

ONE HUNDRED NINETEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON THE JUDICIARY

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May 6, 2025

The Honorable Robert J. Conrad, Jr.  
Secretary, Judicial Conference of the United States  
Administrative Office of the U.S. Courts  
One Columbus Circle, NE  
Washington, D.C. 20544

Dear Judge Conrad:

On March 14, 2025, pursuant to his Article II authorities, President Trump issued a proclamation invoking the Alien Enemies Act (AEA) to deport Venezuelan citizens aged fourteen or older who are members of the designated foreign terrorist organization Tren de Aragua and are not naturalized or lawful permanent residents of the United States.<sup>1</sup> The following day, the American Civil Liberties Union (ACLU) and Democracy Forward Foundation filed a lawsuit in the U.S. District Court for the District of Columbia on behalf of five Venezuelan nationals in U.S. custody subject to removal under the AEA.<sup>2</sup> After a series of rulings by Chief Judge James Boasberg, including two temporary restraining orders (TRO), one of which enjoined the government from removing the five Venezuelan nationals and the other which enjoined the government from implementing the proclamation nationwide,<sup>3</sup> and after the U.S. Court of Appeals for the District of Columbia Circuit refused to stay Chief Judge Boasberg's TROs, the case came before the Supreme Court.<sup>4</sup> On April 7, 2025, the Supreme Court vacated the TROs, holding that Chief Judge Boasberg lacked jurisdiction to hear the case.<sup>5</sup> Despite the Supreme Court's ruling, Chief Judge Boasberg continued to hold hearings on the case, even convening an emergency hearing on April 18 to consider a TRO request from the ACLU.<sup>6</sup>

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<sup>1</sup> Proclamation No. 10903, 90 Fed. Reg. 13033 (Mar. 14, 2025).

<sup>2</sup> See *J.G.G. v. Trump*, No. 25-cv-766 (D.D.C. Mar. 15, 2025).

<sup>3</sup> As the Department of Justice correctly observed, “[a]lthough as a formal matter the injunctive relief here extends only to parties—namely, class members—the deficient class-certification analysis makes this a universal injunction by another name.” Application to Vacate the Orders Issued by the United States District Court for the District of Columbia and Request for an Immediate Administrative Stay at 29, *Trump v. J.G.G.*, 604 U.S. \_\_\_\_ (2025) (internal citation omitted).

<sup>4</sup> See *Trump v. J.G.G.*, 604 U.S. \_\_\_\_ (2025).

<sup>5</sup> *Id.*

<sup>6</sup> Laura Romero et al., *As administration eyes more AEA deportation flights, judge says he lacks authority to block them*, ABC NEWS (Apr. 18, 2025).

In the days after the Supreme Court issued its decision, the ACLU, representing various individuals subject to removal under the AEA, also filed at least five cases in different districts challenging President Trump’s proclamation.<sup>7</sup> One such case—*W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 16, 2025)<sup>8</sup>—featured particularly unusual proceedings.<sup>9</sup> On April 17, 2025, hours after the presiding judge, James Hendrix, denied the petitioners’ motion for a TRO, one of the ACLU lawyers representing the petitioners attempted to call Judge Hendrix at 7:34 p.m. to request a stay of removal.<sup>10</sup> When Judge Hendrix did not answer, the lawyer left a voicemail discussing “substantive matters” about the case, including requesting the judge to issue an order.<sup>11</sup> Such “substantive ex parte communications with the Court are prohibited,”<sup>12</sup> and Judge Hendrix issued an order “admonish[ing] [the lawyer] not to seek ex parte communications with the judge in this pending matter.”<sup>13</sup>

After realizing that Judge Hendrix was not going to respond to the voicemail, the petitioners filed a second TRO motion at 12:34 a.m. on April 18, 2025.<sup>14</sup> Judge Hendrix ordered the government to respond within 24 hours.<sup>15</sup> Later that day, at 12:48 p.m., before the government could respond, the petitioners filed a motion demanding that Judge Hendrix either issue a TRO or hold a status conference by 1:30 p.m.—42 minutes after first requesting the conference—or else they would seek appellate relief.<sup>16</sup> Shortly after this “party-imposed” deadline passed without Judge Hendrix having acquiesced to their demands, petitioners filed an appeal with the U.S. Court of Appeals for the Fifth Circuit regarding the denial of their first TRO motion and the “constructive” denials of their second TRO motion and amended motion for class certification.<sup>17</sup> The ACLU also filed an appeal with the Supreme Court the same day.<sup>18</sup>

According to public reporting, the Fifth Circuit and Supreme Court released competing decisions at virtually the same time.<sup>19</sup> At 11:56 p.m. central time (12:56 a.m. eastern), a Fifth Circuit panel dismissed the ACLU’s appeal for lack of subject matter jurisdiction, holding that Judge Hendrix’s failure to meet petitioners’ “unreasonable deadline” did not amount to a

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<sup>7</sup> See *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 16, 2025); *D.B.U. v. Trump*, No. 25-cv-1163 (D. Colo. Apr. 12, 2025); *J.A.V. v. Trump*, No. 25-cv-72 (S.D. Tex. Apr. 9, 2025) *G.F.F. v. Trump*, No. 25-cv-2886 (S.D.N.Y. Apr. 8, 2025); *Viloria Aviles v. Trump*, No. 25-cv-611 (D. Nev. Apr. 3, 2025) (initially filed by the University of Nevada, Las Vegas Immigration Clinic, but subsequently taken over by the ACLU).

<sup>8</sup> Formerly known as *A.A.R.P. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 16, 2025).

<sup>9</sup> See *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 16, 2025).

<sup>10</sup> *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 21, 2025) (order concerning ex parte communications).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* (citing cases).

<sup>13</sup> *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 17, 2025) (electronic order).

<sup>14</sup> *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 18, 2025) (order concerning plaintiffs’ motions for emergency relief).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See Emergency Application for an Emergency Injunction or Writ of Mandamus, Stay of Removal, and Request for an Immediate Administrative Injunction, *A.A.R.P. v. Trump*, No. 604 U. S. \_\_\_\_ (Apr. 18, 2025).

<sup>19</sup> Josh Blackman, *The Timing of the 5th Circuit's Ruling in A.A.R.P. v. Trump*, REASON: THE VOLOKH CONSPIRACY (Apr. 21, 2025).

constructive denial of their motion.<sup>20</sup> Concurrently with the Fifth Circuit order, the Supreme Court issued an order directing the government “not to remove any member of the putative class of detainees from the United States until further order of this Court.”<sup>21</sup> According to Justice Samuel Alito, when the Supreme Court “rushed to enter its order,” the Justices were aware that the Fifth Circuit would soon issue a decision, but the Court simply “refused to wait.”<sup>22</sup> Moreover, the Court did not define the class affected by the order.<sup>23</sup>

This series of events raises several concerns. First, the rapid pace of these proceedings prevents courts from adequately developing the factual record, both for consideration at the trial level and review at the appellate level. In particular, the ACLU’s breakneck appeal to the Fifth Circuit prevented Judge Hendrix from developing any sort of meaningful record because it divested him of jurisdiction.<sup>24</sup> In addition, as Justice Alito noted, due to the unprecedented nature of the proceedings, the only information before the Supreme Court at the time of its opinion were the filings from the ACLU—in other words, a one-sided and incomplete presentation of the relevant facts and laws.<sup>25</sup> Justice Alito further recognized that “[a]lthough the Court provided class-wide relief, the District Court never certified a class, and this Court has never held that class relief may be sought in a habeas proceeding.”<sup>26</sup>

The Committee has jurisdiction over federal courts and judicial proceedings.<sup>27</sup> Pursuant to this authority, the Committee is considering potential legislative reforms to judicial proceedings. Accordingly, to advance our oversight, we respectfully request that you provide the following information:

1. Is the Judicial Conference considering proposal(s) to strengthen the prohibition against attorneys engaging in ex parte communications with judges? If so, what proposal(s) are being considered?
2. Is the Judicial Conference considering proposal(s) to ensure that district judges are given a meaningful opportunity to develop a factual record before an appellate court weighs in? If so, what proposal(s) are being considered?

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<sup>20</sup> *A.A.R.P. v. Trump*, No. 25-10534 (5th Cir. Apr. 18, 2025); *see also* Blackman, *supra* note 19 (providing the time at which the Fifth Circuit panel returned its order).

<sup>21</sup> *A.A.R.P. v. Trump*, No. 604 U. S. \_\_\_\_ (2025).

<sup>22</sup> *Id.* (Alito, J., dissenting).

<sup>23</sup> *Id.* (“Although the order does not define the ‘putative class,’ it appears that the Court means all members of the class that the habeas petitioners sought to have certified, namely, ‘[a]ll noncitizens in custody in the Northern District of Texas who were, are, or will be subject to the March 2025 Presidential Proclamation . . . .’” (emphasis added)).

<sup>24</sup> *W.M.M. v. Trump*, No. 25-cv-59 (N.D. Tex. Apr. 18, 2025) (order concerning plaintiffs’ motions for emergency relief) (“Because the filing of a notice of appeal divests a district court of jurisdiction over those matters, a status conference is unnecessary because the Court cannot act on the motions at issue.”).

<sup>25</sup> *A.A.R.P. v. Trump*, No. 604 U. S. \_\_\_\_ (2025) (Alito, J., dissenting).

<sup>26</sup> *Id.*; *see also* Josh Blackman, *Justice Alito Dissents: “Both the Executive and the Judiciary have an obligation to follow the law.”*, REASON: THE VOLOKH CONSPIRACY (Apr. 20, 2025) (“The Supreme Court cannot exercise Rule 23 powers on the fly.”).

<sup>27</sup> Rules of the House of Representatives, R. X, 119th Cong. (2025).

The Honorable Robert J. Conrad, Jr.

May 6, 2025

Page 4

3. Is the Judicial Conference considering proposal(s) to restrict appellate courts from issuing a decision before a lower court has had a meaningful opportunity to issue a decision? If so, what proposal(s) are being considered?
4. Is the Judicial Conference considering proposal(s) to ensure that courts only consider the case or controversy before them by preventing judges from applying class-wide relief prior to class certification? If so, what proposal(s) are being considered?


Please provide this information as soon as possible but no later than 5:00 p.m. on May 20, 2025. If you have any questions about this request, please contact Committee staff at (202) 225-6906.

Thank you for your prompt attention to this matter.

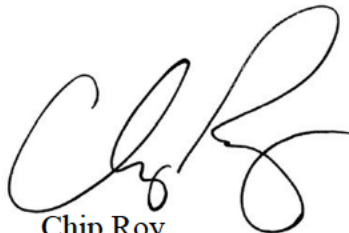
Sincerely,



Jim Jordan  
Chairman



Darrell Issa  
Chairman  
Subcommittee on Courts, Intellectual  
Property, Artificial Intelligence, and the  
Internet



Chip Roy  
Chairman  
Subcommittee on the Constitution  
and Limited Government

cc: The Honorable Jamie Raskin, Ranking Member

The Honorable Henry C. "Hank" Johnson, Ranking Member  
Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet

The Honorable Mary Gay Scanlon, Ranking Member  
Subcommittee on the Constitution and Limited Government