

Case Summary: *A.A.R.P. v. Trump*, No. 24A1007 (U.S. May 16, 2025)

Written by Margaux Alvarez

Edited by Madeline Leonard & Maclain Conlin

(The views expressed are those of the author and do not necessarily represent the position of the Clemson Law Review or its leadership.)

In April 2025, two Venezuelan nationals who were being detained in the United States filed for emergency relief to stop their imminent removal under the Alien Enemies Act (AEA). They brought their request on their own behalf and on behalf of a proposed class of other detainees in similar situations.¹ President Trump had issued a Proclamation invoking the AEA, which authorized the removal of Venezuelan members believed to be members of Tren de Aragua (TdA), a group that had been classified as a foreign terrorist organization. All alleged TdA members included in the proposed class were held in U.S. immigration detention facilities. According to the applicants, detainees were given removal notices stating they could be deported “tonight or tomorrow,” leaving them without adequate time to file for representation or habeas corpus petitions.² The administration relied on a March 15 executive order that classified Venezuelan nationals aged 14 or older as removable “alien enemies” based on claims that TdA members represented a threat of

¹ *A.A.R.P. v. Trump*, No. 24A1007, slip op. at 1-2 (U.S. May 16, 2025) (“[D]etainees seek injunctive relief against summary removal under the AEA.”); *id.* at 2 (“Evidence now in the record (although not all before us on April 18) suggests that the Government had in fact taken steps on the afternoon of April 18 toward removing detainees under the AEA—including transporting them from their detention facility to an airport and later returning them to the facility.”).

² *A.A.R.P.*, slip op. at 1.

predatory incursions in the United States.³

The detainees first asked the United States District Court for the Northern District of Texas for emergency injunctive relief, requesting that the Court stop their imminent removal under the Alien Enemies Act. Although the District Court received the request, it did not grant immediate relief and did not rule on the renewed emergency motion before the applicants claimed that the Government was preparing to carry out removals. During this period, the applicants argued that the Government was actively transporting detainees to airports for removal, and reports later indicated that some detainees were taken from their detention facilities on April 18.⁴ Reports also indicated that more than 200 noncitizens were transferred to El Salvador on the same day the District Court first addressed the request for relief, highlighting the risk that removals could occur even while legal challenges were in motion. They were taken to El Salvador's Terrorism Confinement Center, a maximum-security prison.⁵ Because the District Court did not issue immediate relief, the applicants then sought relief from the United States

³ Amy Howe, *Justices temporarily bar government from removing Venezuelan men under Alien Enemies Act* SCOTUSblog (May 16, 2025).

<https://www.scotusblog.com/2025/05/supreme-court-again-bars-trump-from-removing-venezuelan-nationals/> ("In his March 15 order, Trump indicated that members of Tren de Aragua were 'perpetrating, attempting, and threatening an invasion or predatory incursion' against the United States. Therefore, he concluded, any Venezuelan citizen in the United States who is 14 years old or older can be 'apprehended, restrained, secured, and removed as' an alien enemy.").

⁴ *A.A.R.P.*, slip op. at 2 ("Evidence now in the record [although not at all before us on April 18] suggests that the Government had in fact taken steps on the afternoon of April 18 toward removing detainees under the AEA – including transporting them from their detention facility to an airport and later returning them to the facility . . .").

⁵ Howe, *supra* note 3 ("News reports indicated that more than 200 noncitizens were taken to El Salvador from the United States on March 15.").

Court of Appeals for the Fifth Circuit.⁶ The Fifth Circuit rejected the appeal based on a lack of jurisdiction, reasoning that because the District Court had not issued a formal injunction, there was no appealable order for the appellate court to review.⁷

The Supreme Court subsequently granted certiorari, vacated the Fifth Circuit’s dismissal, and held that when a district court fails to act during a moment of “extreme emergency,” that inaction may function as a denial of injunctive relief, rendering the matter appealable under 28 U.S.C. § 1292(a)(1).⁸ Applying that principle, the Supreme Court concluded that the District Court’s delay amounted to such a denial because the detainees faced an imminent risk of removal.⁹

The Supreme Court also found that giving detainees only about 24-hours’ notice—without clear information on how to challenge their removal—likely violated due process under long-standing precedent from the *The Japanese Immigrant Case*, 189 U.S. 86 (1903) and *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) cases.¹⁰ These previous cases established an important due

⁶ Before the Fifth Circuit ruled, the Supreme Court “ordered the Government—in light of all these circumstances—‘not to remove any member of the putative class of detainees’ in order to preserve [its] jurisdiction to consider the application.” *A.A.R.P.*, slip op. at 2 (citing *J.G.G. v. Trump*, 604 U. S. ____ (2025)).

⁷ *Id.* at 2 (“The Fifth Circuit dismissed the detainees’ appeal for lack of jurisdiction and denied their motion for injunction pending appeal as premature, on the ground that the detainees ‘gave the [district] court only 42 minutes to act.’”).

⁸ 28 U.S.C. § 1292(a)(1) (2024); *A.A.R.P.*, slip op. at 3 (citing *Carson v. American Brands, Inc.*, 450 U.S. 79, 84 (1981)) (“The Fifth Circuit erred in dismissing the detainees’ appeal for lack of jurisdiction. Appellate courts have jurisdiction to review interlocutory orders that have ‘the practical effect of refusing an injunction.’”).

⁹ *A.A.R.P.*, slip op. at 3 (“Here the District Court’s inaction—not for 42 minutes but for 14 hours and 28 minutes—had the practical effect of refusing an injunction to detainees facing an imminent threat of severe, irreparable harm.”).

¹⁰ *A.A.R.P. v. Trump*, slip op. at (citing *The Japanese Immigrant Case*, 189 U.S. 86, 101 (1903)) (“We have long held that ‘no person shall be’ removed from the United States ‘without opportunity, at some time, to be heard.’”); *also id.* at 4 (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339

process principle: before the government can take any action that deprives a person of liberty, it must provide meaningful notice and a real opportunity to be heard—even in immigration-related proceedings. The Court’s majority emphasized that detainees must have a real chance to contact counsel and file a habeas petition before they are removed from the United States. Because deportation to a foreign government can cause serious and irreversible harm—and because the Government itself suggested that someone who is wrongly deported may not be able to return—the Supreme Court issued a temporary injunction to preserve the status quo while the case continues in the Fifth Circuit.¹¹

Justice Kavanaugh wrote a concurring opinion agreeing that temporary relief was necessary. In his view, the Court needed to act quickly to prevent removals before the courts could determine whether the Alien Enemies Act actually authorized them. He also noted that both sides treated the legal issue as urgent. The Executive Branch argued that this case involved national security concerns, while the detainees mainly emphasized the immediate risk of wrongful removal. Justice Kavanaugh further pointed out that several federal district courts had already reached different conclusions about the President’s authority under the AEA, creating an uncertainty that only the Supreme Court could resolve.¹² Because

U.S. 306, 314 (1950)) (“Due process requires notice that is ‘reasonably calculated, under all the circumstances, to apprise interested parties’ and that ‘afford[s] a reasonable time . . . to make [an] appearance.’”).

¹¹ *Id.* at 4 (“Under these circumstances, notice roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster.”); *id.* at 4 (“The Government has represented elsewhere that it is unable to provide for the return of an individual deported in error to a prison in El Salvador.”).

¹² *A.A.R.P v. Trump*, No. 24A1007, slip op. at 1 (U.S. May 16, 2025) (Kavanaugh, J., dissenting)

of that uncertainty, Justice Kavanaugh explained that he would have preferred for the Court to take the additional step of granting full review right away, ordering expedited briefing and arguments to provide a clear and definitive answer as quickly as possible.¹³

Justice Alito dissented, joined by Justice Thomas. He argued that the Supreme Court should not have intervened. According to his view, the Court lacked jurisdiction because the District Court had not actually denied relief; rather, it had simply needed more time to review the filings.¹⁴ Additionally, Justice Alito pointed out that the available evidence from April 18 did not clearly show that removals were imminent and criticized the applicants' attorneys for demanding that the District Court issue a ruling within a short amount of time.¹⁵ Moreover, he also objected to the Court's decision to extend relief to an entire putative class through a habeas proceeding. He explained that class-wide habeas relief has historically been rare and argued that the named applicants were not appropriate representatives because they were already protected from removal while their own cases were pending.¹⁶ Finally, Justice Alito criticized the Court for effectively granting review

("Several Federal District Courts have already issued conflicting rulings on the underlying legal issues.").

¹³ *Id.* at 2 ("I would grant certiorari, order prompt briefing, hold oral argument soon thereafter, and then resolve the legal issues.").

¹⁴ *A.A.R.P v. Trump*, No. 24A1007, slip op. at 3 (U.S. May 16, 2025) (Alito, J., dissenting) ("[A]s the judge has noted, he 'was working with utmost diligence to resolve [the] important and complicated issues [presented by the motion] as quickly as possible.'").

¹⁵ *Id.* at 5 ("The declarations certainly did not show that action was urgently needed to protect A.A.R.P. or W.M.M.").

¹⁶ *Id.* at 8 ("First, it is doubtful that class relief may be obtained in a habeas proceeding. We have never so held, and it is highly questionable whether it is permitted."); *also id.* at 11 ("Here, however, the main interim relief sought on behalf of the putative class—adequate notice of plans for removal under the AEA and an opportunity to contest such removal in court . . .—is not needed by either A.

before any lower court had ruled on the merits, calling the decision an unnecessary and improper expansion of the Supreme Court's role.¹⁷

A.A.R.P v. Trump (2025) is likely to become a notable case in immigration law, emergency Supreme Court procedure, and habeas corpus practice. The decision reinforces that when the government invokes national-security authority, noncitizens are still entitled to due process rights before removal. Due process includes notice and a meaningful opportunity to seek judicial review. The Court's emphasis on giving detainees enough time and information to file habeas petitions is significant because AEA removals occur outside the usual immigration procedures under the Immigration and Nationality Act (INA). The ruling makes clear that the AEA cannot serve as a bypass around constitutional protections simply because the Government claims urgency or terrorism-related concerns. More broadly, the case raises several procedural questions that are very likely to appear in future litigation. For example, when—if ever—is class-wide habeas relief appropriate? How long can a district court wait before its delay effectively becomes an appealable decision? Under what circumstances can the Supreme Court intervene on its emergency docket in order to protect its ability to review a case?

As the Fifth Circuit now considers what type of notice and process the Constitution requires in this kind of situation, it will need to address questions left

A. R. P. or W. M. M., who already have a pending habeas proceeding and a promise that they will not be removed until that proceeding concludes.”).

¹⁷ *Id.* at 13 (“Granting certiorari before a court of appeals has entered a judgment is a sharp departure from usual practice, but here neither the Court of Appeals nor the District Court has decided any merits questions.”).

open by the Supreme Court's temporary order. In particular, the court will have to determine how much time detainees must be given before removal, and how courts should balance national security concerns with basic due process protections. Ultimately, the Supreme Court's involvement signals that it is closely monitoring expedited removal efforts and is willing to step in and preserve meaningful judicial review—even in fast-moving national security cases.