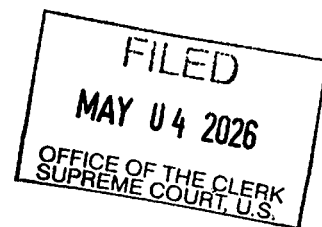


No. 26-5695



IN THE SUPREME COURT OF THE UNITED STATES

IN RE NELSON E. WILLIS,
Petitioner.

v.

ADAM M. ARON,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a Notice of Nonsuit may be treated as controlling where the official state-court record establishes that the plaintiff had already introduced all evidence other than rebuttal evidence—the express cutoff imposed by Texas Rule of Civil Procedure 162—and no court adjudicated Petitioner’s preserved challenge that the unrestricted right to nonsuit had expired before the Notice was filed.
2. Whether due process permits a Notice of Nonsuit filed after the Rule 162 cutoff to remain the controlling procedural premise throughout state-court proceedings, federal district-court proceedings, direct appeal, post-judgment proceedings, and mandamus review when the preserved challenge to that Notice is never adjudicated and reliance upon it prevents the litigation from reaching merits discovery.
3. Whether mandamus may be denied where no court has adjudicated Petitioner’s preserved claim that the federal dismissal rested upon the materially false representation that a state-court nonsuit was legally effective, even though the official docket reflected completion of the plaintiff’s evidentiary submissions before the Notice was filed and compulsory process had thereafter issued and been served.

PARTIES TO THE PROCEEDING

Petitioner is Nelson E. Willis.

The proceeding directly under review is In re Nelson Willis, No. 25-40689, in the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit caption identified Nelson Willis as the mandamus petitioner and did not identify a named respondent.

Adam M. Aron was the Applicant in the underlying state-court proceeding and the defendant-appellee in the related federal district-court and direct appellate proceedings. Petitioner identifies Aron because those proceedings form the factual and procedural foundation of the mandamus proceeding under review.

CORPORATE DISCLOSURE STATEMENT

Petitioner Nelson E. Willis is an individual and has no parent corporation. No publicly held corporation owns 10% or more of Petitioner.

RELATED PROCEEDINGS

Aron v. Willis, No. CV23-00179, 235th Judicial District Court, Cooke County, Texas. Notice of Nonsuit filed July 31, 2023. No order adjudicating Petitioner's preserved challenge under Texas Rule of Civil Procedure 162 was entered.

Willis v. Aron, No. 4:23-cv-00732, United States District Court for the Eastern District of Texas. Judgment entered August 23, 2024. Motions for judicial notice and reconsideration denied January 14, 2025.

Willis v. Aron, No. 24-40585, United States Court of Appeals for the Fifth Circuit. Petition for rehearing denied October 14, 2025; reconsideration denied November 3, 2025; judgment and mandate entered November 26, 2025.

In re Nelson Willis, No. 25-40689, United States Court of Appeals for the Fifth Circuit. Mandamus relief denied December 9, 2025; further relief denied December 22, 2025.

Nelson Willis v. United States District Court for the Eastern District of Texas, Application No. 25A943, Supreme Court of the United States. Application filed February 18, 2026; extension granted February 26, 2026, extending the time to file through May 8, 2026. Petitioner submitted his original petition package on May 4, 2026. The Clerk returned the filing for correction and authorized timely resubmission in accordance with the Clerk's correspondence.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Nelson E. Willis respectfully petitions for a writ of certiorari to review the December 9, 2025 order of the United States Court of Appeals for the Fifth Circuit denying mandamus relief in In re Nelson Willis, No. 25-40689.

This petition presents a narrow but fundamental question of judicial process.

The official state-court docket establishes that Adam M. Aron filed his Application for Protective Order, filed supplemental evidence in support of that application, and proceeded to an evidentiary hearing. Aron completed the evidentiary submission supporting the relief he requested. The court exercised adjudicative authority, received the parties' presentations, and continued the matter for further proceedings. App. G-1, G-3, G-4.

Texas Rule of Civil Procedure 162 supplied the controlling limit. It permitted Aron to take an unrestricted nonsuit only before he had introduced all evidence other than rebuttal evidence.

That point had passed.

After the hearing and completion of Aron's evidentiary submission, Petitioner invoked compulsory process. On July 26, 2023, the 235th Judicial District Court issued a Subpoena Duces Tecum compelling AMC Vice President of Investor Relations John Merriwether to appear for hostile testimony under cross-examination and to produce internal corporate evidence. App. G-2. The subpoena was served. App. G-3.

Aron had litigated actively and continuously. He applied for judicial relief. He submitted evidence. He supplemented that evidence. He obtained a hearing. He agreed to a continuance and prepared for continued proceedings.

The only material change reflected by the record was that compulsory process reached AMC's corporate witness and internal evidence.

Only then did Aron file his Notice of Nonsuit.

The sequence is not incidental. The sequence is the case.

Aron invoked the authority of the Texas court and pursued affirmative judicial relief until subpoenas compelled hostile corporate testimony and production of internal communications. Once compulsory process reached AMC, Aron attempted

to abandon the proceeding through a nonsuit filed after Rule 162's express deadline had expired.

The Notice was legally ineffective from inception.

The clerk's ministerial acceptance of the Notice for filing could not adjudicate its validity, restore an expired right, or confer dispositive legal force upon a nonsuit filed after the Rule 162 cutoff. Once Petitioner challenged the Notice's timing and legal effect, the state court was required to decide that challenge before permitting the Notice to terminate continued proceedings and defeat compulsory process.

No court adjudicated it.

Instead, the Notice became the controlling premise of every proceeding that followed.

The federal defense represented that the Texas proceeding had been lawfully terminated through nonsuit. That representation omitted and materially mischaracterized the official record showing that Aron had completed his evidentiary submission before filing the Notice and that compulsory process had already issued and been served.

The federal district court allowed that false procedural premise to control its Rule 12(b)(6) dismissal.

The Fifth Circuit permitted it to control the direct appeal.

Judicial-notice requests and post-judgment proceedings produced no adjudication.

The Fifth Circuit then denied mandamus without requiring any court to decide the preserved threshold question.

The issue was not rejected.

It was never adjudicated.

A losing argument and an undecided argument are not the same thing.

The consequences were concrete. By treating the expired nonsuit as controlling without adjudicating Petitioner's preserved Rule 162 challenge, the courts prevented the litigation from progressing to merits discovery. The compelled testimony and internal corporate evidence were never reached. A filing made after expiration of Rule 162's deadline was permitted to defeat the very discovery that compulsory process had placed in motion.

The sequence is the case.

The injury is non-adjudication.

The consequence was the loss of discovery.

The remedy is adjudication.

OPINIONS AND ORDERS BELOW

The Fifth Circuit's unpublished order denying mandamus relief in No. 25-40689, entered December 9, 2025, appears at Appendix A.

The Fifth Circuit's unpublished order denying further relief in No. 25-40689, entered December 22, 2025, appears at Appendix B.

The Fifth Circuit's judgment in No. 24-40585, entered November 26, 2025, appears at Appendix C.

The Fifth Circuit's order denying rehearing, entered October 14, 2025, appears at Appendix D.

The Fifth Circuit's order denying reconsideration, entered November 3, 2025, appears at Appendix E.

The Fifth Circuit Clerk's correspondence declining to take further action appears at Appendix F.

The relevant official state-court record excerpts, including the hearing record, docket entries, subpoena, service materials, and Notice of Nonsuit chronology, appear at Appendix G.

The federal district court's January 14, 2025 order denying judicial notice and reconsideration appears at Appendix H.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit entered the mandamus order under review on December 9, 2025. App. A. The Fifth Circuit denied Petitioner's request for further relief on December 22, 2025. App. B.

Petitioner applied for an extension of time in Application No. 25A943. On February 26, 2026, Justice Alito extended the time for filing through May 8, 2026.

Petitioner submitted his original petition package on May 4, 2026, within the extended period. The Clerk subsequently returned the filing for correction and permitted resubmission in accordance with the deadline stated in the Clerk's return correspondence.

The United States District Court for the Eastern District of Texas exercised federal-question jurisdiction under 28 U.S.C. § 1331 and supplemental jurisdiction under 28 U.S.C. § 1367.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

This petition seeks review of the Fifth Circuit's December 9, 2025 mandamus disposition in No. 25-40689. The proceedings in No. 24-40585 remain necessary background because the failure of direct appellate and post-judgment review to produce adjudication of the preserved Rule 162 issue gave rise to the mandamus proceeding.

CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

Article III, Section 2 of the United States Constitution provides in relevant part that the judicial power shall extend to cases and controversies.

The Fifth Amendment provides in relevant part that no person shall be deprived of life, liberty, or property without due process of law.

The Fourteenth Amendment provides in relevant part that no State shall deprive any person of life, liberty, or property without due process of law.

Title 28 U.S.C. § 1254(1) provides that cases in the courts of appeals may be reviewed by this Court through writ of certiorari.

Texas Rule of Civil Procedure 162 provides in relevant part:

“At any time before the plaintiff has introduced all of his evidence other than rebuttal evidence, the plaintiff may dismiss a case, or take a non-suit, which shall be entered in the minutes.”

Federal Rule of Evidence 201 governs judicial notice of adjudicative facts.

STATEMENT OF THE CASE

A. Aron invoked judicial authority and completed his evidentiary submission.

This controversy originated in Aron v. Willis, No. CV23-00179, in the 235th Judicial District Court of Cooke County, Texas.

Aron initiated the proceeding by filing an Application for Protective Order. He asked the Texas court to exercise judicial power against Petitioner and to grant affirmative relief affecting Petitioner's rights.

Aron actively prosecuted that application.

The official docket records Aron's application, service proceedings, evidentiary submissions, and a June 27, 2023 “Notice of Supplemental Evidence in Support of His Application for Protective Order.” App. G-3, G-4.

That docket entry is decisive evidence of the procedural posture. Aron was not merely maintaining a pleading while waiting for a first hearing. He had already submitted the evidence supporting his requested relief and thereafter supplemented that evidentiary submission.

An evidentiary hearing commenced on July 21, 2023. App. G-1. The hearing was not a preliminary scheduling conference. The court convened to determine Aron's application, exercised adjudicative authority, and received the parties' presentations.

Aron had completed the evidence supporting the affirmative relief he sought. The matter was then continued for further proceedings.

Rule 162's express cutoff had therefore been reached. Once Aron had introduced all evidence other than rebuttal evidence, his unrestricted right to nonsuit expired.

B. Petitioner invoked compulsory process after the evidentiary hearing.

Following the commencement of evidentiary proceedings, Petitioner invoked compulsory judicial process directed to AMC.

On July 26, 2023, the Clerk of the 235th Judicial District Court issued a Subpoena Duces Tecum to John Merriwether, AMC's Vice President of Investor Relations. App. G-2.

The subpoena commanded Merriwether to appear before the court on August 7, 2023, to testify under cross-examination. It further compelled the production and inspection of evidence in Merriwether's possession, custody, or control.

The subpoena was issued under the seal and authority of the Texas court. It warned that failure to comply could result in contempt, fine, confinement, or both.

The compulsory process was served. App. G-3.

At that point, this was no longer merely a dispute over allegations in pleadings. Aron had invoked judicial authority and completed his evidentiary presentation. The court had conducted an evidentiary hearing. The matter had been continued. The court had issued compulsory process. The subpoena had reached an AMC corporate officer and the internal evidence within his possession or control.

Discovery was in motion.

C. Aron continued litigating until compulsory process reached AMC.

The official chronology establishes sustained participation by Aron.

He filed the application.

He arranged service.

He submitted evidence.

He supplemented his evidence.

He obtained an evidentiary hearing.

He agreed to a continuance.

He remained prepared for continued proceedings.

Nothing in the docket indicates that Aron intended to abandon his application while he controlled the evidence presented to the court.

The only intervening change was Petitioner's successful invocation of compulsory process for hostile testimony and internal corporate evidence.

The subpoenas were served on July 31, 2023.

Later that same day, Aron filed the Notice of Nonsuit.

The record therefore establishes a direct chronological line: Aron prosecuted his case through completion of his evidence and remained in full participation until compulsory process reached AMC. He then attempted to withdraw only after the subpoenaed evidence and hostile testimony could no longer remain solely within his control.

That sequence supports the unavoidable inference that the Notice was used to evade the compulsory process already underway.

D. The Rule 162 challenge was preserved but never adjudicated.

Petitioner immediately and consistently challenged the timing, validity, and legal effect of the Notice.

The challenge was not that Texas law never permits nonsuit. Rule 162 gives a plaintiff a broad right to nonsuit before its express evidentiary cutoff.

The challenge was that the cutoff had already passed here.

Aron had introduced all evidence other than rebuttal evidence. The court had conducted the evidentiary hearing. The matter was continued. Compulsory process had issued and been served. Only afterward did Aron file the Notice.

The clerk's receipt of the Notice could not determine its validity. Ministerial acceptance could not restore a right the rule had already extinguished.

The state court therefore had to decide whether the Notice possessed any legal effect before permitting it to terminate the proceeding or defeat the subpoena.

The state court never decided that question.

It did not hold that Aron retained the unrestricted right to nonsuit.

It did not hold that his evidentiary submission was incomplete.

It did not hold that the hearing was non-evidentiary.

It did not quash the subpoena.

It did not determine that compulsory process had ended.

It simply allowed the Notice to remain controlling without adjudication.

E. The federal defense converted the expired Notice into the premise for dismissal.

Petitioner carried the preserved Rule 162 issue into the United States District Court for the Eastern District of Texas.

The federal defense represented that Aron's Notice had lawfully ended the Texas proceeding. It relied upon the Notice as a dispositive procedural fact while omitting and materially mischaracterizing the official record establishing that the Rule 162 cutoff had already passed.

That representation was not collateral.

It defined the posture of the federal case.

The defense used the Notice to portray the controversy as already terminated and to avoid adjudication of the evidentiary proceeding, compulsory process, discovery obligations, and subpoenaed internal communications.

The district court dismissed Petitioner's verified complaint under Federal Rule of Civil Procedure 12(b)(6).

The court did not determine whether Aron had introduced all evidence other than rebuttal evidence before filing the Notice.

It did not adjudicate whether Rule 162 permitted the Notice to carry legal effect.

It did not determine whether the federal defense's description of the state proceeding was materially false.

It allowed the assumed legal effect of the Notice to control.

F. Direct appeal, judicial-notice proceedings, and mandamus produced no adjudication.

Petitioner appealed in Fifth Circuit No. 24-40585.

He repeatedly submitted the state docket, hearing materials, subpoena, service record, and chronology. He sought judicial notice of those adjudicative facts under Federal Rule of Evidence 201.

The Fifth Circuit affirmed without adjudicating the Rule 162 issue.

Petitioner sought rehearing and reconsideration. App. D, E.

The district court denied judicial notice and reconsideration. App. H.

The Fifth Circuit Clerk later declined further action. App. F.

Petitioner then sought mandamus in No. 25-40689 because every ordinary mechanism had failed to obtain a ruling on the threshold issue.

Mandamus was not used as a substitute for an ordinary appeal over an issue already decided.

It was used because the issue had never been decided at all.

On December 9, 2025, the Fifth Circuit denied mandamus. App. A.

On December 22, 2025, it denied further relief. App. B.

That denial completed the chain of non-adjudication.

By then, the Notice had been treated as controlling in the state court, the federal district court, direct appeal, post-judgment proceedings, and mandamus review.

Yet no court had ever determined whether Aron possessed the right to file it.

The courts used the nonsuit.

The courts never adjudicated the challenge to the nonsuit.

The litigation never reached merits discovery.

REASONS FOR GRANTING THE WRIT

I. THE OFFICIAL RECORD ESTABLISHES THAT ARON COMPLETED HIS EVIDENTIARY SUBMISSION BEFORE FILING THE NOTICE OF NONSUIT.

Texas Rule of Civil Procedure 162 establishes an express temporal boundary.

A plaintiff may take an unrestricted nonsuit only “before the plaintiff has introduced all of his evidence other than rebuttal evidence.”

This case falls on the other side of that boundary.

The official docket reflects Aron’s evidentiary submissions, including his “Notice of Supplemental Evidence in Support of His Application for Protective Order.” App. G-3, G-4.

The evidentiary hearing commenced on July 21, 2023. App. G-1.

Aron had presented and completed the evidence supporting his application. The court exercised judicial authority over the requested relief and continued the matter.

The later continuance, issuance of subpoenas, service of compulsory process, and scheduled continuation of the hearing confirm that the proceeding had advanced beyond the point at which Aron retained an unrestricted right to nonsuit.

The Rule 162 deadline had passed before the Notice appeared.

Texas decisions recognize both the breadth and the limits of nonsuit practice. A nonsuit ordinarily becomes effective when filed, but only when the plaintiff remains entitled to take it under Rule 162. *Travelers Insurance Co. v. Joachim*, 315 S.W.3d 860, 862–63 (Tex. 2010); *Epps v. Fowler*, 351 S.W.3d 862, 868–70 (Tex. 2011).

A nonsuit also cannot erase rulings or legal consequences that have already attached. *Hyundai Motor Co. v. Alvarado*, 892 S.W.2d 853, 854–55 (Tex. 1995). Nor does nonsuit automatically extinguish pending matters that survive dismissal. *Villafani v. Trejo*, 251 S.W.3d 466, 469–70 (Tex. 2008); *CTL/Thompson Texas, LLC v. Starwood Homeowner’s Ass’n, Inc.*, 390 S.W.3d 299, 300–01 (Tex. 2013).

Those authorities reinforce the basic point: Rule 162 does not create limitless power to erase completed judicial proceedings or defeat every consequence already placed in motion.

No court could lawfully presume that the Notice remained available while refusing to decide the record-supported challenge that the rule’s express cutoff had already passed.

II. THE RULE 162 CUTOFF HAD PASSED, AND THE LATER NOTICE COULD NOT ACQUIRE DISPOSITIVE LEGAL FORCE MERELY BY BEING ACCEPTED FOR FILING.

A procedural document does not acquire legal force merely because it appears on a docket.

The right to nonsuit arises from Rule 162.

The same rule identifies when that right expires.

Once the plaintiff has introduced all evidence other than rebuttal evidence, the unrestricted right no longer exists.

The later filing of a Notice cannot recreate the expired right.

It cannot erase the evidentiary submission.

It cannot reverse the hearing.

It cannot nullify the continuance.

It cannot dissolve compulsory process by its own force.

It cannot convert the subpoenas into private correspondence.

The clerk's ministerial acceptance of the Notice could not adjudicate its validity, restore an expired right, or confer dispositive legal effect upon a nonsuit filed after the Rule 162 deadline.

Once Petitioner challenged its timing and legal effect, the state court had to adjudicate that challenge before allowing the Notice to terminate further proceedings.

No such adjudication occurred.

The Notice was therefore permitted to perform legal work that no court ever determined it was authorized to perform.

Its acceptance for filing did not validate it.

Its presence on the docket did not validate it.

Repeated reliance upon it did not validate it.

Judicial silence did not validate it.

The courts assumed the legal force of the precise filing whose legal force remained disputed.

That inversion of adjudication warrants review.

**III. ARON LITIGATED THROUGH THE EVIDENTIARY PROCEEDING
AND PREPARED TO CONTINUE UNTIL COMPULSORY PROCESS
REACHED AMC'S CORPORATE WITNESS AND INTERNAL EVIDENCE.**

The timing of the Notice is central.

Before compulsory process reached AMC, Aron pursued the case affirmatively.

He asked the state court to exercise power against Petitioner.

He submitted evidence.

He filed supplemental evidence.

He appeared for an evidentiary hearing.

He participated in the continuance.

He remained prepared for the continued proceeding scheduled for August 7, 2023.

Petitioner then obtained court-issued process compelling AMC Vice President John Merriwether to appear, undergo hostile cross-examination, and produce internal corporate evidence. App. G-2.

The subpoena was served.

Only after service did Aron file the Notice.

There was no intervening merits ruling against Aron.

There was no settlement.

There was no adjudication resolving his application.

There was no unrelated procedural event explaining the abrupt abandonment.

The material change was the arrival of compulsory process at AMC.

The record therefore establishes that Aron was prepared to continue while he controlled the evidence placed before the court. He attempted to terminate the proceeding only after the court's compulsory authority reached a corporate witness and evidence beyond his control.

The Notice functioned as an evasion of discovery.

Even if a court ultimately disagreed with that inference, it was required to adjudicate the legal consequence of the sequence. It could not allow the Notice to defeat discovery without determining whether Aron retained any right to file it.

IV. THE FEDERAL DEFENSE MATERIALLY MISREPRESENTED THE STATE-COURT POSTURE BY TREATING THE EXPIRED NONSUIT AS LEGALLY DISPOSITIVE.

The fraud-upon-the-judicial-process claim rests upon an identifiable representation and an identifiable omission.

In the federal dismissal proceedings, the defense represented that the Texas action had been lawfully terminated through nonsuit.

That representation assigned dispositive legal force to the July 31 Notice.

It omitted and materially mischaracterized the completed evidentiary sequence shown by the official docket:

Aron had submitted his evidence.

Aron had filed supplemental evidence.

The evidentiary hearing had occurred.

The proceeding had been continued.

Compulsory process had issued.

The subpoena had been served.

Only then was the Notice filed.

Petitioner placed that chronology and the resulting Rule 162 defect before the federal courts.

Nevertheless, the defense continued to invoke the Notice as legally dispositive.

The district court permitted that premise to control without adjudicating the preserved challenge.

The representation was material because it supplied the procedural foundation for dismissal before discovery. It allowed the federal defense to treat the state controversy as lawfully extinguished without addressing whether the document relied upon possessed any legal force.

This was not merely a disagreement over an immaterial characterization.

It concerned the existence of the procedural event used to dispose of the case.

This Court has recognized that fraud affecting the integrity of adjudication is a wrong against the judicial process itself. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246–50 (1944).

Federal courts possess inherent authority to protect their proceedings and to investigate whether a judgment was obtained through fraud. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991); *Universal Oil Products Co. v. Root Refining Co.*, 328 U.S. 575, 580–81 (1946).

The preserved claim here is precise:

The defense represented an expired state procedural filing as legally effective.

The official record contradicted the premise upon which that representation depended.

The representation enabled dismissal before discovery.

No court adjudicated the discrepancy.

The integrity of the judicial process requires adjudication of that claim before the challenged premise is permitted to remain controlling.

V. RELIANCE UPON THE NONSUIT PREVENTED THE LITIGATION FROM REACHING MERITS DISCOVERY AND DEFEATED COMPULSORY PROCESS.

The injury caused by non-adjudication was concrete.

The litigation never reached merits discovery.

Before Aron filed the Notice, Petitioner had already obtained and served compulsory process seeking hostile testimony and internal corporate evidence.

The subpoena was not a voluntary request.

It was a command issued under the seal and authority of the 235th Judicial District Court.

It required Merriwether to appear.

It required testimony under cross-examination.

It required production and inspection of evidence in his possession, custody, or control.

It carried the force of contempt.

The later Notice halted that process without any ruling concerning the subpoena's continuing effect.

The state court did not determine whether the Notice could defeat compulsory process already issued and served.

The federal court later treated the Notice as controlling without permitting merits discovery.

The Fifth Circuit left that result intact.

The same disputed filing therefore performed two decisive functions:

It prevented adjudication of the preserved Rule 162 challenge.

It prevented access to the evidence sought through discovery and compulsory process.

By treating the Notice as controlling without first deciding Petitioner's challenge to its validity, the courts prevented the litigation from progressing to merits discovery.

The hostile testimony was never taken.

The internal corporate evidence was never produced.

The subpoena was never adjudicated.

The practical result was an evasion of discovery accomplished through reliance upon a filing made after Rule 162's deadline had expired.

That consequence was not collateral or harmless.

It determined whether material evidence would ever be reached.

It insulated the federal dismissal from the evidence the Texas court had compelled.

It converted non-adjudication into a complete victory for the party who filed the disputed Notice.

VI. A LOSING ARGUMENT AND AN UNDECIDED ARGUMENT ARE NOT THE SAME THING.

Courts reject arguments every day.

When a court hears an argument, decides it, and explains its decision, the losing party may seek ordinary review.

This petition concerns something fundamentally different.

Petitioner's Rule 162 challenge was not rejected.

It was not analyzed.

It was not adjudicated.

It was bypassed.

The absence of a ruling matters because every later decision depended upon the opposite conclusion.

The courts acted as though the Notice were valid without ever holding that it was valid.

They acted as though Aron had retained the right to nonsuit without ever determining that the right remained available.

They acted as though compulsory process had ended without ever quashing the subpoena or deciding its legal effect.

That is not adjudication.

A legal premise cannot become immune from review merely because courts repeatedly rely upon it without deciding it.

Repetition of an assumption does not transform the assumption into a judgment.

Petitioner did not seek mandamus to obtain a second ruling on an issue previously decided against him.

He sought mandamus because no first ruling existed.

The denial of mandamus therefore did not preserve an adverse Rule 162 decision.

It preserved every consequence of the Notice while leaving the controlling question unanswered.

The preserved issue was not decided incorrectly.

It was never decided at all.

VII. THE FIFTH CIRCUIT'S DENIAL OF MANDAMUS COMPLETED AN EXTRAORDINARY CHAIN OF NON-ADJUDICATION.

Mandamus is an extraordinary remedy.

This is an extraordinary posture.

The state court did not decide whether Aron had introduced all evidence other than rebuttal evidence before filing the Notice.

The federal district court did not decide whether the Rule 162 cutoff had passed.

The Fifth Circuit did not adjudicate the issue on direct appeal.

Judicial-notice proceedings did not produce adjudication.

Rehearing and reconsideration did not produce adjudication.

Post-judgment proceedings did not produce adjudication.

Mandamus then failed to produce adjudication.

The Notice nevertheless controlled every stage.

Ordinary review was inadequate because ordinary review had already been pursued and had repeatedly bypassed the preserved issue.

The mandamus petition addressed that absence of judicial action itself.

It asked the Fifth Circuit to require adjudication of the threshold question upon which every later disposition depended.

Cheney v. United States District Court, 542 U.S. 367, 380–81 (2004), identifies the familiar mandamus considerations: the absence of another adequate means of relief, a clear and indisputable entitlement, and the appropriateness of relief under the circumstances.

Those considerations were satisfied here.

No adequate alternative remained because Petitioner had pursued state-court relief, federal district-court relief, direct appeal, judicial notice, rehearing, reconsideration, and post-judgment remedies without obtaining a ruling.

Petitioner possessed a clear right to adjudication of the preserved threshold challenge before the disputed Notice was used as the dispositive premise against him.

Relief was appropriate because non-adjudication had terminated the litigation, defeated compulsory process, prevented discovery, and preserved a dismissal resting upon a materially false procedural premise.

The Fifth Circuit's denial of mandamus completed the chain instead of correcting it.

If mandamus may be denied in that posture, a preserved and outcome-determinative issue can disappear without adjudication while every consequence of the challenged procedural act remains permanently in force.

That departure from the judicial function warrants review.

VIII. THE GOVERNING LEGAL MAXIMS CONFIRM THE DUTY TO HEAR, ADJUDICATE, AND REMEDY THE PRESERVED CHALLENGE.

The principles implicated here are among the oldest in law.

Audi alteram partem—hear the other side—requires more than physically receiving a filing. It requires a meaningful opportunity to present a preserved challenge and

obtain judicial consideration before the disputed matter is used to deprive a litigant of further proceedings.

Petitioner repeatedly presented the Rule 162 challenge.

The courts nevertheless treated the challenged Notice as controlling without deciding the challenge.

Actus curiae neminem gravabit—the act of the court shall prejudice no one—addresses the resulting injury.

The courts' failure to adjudicate cannot itself become the mechanism through which Petitioner loses discovery, compulsory process, and review.

Judicial inaction cannot confer validity upon an ineffective filing and then prejudice the party who preserved the objection.

Ubi jus ibi remedium—where there is a right, there is a remedy—defines what must follow.

If a litigant possesses a right to adjudication of a preserved, material, and outcome-determinative issue, there must be a remedy when every available stage leaves the issue undecided.

These maxims do not replace the Constitution, rules, or precedent.

They express the foundational principles those authorities implement.

Hear the challenge.

Decide the challenge.

Do not allow the failure to decide it to prejudice the litigant.

Provide a remedy when judicial process has failed.

All three principles converge here.

IX. THIS CASE PRESENTS AN IMPORTANT FEDERAL QUESTION AND IS A SUITABLE VEHICLE FOR REVIEW.

This case is not limited to an isolated disagreement over Texas procedure.

It presents a broader federal question concerning whether courts may use a disputed procedural filing as controlling while never adjudicating the preserved challenge to that filing's legal force.

If permitted, the process creates a procedural void.

A state court may rely upon a filing to terminate proceedings.

A federal litigant may represent that filing as dispositive.

A federal district court may rely upon the representation to dismiss an action.

A federal appellate court may affirm without deciding the challenge.

Mandamus may then be denied because every prior proceeding has ended.

The preserved issue disappears without adjudication while every consequence of the disputed filing remains in force.

That process is incompatible with Article III's judicial function and the requirements of due process.

Article III assigns courts the duty to decide cases and controversies—not merely to receive filings while leaving controlling issues unanswered. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).

The question is especially important where compulsory process and discovery are involved.

A subpoena represents an exercise of judicial power.

It reaches witnesses and evidence through legal command.

Permitting a later, expired filing to defeat served compulsory process without adjudication destabilizes that power and rewards procedural evasion.

This case is a suitable vehicle.

The necessary sequence appears in the existing appendices:

the official docket showing Aron's evidentiary submission;

the commencement of the evidentiary hearing;

the continuance;
the court-issued subpoena;
the service of compulsory process;
the later Notice of Nonsuit;
the federal reliance upon that Notice;
the judicial-notice proceedings;
the direct appellate orders;
and the denial of mandamus.

The Court need not determine the ultimate truth of every underlying corporate allegation.

It need not conduct discovery.

It need not enter judgment for Petitioner on every cause of action.

It need decide only whether the Fifth Circuit could deny mandamus after every prior stage permitted a disputed Notice to remain controlling without adjudicating the preserved Rule 162 challenge.

That question is squarely presented.

X. THE INJURY IS NON-ADJUDICATION, AND THE REMEDY IS ADJUDICATION.

Petitioner does not ask this Court to conduct the discovery that was prevented below.

He asks the Court to remedy the judicial failure that prevented discovery from occurring.

The injury is not merely an adverse outcome.

The injury is that a Notice filed after the Rule 162 cutoff was permitted to control the litigation without adjudication of the preserved challenge.

The injury is that a materially false procedural premise was used to obtain and preserve dismissal.

The injury is that the litigation ended before merits discovery and before compliance with served compulsory process.

The injury is that no court decided the issue upon which every later disposition depended.

The appropriate remedy follows directly from that injury.

The Fifth Circuit's mandamus order should be vacated.

The matter should be remanded with instructions requiring adjudication of Petitioner's preserved challenge to the validity and legal effect of the Notice.

Until that adjudication occurs, the disputed Notice should not be permitted to carry dispositive legal effect.

If a responsible court determines through a reasoned ruling that Aron had not introduced all evidence other than rebuttal evidence, that court may explain the record and applicable Texas law supporting its conclusion.

If the Rule 162 cutoff had passed, the judgments and orders resting upon the opposite premise cannot stand.

Either result requires a decision.

Perpetual non-adjudication is not a lawful result.

CONCLUSION

The official record establishes the sequence.

Aron invoked the judicial authority of the 235th Judicial District Court.

He sought affirmative relief against Petitioner.

He submitted evidence supporting that relief.

He filed supplemental evidence.

An evidentiary hearing commenced.

He completed his evidentiary submission.

The proceeding was continued.

Petitioner invoked compulsory process.

The court issued a Subpoena Duces Tecum compelling hostile testimony under cross-examination and production of internal corporate evidence.

The subpoena was served.

Only then did Aron file the Notice of Nonsuit.

Texas Rule of Civil Procedure 162's express deadline had passed. Aron had introduced all evidence other than rebuttal evidence. The later Notice could not revive an expired right or lawfully terminate the proceeding.

Nevertheless, the Notice remained on the state docket and was represented in federal court as controlling.

That representation omitted and materially mischaracterized the completed evidentiary sequence.

It supplied the premise for dismissal.

It defeated compulsory process.

It prevented merits discovery.

It insulated subpoenaed testimony and internal corporate evidence from examination.

It operated as a fraud upon the judicial process.

Petitioner preserved the Rule 162 challenge.

The state court did not adjudicate it.

The federal district court did not adjudicate it.

The Fifth Circuit did not adjudicate it on direct appeal.

Judicial-notice and post-judgment proceedings produced no adjudication.

The Fifth Circuit denied mandamus without requiring adjudication.

The issue was not rejected.

It was never decided.

A losing argument and an undecided argument are not the same thing.

Audi alteram partem requires that the preserved challenge be heard.

Actus curiae neminem gravabit forbids judicial non-adjudication from becoming the source of prejudice.

Ubi jus ibi remedium requires a remedy when every available stage of review has left the controlling issue unanswered.

The sequence is the case.

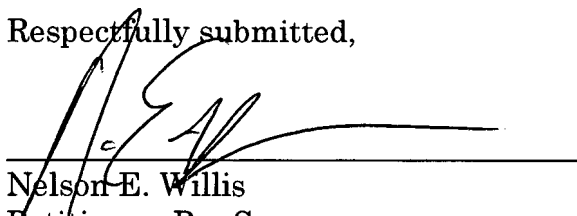
The injury is non-adjudication.

The consequence was the loss of discovery.

The remedy is adjudication.

The petition for a writ of certiorari should be granted. The Fifth Circuit's December 9, 2025 order denying mandamus should be vacated, and the matter should be remanded with instructions requiring adjudication of Petitioner's preserved challenge to the validity and legal effect of the Notice of Nonsuit before that disputed filing is permitted to carry any further dispositive effect.

Respectfully submitted,



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Dated: September 14,, 2026