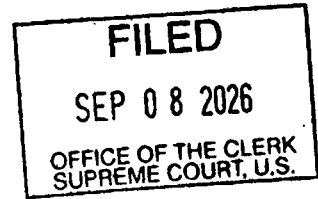


ORIGINAL

No. 26-330



In The
Supreme Court of the United States

RAYMOND CAMPBELL,
Petitioner,

v.

MARCO RUBIO, SECRETARY OF STATE,
ET AL.,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In *A.A.R.P. v. Trump*, 145 S. Ct. 1364 (2025) (per curiam), this Court vacated a judgment of the Fifth Circuit dismissing, for lack of jurisdiction, an appeal from a district court's constructive refusal of emergency injunctive relief, reaffirming that appealability under 28 U.S.C. § 1292(a)(1) turns on an order's practical effect. See *Carson v. American Brands, Inc.*, 450 U.S. 79 (1981).

Fourteen months later, a Fifth Circuit panel dismissed, for lack of jurisdiction and in a single unexplained paragraph, Petitioner's appeal from a district court order declaring that Petitioner "has not demonstrated a likelihood of success on the merits" and that the court "would therefore deny any motion for a temporary restraining order that is filed," while Petitioner suffered ongoing, irreparable constitutional and economic injury. The question presented is:

Whether a court of appeals may dismiss, for lack of appellate jurisdiction under 28 U.S.C. § 1292(a)(1), an appeal from a district court order whose practical effect is to refuse preliminary injunctive relief indefinitely, without applying the practical-effect standard of *Carson* and *A.A.R.P.*

PARTIES TO THE PROCEEDING

Petitioner is Raymond Campbell, plaintiff-appellant below.

Respondents are Marco Rubio, in his official capacity as Secretary of State; Markwayne Mullin, in his official capacity as Secretary of Homeland Security; Todd Wallace Blanche, in his official capacity as Acting Attorney General of the United States; and the United States of America, defendants-appellees below.

RELATED PROCEEDINGS

- *Campbell v. Rubio*, No. 3:25-CV-00260-LS (W.D. Tex., filed July 14, 2025) (pending).
- *In re Campbell*, No. 26-50170 (5th Cir.) (petition for writ of mandamus denied as moot Mar. 27, 2026).
- *Campbell v. Rubio*, No. 26-50282 (5th Cir.) (appeal dismissed July 2, 2026; rehearing denied Aug. 19, 2026).

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PETITION FOR A WRIT OF CERTIORARI

Raymond Campbell respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The order of the court of appeals dismissing the appeal for lack of jurisdiction (App. 1a) is unpublished. The order of the court of appeals denying panel reconsideration and rehearing en banc (App. 5a) is unpublished. The order of the district court from which the appeal was taken (App. 3a) is unreported.

JURISDICTION

The court of appeals entered its order dismissing the appeal on July 2, 2026. A timely petition for rehearing was denied on August 19, 2026. This petition is filed within 90 days of that denial. Sup. Ct. R. 13.3. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISION INVOLVED

28 U.S.C. § 1292(a) provides in relevant part:

[T]he courts of appeals shall have jurisdiction of appeals from: (1) Interlocutory orders of the district courts of the United States . . . or of the judges thereof, granting, continuing, modifying, refusing or dissolving

injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court

The passport provision of International Megan's Law, 22 U.S.C. § 212b, is reproduced at App. 7a.

STATEMENT OF THE CASE

A. Background

In 2004, Petitioner pled guilty in Texas state court and received ten years of deferred-adjudication community supervision. He completed it without violation, and on August 10, 2016, the Texas court dismissed the proceedings under former Article 42.12, § 5(c) of the Texas Code of Criminal Procedure (recodified at Article 42A.111 effective January 1, 2017), leaving him with no final conviction under Texas law. His state-law registration duty, which attached at his plea, has continued without interruption.

International Megan's Law, Pub. L. No. 114-119, 130 Stat. 15 (2016), directs that passports issued to covered individuals bear a unique identifier. The Department of State implements the requirement by endorsing covered passports: "The bearer was convicted of a sex offense against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(1)." The requirement took effect on October 31, 2017 — fifteen months after Petitioner's case was dismissed.

For years after the dismissal, Petitioner held and traveled on a United States passport without the identifier, establishing business interests in the United Arab Emirates and Indonesia; the identifier was applied when the passport was later renewed under the International Megan's Law regime. Doc. 30 at 3. On January 21, 2026, he was denied boarding on Emirates Flight EK 6062; the airline's system record states "AS PER DXB IMMIGRATION PAX NOT OK TO BOARD." Doc. 21, Ex. K. Approximately \$100,000 invested in the United Arab Emirates has been destroyed, and an \$80,000 investment in Indonesia remains at imminent risk. Doc. 30 at 4-5. Unlike the pre-implementation plaintiffs whose challenge to the statute was dismissed as premature in *Doe v. Kerry*, No. 16-cv-0654-PJH, 2016 U.S. Dist. LEXIS 130788 (N.D. Cal. Sept. 23, 2016), Petitioner's injuries are concrete, particularized, and ongoing.

B. The district court proceedings

Petitioner filed a verified complaint on July 14, 2025, raising First Amendment, Ex Post Facto Clause, due process, and right-to-travel challenges to the marking requirement as applied to him. The complaint incorporated on its face an Emergency Motion for Temporary Restraining Order. Defendants' motion to dismiss was fully briefed by November 4, 2025. The court ruled on nothing.

Within weeks of the January 21 boarding denial, Petitioner sought mandamus from the Fifth Circuit (No. 26-50170). On March 4, 2026, the district court issued its only order addressing

interim relief, stating, in its entirety apart from a footnote citing a local filing rule:

The Court is in receipt of Plaintiff Raymond Campbell's petition for a writ of mandamus. There is no separate motion for a temporary restraining order on the docket. Given the motions and responses pending, as well as the state of the litigation to date, the Court concludes that Plaintiff has not demonstrated a likelihood of success on the merits and would therefore deny any motion for a temporary restraining order that is filed.

App. 3a. The order set no hearing, established no briefing schedule, cited no authority for its merits conclusion, and made no findings on irreparable injury, the balance of equities, or the public interest. On April 2, 2026, Petitioner moved in the district court for an injunction pending appeal; that motion was fully briefed by April 13, 2026, and remained unadjudicated until August 27, 2026, when the district court terminated it as moot by docket notation, without a written order. The court of appeals, meanwhile, denied the mandamus petition as moot in light of the March 4 order. Doc. 26.

C. The decision below

Petitioner timely appealed under 28 U.S.C. § 1292(a)(1) and filed his opening brief. The government did not brief the merits; it moved to dismiss the appeal, characterizing the March 4 order

as a non-appealable denial of a temporary restraining order. Petitioner opposed, invoking *Carson* and *A.A.R.P.* On July 2, 2026, the panel granted the motion and dismissed the appeal for lack of jurisdiction in a single-paragraph unpublished order that did not cite *A.A.R.P.*, did not cite *Carson*, and did not analyze the order's practical effect. App. 1a. Petitioner sought rehearing en banc, presenting the conflict with this Court's decisions; the panel, treating the petition in part as a motion for reconsideration, adhered to its ruling, and no judge in regular active service requested that the court be polled. App. 5a.

REASONS FOR GRANTING THE PETITION

I. The decision below cannot be reconciled with *A.A.R.P. v. Trump*.

Fourteen months before the decision below, this Court vacated a judgment of the same court of appeals dismissing, for lack of jurisdiction, an appeal from a district court's constructive refusal of emergency injunctive relief. *A.A.R.P.*, 145 S. Ct. 1364. The Court reaffirmed that where a district court's treatment of a request for emergency relief has the practical effect of refusing an injunction to a party facing serious, perhaps irreparable, consequences, the refusal is appealable under § 1292(a)(1) whether or not an order formally denominated a denial exists.

The decision below repeats the error step for step. A litigant sought emergency relief against ongoing irreparable injury; the district court left the

request unadjudicated while announcing a merits conclusion against him; he appealed on a practical-effect theory; the government moved to dismiss on the ground that no appealable denial existed; and the court of appeals dismissed. The only difference cuts against the judgment below: in *A.A.R.P.* the district court had said nothing, and the constructive denial had to be inferred from silence. Here the district court spoke — it declared that Petitioner “has not demonstrated a likelihood of success on the merits” and that it “would therefore deny any motion for a temporary restraining order that is filed.” If silence in the face of irreparable harm is an appealable refusal, an express merits determination coupled with a categorical, anticipatory refusal of interim relief is one *a fortiori*. A litigant’s appellate rights cannot be weaker because the district court explained its refusal.

II. The decision below conflicts with *Carson v. American Brands*.

Carson holds that appealability under § 1292(a)(1) turns on whether an order has the “practical effect” of refusing an injunction and threatens “serious, perhaps irreparable, consequence” that can be “effectually challenged” only by immediate appeal. 450 U.S. at 83–84. The inquiry is functional; labels do not control. *Cf. Sampson v. Murray*, 415 U.S. 61, 86–88 (1974). The panel below undertook no practical-effect analysis at all. It accepted the government’s characterization of the March 4 order as a “TRO denial” and dismissed in one paragraph — substituting nomenclature for the functional test this Court requires. Measured

functionally, the order resolved the decisive preliminary-injunction factor on the merits after full briefing of the underlying claims, refused the emergency motion that had been pending for nearly eight months, and foreclosed interim relief in any form for the indefinite future, while each presentation of the marked passport inflicted a fresh and irreversible First Amendment injury. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion); *Byrum v. Landreth*, 566 F.3d 442, 445 (5th Cir. 2009). Both *Carson* requirements were satisfied; the appeal should have proceeded.

The dismissal also cannot be squared with the court of appeals' own treatment of the same order. When it denied Petitioner's mandamus petition as moot in light of the March 4 order, the court necessarily treated that order as a judicial act resolving the question of injunctive relief. Doc. 26. When it dismissed this appeal, it treated the same order as resolving nothing reviewable. An order cannot moot a mandamus petition directed at securing a ruling on injunctive relief and simultaneously be too insubstantial to constitute an appealable refusal of that relief. The practical-effect inquiry *Carson* requires would have resolved the tension; the panel never undertook it.

III. The question is recurring and important: it concerns whether this Court's decisions bind the circuits from which they arise.

This case is not about one litigant's procedural misfortune. It tests whether *A.A.R.P.* — issued to the Fifth Circuit, on facts arising in the Fifth

Circuit, correcting a Fifth Circuit jurisdictional dismissal — governs in the Fifth Circuit. Fourteen months after this Court's decision, a panel of that court dismissed a practical-effect appeal without citing it, and the full court declined to be polled when the conflict was squarely presented. If that disposition stands, a district court within the circuit may insulate the deprivation of constitutional rights from appellate review indefinitely: by declining to adjudicate a pending emergency motion while announcing in advance that any future motion will be denied. That is precisely the regime *A.A.R.P.* rejected — and the litigants least able to protect themselves against it are those least able to force a district court to rule, including the incarcerated, the removable, and the self-represented. The availability of § 1292(a)(1) review when harm outruns adjudication is a question of judicial administration that only this Court can settle for the circuit that has now twice answered it incorrectly.

IV. This case is an ideal vehicle, and at minimum summary disposition is warranted.

The question is outcome-dispositive: the appeal was dismissed on jurisdiction alone, with no alternative ground. The record is short and undisputed — a district court order whose operative text is a single paragraph, quoted above, and a one-paragraph dismissal. And Petitioner's injuries are concrete and documented rather than speculative: a marked passport in hand, a recorded boarding denial, and quantified, unrecoverable economic losses — the inverse of the pre-enforcement posture

that has defeated other challenges involving this statute. *See Doe v. Kerry, supra.*

At minimum, the Court should grant the petition, vacate the judgment, and remand for further consideration in light of *A.A.R.P.* A GVR order is appropriate where intervening or existing authority of this Court reveals a reasonable probability that the decision below rests on a premise the lower court would reject if given the opportunity to reconsider, and where the delay and further cost of plenary review are unwarranted. *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam). The panel's one-paragraph order gives no indication that *A.A.R.P.* was considered at all; a remand directing its application is the least intrusive means of ensuring that this Court's precedent is applied in the circuit to which it was addressed.

CONCLUSION

The petition for a writ of certiorari should be granted. At minimum, the Court should grant the petition, vacate the judgment below, and remand for further consideration in light of *A.A.R.P. v. Trump*, 145 S. Ct. 1364 (2025).

Respectfully submitted,

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Dated: September 8, 2026