statutes to provide services to Blessett and claim monetary benefits for

the services offered to an uncooperative and willing participant. Under 42 U.S.C. 655(4), payment to the states. Contracting states are required to keep records as per 42 U.S.C. 654(24) to provide automatic data and information retrieval. ROA. 1107-1108, ROA. 1247-1251

12. HHS was a notified interested party notified in November of 2020 of Mr. Blessett's issues involving federal statute 42 U.S.C. 654(12) along with U.S. Attorney General, Ryan K Patrick of the U.S. Attorney's Office Southern District of Texas, Steven C McCraw of the Texas Dept. of Public Safety, Ms. Charlene Goodwin from the Legal Administrative Officer Office of the Solicitor General and the U.S. Department of State. There has been no evidence of an investigation into Blessett's claim by the federal or state agencies named before this civil action. Therefore, it is a logical reason for requesting a Judicial Review.

Xavier Becerra and HHS's defense of the state agency debt certification without verifiable evidence after a legal challenge **ROA. 639-651** is verified proof of incompetence; inaction to prevent or correct accordance to statutory law is plausible and logical reasoning to grant Blessett's request for a Judicial Review. Individuals affected by a federal agency decision can sometimes challenge that action in federal court for violating legal requirements. The Court can review the actions of a U.S. government agency or official for questions of statutory and constitutional law. **Administrative Procedure Act** (APA) as amended in 1976 to permit individuals aggrieved by agency action to bring suit in federal court against the United States and government employees in their official capacity<sup>9</sup>. APA

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<sup>9</sup> 5 U.S.C. §702. Importantly, this waiver may apply to a wider range of lawsuits than are directly authorized by the APA's cause of action, such as "nonstatutory" and constitutional claims. See Trudeau, 456 F.3d at 187; Puerto Rico, 490 F.3d at 57-58 ; Presbyterian Church (U.S.A.) v. United States, 870 F.2d 518, 525 (9th Cir. 1989) ("On its face, the 1976 amendment is an unqualified waiver of sovereign immunity in actions seeking nonmonetary relief against legal

provides a general cause of action for individuals aggrieved by a "final agency action" if "there is no other adequate remedy in a court under 5 U.S.C. §704. An agency action is defined as "the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." The entire subject of Blessett's civil case is the issues involving federal statutory laws that are current and present but not consistently followed as Congress intended for Child Support collections and enforcement efforts. It is correct to predict the oncoming opening of the floodgates. It is a plausible truth that Blessett is not an isolated victim of inconsistent practices under Title IV produced the incompetence and constitutional infringement of rights beginning with HHS to the local political subdivision of Galveston County. There has been no unbiased oversight on Title IV of the Social Security Act. The evidence indicates immeasurable unlawful practices of the incompetent appointed and contracted subordinates of the United States. We are all deeply aware that there are problems in Title IV compliance that need to be corrected. At what cost will the three branches of government continue to ignore issues erroneously? The People expect protection and preservation of the U.S. Constitution, the Rule of Law, and the trust invested in the three branches of government. Preservation of the Constitution, the Rule of Law, and preserving the opportunities to prosper is an expected legal trinity the United States people deserve.

*A court cannot dismiss a claim for lack of subject matter jurisdiction unless "it appears certain that [a party] cannot prove any set of facts" in support of its assertion that jurisdiction is appropriate in federal court. Bombardier Aero.*

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wrongs for which governmental agencies are accountable.”); *Hostetter v. United States*, 739 F.2d 983, 985 (4th Cir.1984); *Jaffee v. United States*, 592 F.2d 712, 719 (3d Cir.1979); but see *In re Secs. & Exch. Comm’n ex rel. Glotzer*, 374 F.3d 184, 190 (2d Cir. 2004) (holding that “the federal government, in enacting the APA, waived its immunity with respect to those ‘action[s] in a court of the United States’ which seek review of ‘agency action’”).

*Emple. Welfare Benefits Plan v. Ferrer, Poirot & Wansbrough, P.C., 354 F.3d 348, 351 (5th Cir. 2003)*. The District Court made an erroneous decision regarding the facts.

### CONCLUSION

The District Court's decision to dismiss with prejudice was based on an erroneous view of the evidence. Accordingly, Blessett respectfully requests this Court to reverse the final judgment and hold that there are genuine factual disputes for a jury trial. Accordingly, Blessett pleads with the Court to grant the relief requested in the original Appellant Brief.

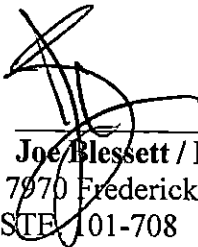


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Sept. 24, 2022  
Date

## CERTIFICATE OF SERVICE

I certify under penalty of perjury that a copy of the foregoing Appellant Joe Blessett's Reply Brief was filed with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit and served to counsel for the Appellees. Service will be accomplished using the U.S.P.S. Priority Mail service and Stamps.com.




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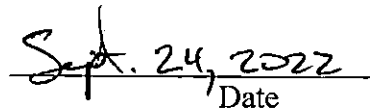
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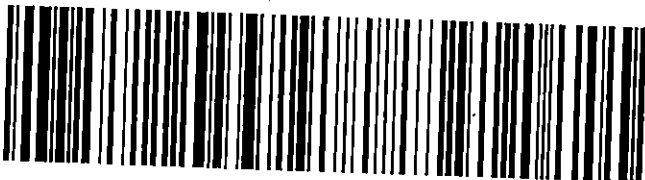
## CERTIFICATE OF COMPLIANCE

1. This Reply to Appellee's Brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 6431 words, as determined by the word-count function of Microsoft Word 367, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Fifth Circuit Rule 32.2.

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Time New Roman font.

  
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