No. 25-1083, 25-1084

In the Supreme Court of the United States

MARKWAYNE MULLIN, SECRETARY OF HOMELAND SECURITY, *ET AL*,

Petitioners,

v.

DAHLIA DOE, *ET AL.*,

Respondents.

DONALD TRUMP, PRESIDENT OF THE UNITED STATES, *ET AL*,

Petitioners,

v.

FRITZ EMMANUEL LESLY MIOT, *ET AL.*,

Respondents.

ON THE WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA AND SOUTHERN DISTRICT OF NEW YORK

AMICUS BRIEF OF IOWA AND 21 OTHER STATES IN SUPPORT OF PETITIONERS

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QUESTIONS PRESENTED

1. Whether the judicial-review bar in the Temporary Protected Status statute, 8 U.S.C. § 1254a(b)(5)(A), precludes Respondents' APA claims?

2. If the judicial-review bar in the TPS statute does not preclude Respondents' APA claims, whether respondents' APA claims nonetheless fail on the merits?

3. Whether respondents' equal-protection claim fails on the merits?

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INTEREST OF AMICUS CURIAE

"Quis custodiet ipsos custodes." *See* Juv., Satires 6.347–48, at 264 (Susanna Morton Braund ed. & trans., Loeb Classical Library 2004)). Or perhaps for a more modern ear, "[f]ederal courts are not al powerful." *NTPSA v. Noem*, ---F.4th---, 2026 WL 687355, at *4 (9th Cir. Mar. 11, 2026) (Bumatay, J., dissenting from the denial of rehearing en banc) ("*Bumatay Dissental*"). Article III instructs courts to be careful watchmen over their own jurisdiction. But when the district or appellate courts err, and assert jurisdiction where Congress has stripped it, this Court should intercede to ensure the bounds of Article III are respected. *See Patchak v. Zinke*, 583 U.S. 244, 252 (2018) (plurality op.).

States are the frequent object of litigation—and the district courts' approach in litigation relating to expiration and termination of Temporary Protected Status is deeply meaningful for the States. Rather than a presumption of regularity for government action, district courts are engaging in what can only be described as a presumption of judicial veto. No action can be taken until after a Court has time to decide whether it agrees with that action. That reverses the presumptions that federal courts should be applying when determining whether to implement extraordinary preliminary relief.

The harms are magnified when the district courts assert jurisdiction over matters despite Congress's decision to strip that jurisdiction from the courts. Relevant here, Congress has stripped "judicial review" from "any determination . . . with respect to the designation, or termination or extension of a designation" of temporary protected status. 8 U.S.C.

§ 1254a. Despite that, courts across the country have asserted jurisdiction over challenges to those "determination[s]" and in so doing stymie the federal government's decision to terminate or decline to extend that status.

Without clarity about whether the federal government's TPS decisions are final, the States are left in deep uncertainty. As the government terminates or declines to extend TPS status for many countries, States need the knowledge that such reasoned decisions will be upheld without judicial review to engage in planning and to ensure that benefits of lawful presence extends to the lawful populations of those States.

This Court should also clarify the effect of its rulings to preempt the serious question of district court defiance of this Court's orders. *See Trump v. Boyle*, 145 S.Ct. 2653, 2654 (2025). This Court has twice weighed in on the emergency docket to correct the error of asserted jurisdiction by district courts over challenges to TPS-related decisions. *See Noem v. NTPSA*, 145 S.Ct. 2728 (2025); *Noem v. NTPSA*, 146 S.Ct. 23 (2025). Those justified decisions came after rare requests for certiorari before judgment from the U.S. Solicitor General and U.S. Department of Justice.

This Court should clarify that its emergency docket orders are binding on lower courts—including decisions on statutes that strip jurisdiction from federal courts. Indeed, post-*Boyle*, almost 200 retired federal judges continue to press the view that this Court's emergency docket orders are nonbinding. *See* Brief of Amici Curiae Former Federal and State Judges in Support of Respondents, *Noem v. Doe*, No.

25A952 (U.S. Mar. 5, 2026) ("Former Judges' Brief"). *Boyle* was not enough.

This Court should reverse for lack of subject matter jurisdiction/ making clear that jurisdiction was stripped by Congress. And this Court should clarify that its earlier emergency-docket intercessions to stay orders purporting to extend TPS are binding on district and appellate courts.

SUMMARY OF ARGUMENT

Congress may strip jurisdiction from the federal courts. *See*, *e.g.*, *Bouarfa v. Mayorkas*, 604 U.S. 6, 10–11 (2024). Indeed, in the immigration context it has done so often. *Id.* at 18–19. The presumption of administrative immigration actions being subject to judicial review "may be overcome by 'clear and convincing evidence of congressional intent to preclude judicial review." *Id.* at 19 (cleaned up) (quoting *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2024)). Thus, jurisdiction-stripping statutes "clearly express[] Congress's desire to preclude judicial review of the Secretary's discretionary revocation" of certain acts. *Id.*

This Court's recent logic need barely be extended from holding that Congress may "limit[] judicial review of many discretionary determinations" in immigration law to the TPS statute. *Bouarfa*, 604 U.S. at 27. There, the question was whether a cabinet Secretary's decision to revoke status was in the discretion of that Secretary. *Id.* It was. *Id.*

Here, discretion in general over designating TPS status has been straightforwardly delegated to the Attorney General. 8 U.S.C. § 1254a(b). Here, too, Congress spoke as to judicial reviewability of those

determinations. "There is no judicial review of any determination of the Attorney General with respect to the designation or termination or extension of a designation, of a foreign state under this subsection." 8 U.S.C. § 1254a(b)(5)(A).

"With this understanding in mind, this case should have been an easy one." *Bumatay Dissental*, 2026 WL 687355, at *5. Even more so given the "strong hints from the Supreme Court" that federal district courts using judicial power to extend TPS have "gotten this wrong." *Id.* Yet whether this Court's emergency orders are binding on lower courts has led to confusion. Indeed, many learned former judges weighed in on this case to argue that "an interim order can only meaningfully inform the exercise of judicial discretion in future 'like' cases if the interim order gives reasons for the decision this Court reached." Former Judges' Brief at 6.

This Court should correct the rampant misperception that district courts may ignore this Court's entered judgments in weighing what to do when similar cases arise. *See*, *e.g.*, *NTPSA v. Noem*, 166 F.4th 739, 754 (9th Cir. 2026) ("The Supreme Court's unreasoned stay orders were 'not conclusive as to the merits.'") (quoting *Boyle*, 145 S.Ct. at 2654). When this Court rules on an issue, even on the emergency docket, Courts should give those decisions due weight.

The amici States respectfully request that the Court reverse the United States Court of Appeals for the District of Columbia's injunction preventing the termination of Haiti's TPS designation.

ARGUMENT

I. THE TEMPORARY PROTECTED STATUS STATUTE PRECLUDES JUDICIAL REVIEW OF EXECUTIVE BRANCH TPS DETERMINATIONS.

The resolution of this case begins and ends with the statute's text. In an arena where Congress's plenary power over immigration is at its zenith, Congress has spoken with unmistakable clarity: "There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection." 8 U.S.C. § 1254a(b)(5)(A). That is not a subtle suggestion; it is a jurisdictional bar.

A. The Text Displaces the Presumption of Judicial Review.

While this Court generally recognizes a presumption in favor of judicial review of administrative action, that presumption must yield to "clear and convincing evidence of congressional intent to preclude judicial review." *Bouarfa*, 604 U.S. at 19 (quoting *Guerrero-Lasprilla*, 589 U.S. at 229) (cleaned up). Section 1254a(b)(5)(A) is the quintessential example of such evidence.

By using the phrase "no judicial review of any determination," Congress codified its intent to insulate the entire TPS lifecycle—from initial designation to final termination—from judicial second-guessing. 8 U.S.C. § 1254a(b)(5)(A). As this Court recently clarified in *Bouarfa*, when Congress limits review of discretionary determinations in the immigration context, it "clearly expresses" a desire to

leave those choices to the Executive. *Id.* The decision to end the TPS designations at issue here are quintessentially discretionary judgments, rooted in the Secretary's assessment of foreign conditions and national interest—matters for which the judiciary is singularly ill-suited to intervene.

Indeed, as this Court has recognized the term "any" as a component of "any determination," 8 U.S.C. § 1254a(b)(5)(A), has an "expansive meaning" that applies to determinations "of whatever kind." *Patel v. Garland*, 596 U.S. 328, 338 (2022). Congress decision to use "any" to modify "determination" is thus "naturally read to mean determinations of whatever kind." *Bumatay Dissental*, ---F.4th---, 2026 WL 687355, at *7 (quoting *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 220 (2008). Thus, the jurisdictional bar "applies to *all* decisions of whatever kind regarding the designation, termination, or extension of TPS." *Id.* So too for "with respect to" and "determination"—broad phrasing layered on broad phrasing. *Id.*

B. Lower Courts Cannot Evade the Jurisdictional Bar via Administrative Procedure Act Formalism.

The Respondents and the courts below have attempted to end-run this jurisdictional limit by characterizing the Secretary's termination as an APA violation. But a jurisdiction-stripping statute would be a dead letter if a plaintiff could bypass it simply by re-labeling a "determination" as a "procedural error."

The courts below here invoked "the 'presumption favoring judicial review of administrative action'" as overriding Congress's clear text. *Miot v. Trump*, 2026 WL 659420, at *3 (D.C. Cir. 2026) (quoting *Kucana v.*

Holder, 558 U.S. 233, 251 (2010)); *Doe v. Noem*, 2026 WL 544631, at *1 (2d Cir. Feb. 17, 2026) (same). That is error.

As Judge Bumatay correctly noted, this should have been an "easy one." *Bumatay Dissental*, ---F.4th---, 2026 WL 687355, at *4. When Congress says "no judicial review," it does not mean "no judicial review unless the district court disagrees with the Secretary's internal process." *Cf.* 8 U.S.C. § 1254a. By ignoring § 1254a(b)(5)(A)'s plain text, the lower courts have not only flouted the will of Congress but have also ignored this Court's "strong hints" that such judicial extensions of TPS are legally baseless. *Bumatay Dissental*, ---F.4th---, 2026 WL 687355, at *5.

Instead, the circuit courts have determined that despite the broad jurisdictional bar to "any determination" related to TPS that there is a massive loophole—the Administrative Procedure Act. *Doe*, 2026 WL 544631, at *1 (the jurisdiction bar "does not bar judicial review of the Secretary's compliance with that statute's procedural requirements"). Unfortunately, this judicial rewriting "invent[s] a non-existent carveout" from the jurisdiction-bar's scope. *Bumatay Dissental*, ---F.4th---, 2026 WL 687355, at *8.

This Court has explained that even the strong presumption of judicial review in administrative actions is defeated when "specific language" in the statutory scheme shows Congress's intent to preclude judicial review. *Traynor v. Turnage*, 485 U.S. 535, 542 (1988). Where, as here, the requested relief includes effectively setting aside orders relating to a termination, extension, or designation of TPS, that should fall within § 1254a rather than some unenumerated presumption.

Indeed, the appellate courts found that the jurisdiction bar does "*not* bar challenges, like plaintiffs', to the process by which a TPS determination is reached as opposed to the determination itself." *Miot*, 2026 WL 659420, at *3. That breezes past the fundamental problem—there is no limitation expressed on the Court's authority to violate § 1254a's jurisdiction bar with impunity. After all, there will always be a "process" by which a decision relating to TPS is made. If vacatur can collaterally attack the process, Congress's jurisdiction strip becomes a nullity.

Even worse, *Doe v. Noem* relies on 10 decisions in a footnote string cite to justify its departure from clear text. *See* 2026 WL 544631, at *3 & n*. *Miot* rejects applying "the Supreme Court's stay orders related to a different" TPS determination. *Id.* at *1. Why? Because those involved a "different country, with different factual circumstances, and different grounds for resolution by the district court." *Id.* Yet they included the same statute, with the same jurisdictional bar. Unfortunately, the Second Circuit did not find this Court's earlier two stays enough to justify further analysis justifying an APA exception to § 1254a. *Id.*

As the Ninth Circuit recognized, this collateral attack approach to TPS designations "create[s] a roadmap for the complete evasion of § 1254a(b)(5)(A)." *Bumatay Dissental*, ---F.4th---, 2026 WL 687355, at *9. To avoid the jurisdiction bar in multiple circuits, now, "all a plaintiff must do is use the password—"the Secretary has exceeded her authority"—and the plaintiff will receive an automatic ticket into federal court. All contrary to Congress's will." *Id.*

II. THIS COURT SHOULD REAFFIRM THE BINDING FORCE OF ITS ORDERS TO PREVENT SYSTEMIC JUDICIAL DISOBEDIENCE.

The amici States have a vital interest in the uniform application of federal law and the finality of this Court's mandates. The growing perception among lower courts—encouraged by amici Former Judges—that this Court's emergency docket orders are "absen[t] of articulated reasoning" is a threat to the rule of law. Former Judges' Brief at 6.

When this Court enters a stay, it does so based on a finding that the applicant is likely to succeed on the merits. For the Second and D.C. Circuits to dismiss those orders as "not dispositive" is to invite a resistance jurisprudence where district courts feel empowered to maintain injunctions that this Court has already signaled are improper. *Doe*, 2026 WL 544631, at *1.

A. The Lower Courts Have Invented a "Reasoning Requirement" to Evade Binding Precedent.

The amici former judges suggest that an order "can only meaningfully inform. . . if the interim order gives reasons." Former Judges' Brief at 6. That is a radical departure from established practice. An order from this Court staying a nationwide injunction is a legal determination that the Government has made a "strong showing that he is likely to succeed on the merits." *See Nken v. Holder*, 556 U.S. 418, 434 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 777 (1987)).

When the circuit courts dismiss those orders as lacking "substantive reasoning," *Miot*, 2026 WL 659420, at *2, it effectively ignores the substantive legal conclusion required for the stay. If this Court stays an injunction because it likely violates § 1254a(b)(5)(A), a district court does not have the discretion to enter the same injunction the following week in a different zip code. *See Boyle*, 145 S.Ct. at 2654. Yet that is precisely what is happening. The lower courts are using the lack of a full-dress opinion as a license to ignore this Court's clear signals, forcing the Government into an endless game of jurisdictional whack-a-mole.

B. Jurisdictional Chaos Threatens the Rule of Law.

This judicial defiance creates a regime of remedial chaos that harms the amici States. Our citizens are subjected to a patchwork of immigration policies where the Executive's authority to manage the border and terminate TPS varies from one judicial district to the next. That is precisely what the jurisdiction stripping section of § 1254a was designed to prevent.

As Judge Bumatay recognized, the "strong hints" from this Court have been ignored in favor of a "blind eye" for the emergency docket. *Bumatay Dissental*,---F.4th---, 2026 WL 687355, at *5. When district courts feel empowered to maintain or enter injunctions that this Court has repeatedly signaled are improper, they are not exercising discretion; they are usurping the Executive's Article II powers and this Court's Article III supremacy.

This Court should also take care to note the confusion following what amici States thought to be a

clear rule in *Boyle*. Almost 200 former judges have weighed in to disagree with that clear rule. Former Judges' Brief at 7. Those judges contend that this Court flouts judicial minimalism when it "decide[s] more" than what is in the case before it. *Id.* at 7 (quoting *PDK Labs., Inc. v. Drug Enforcement Admin.*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, C.J., concurring in part and in judgment). But this Court does not merely resolve cases—it establishes rules by which future lower courts must abide.

CONCLUSION

This Court should reverse the judgment of the D.C. Circuit and order dismissal for lack of subject matter jurisdiction.

Respectfully submitted,

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March 30, 2025

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