

IN THE
Supreme Court of the United States

A.A.R.P. AND W.M.M.,

Applicants,

— V. —

DONALD J. TRUMP, ET AL.,

Respondents.

TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF
THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT

NOTICE TO THE COURT OF DISTRICT COURT DECISION

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Applicants write to inform the Court of the district court’s May 9 order in this case denying a motion to certify a district-wide habeas class. *See* Attached “Op.”¹

The district court acknowledged that Applicants’ claims “that the Proclamation is ultra vires . . . may render classwide relief appropriate.” Op. 37; *see also id.* at 26, 38–39. But it denied certification principally on the view that (1) “if the petitioners lose on the merits” of their classwide claims, the remaining claims would be individualized (Op. 38–39), and (2) “injunctive relief” might be unavailable even in individual cases to prevent removal under the AEA because “[t]he sole function of habeas corpus is to provide relief from unlawful imprisonment or custody, and it cannot be used for any other purpose” (Op. 43) (quotation marks omitted); *but see Trump v. J.G.G.*, 145 S. Ct. 1003, 1005 (2025) (“Challenges to *removal* under the AEA . . . must be brought in habeas.”) (emphasis added).

The district court’s decision underscores the need for this Court to maintain its injunction while this matter proceeds in the lower courts, and either to grant *certiorari* or to provide guidance on class certification and the contours of meaningful notice under *J.G.G.* Every other district court faced with this issue has certified a district-wide habeas class to address the threshold claims challenging the Proclamation. *See, e.g., J.A.V. v. Trump*, No. 1:25-CV-072, 2025 WL 1257450, at *18, 20 (S.D. Tex. May 1, 2025) (Rodriguez, J.) (granting summary judgment to certified district-wide habeas class on ground that the Proclamation exceeds the President’s authority under the AEA given the absence of an “invasion” or “predatory incursion”).² And every other lower court to consider the issue has enjoined removals under the AEA while judicial review proceeds. In the absence of a class, and given the government’s current notice protocols, individual (and overwhelmingly unrepresented) detainees would be forced, on an exceedingly short timeframe, to bring dozens if not hundreds of separate habeas cases, potentially followed by emergency applications to this Court, all raising the same threshold legal challenges.³

¹ After stay briefing in this Court was completed, the district court renamed the case *W.M.M. v. Trump*. *See* Order, *W.M.M. v. Trump*, No. 1:25-cv-59 (N.D. Tex. Apr. 21, 2025), ECF No. 44.

² *See J.A.V. v. Trump*, No. 1:25-CV-072, 2025 WL 1256996, at *6 (S.D. Tex. May 1, 2025) (Rodriguez, J.) (certifying district-wide habeas class); *A.S.R. v. Trump*, No. 3:25-CV-00113, 2025 WL 1225979, at *2 (W.D. Pa. Apr. 25, 2025) (Haines, J.) (same); *D.B.U. v. Trump*, No. 1:25-CV-01163, 2025 WL 1304198, at *10 (D. Colo. May 6, 2025) (Sweeney, J.) (same); *G.F.F. v. Trump*, No. 25-CV-2886, 2025 WL 1166482, at *3 (S.D.N.Y. Apr. 9, 2025), *amended*, 2025 WL 1166909 (S.D.N.Y. Apr. 11, 2025) (Hellerstein, J.) (same).

³ Applicants intend to seek reconsideration in the district court, and, at a minimum, certification of certain threshold issues under Fed. R. Civ. P. Rule 23(c)(4).

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