

CALVINBALL

Yesterday at 7:39PM, the 11th Circuit denied Walt Nauta and Carlos De Oliveira's bid to enjoin the Jack Smith report. But the unsigned order did not tell Aileen Cannon to fuck off. Instead, it invited DOJ to appeal her decision.

ORDER:

Appellees' "Emergency Motion for Injunction with Relief Requested by January 10, 2025" is DENIED.

To the extent that Appellant seeks relief from the district court's January 7, 2025, order temporarily enjoining Appellant, Appellant may file a notice of appeal from that order.

DAVID J. SMITH Clerk of the United States Court of Appeals for the Eleventh Circuit

ENTERED FOR THE COURT – BY DIRECTION

DOJ did appeal; their appeal hit Judge Cannon's docket around 11:04PM.

NOTICE OF APPEAL by USA as to Donald J. Trump, Waltine Nauta, Carlos De Oliveira
Re: 682 Order. Filing fee \$ 605.00.
USA/FPD Filer – No Filing Fee Required.

Just after midnight, DOJ filed a notice of appeal to the existing 11th Circuit docket.

Earlier this evening, January 9, this Court denied defendants' emergency motion to enjoin the Attorney General from publicly releasing any portion of the Final Report of the Special Counsel. The Court further indicated that, "[t]o the extent that Appellant seeks relief from the district court's January 7, 2025, order temporarily enjoining Appellant, Appellant may file a notice of appeal from that order."

We write to notify the Court that the United States has tonight filed a notice of appeal from the district court's order of January 7, 2025. See Dkt 686. As the Court knows, that order temporarily enjoined the Department of Justice, the Attorney General, the Special Counsel, and others from releasing or sharing the Special Counsel's Final Report "outside the Department of Justice" pending this Court's ruling on defendants' emergency motion. Dkt. 682 at 2. The district court specified that this prohibition would "remain[] in effect until three days after" this Court's resolution of defendants' motion in this Court. Id

[snip]

Given the unusual exigencies of this case, as illustrated by the emergency motions practice in both the district court and this Court, the United States respectfully renews its request that this Court promptly vacate the district court's temporary injunction.¹

¹ The government's notice of appeal, filed tonight, squarely invokes this Court's appellate jurisdiction. As soon as the new appeal is docketed in this Court, the United States intends to move to have that appeal consolidated with this one. To the extent there is any doubt concerning the Court's authority to review the temporary injunction, furthermore, we respectfully request that the Court construe our appeal as a petition for a writ of mandamus. See *Suarez-Valdez v. Shearson Leahman/American Express, Inc.*, 858 F.2d 648, 649 (11th Cir. 1988) (holding that appeal can be construed as a petition for mandamus if the Court harbors doubts as to its appellate jurisdiction).

They renewed their request to tell Cannon to fuck off, and asked them to treat this as a writ of mandamus in the meantime.

Because the 11th Circuit order is unsigned, it's really difficult to understand what whatever judges involved intend by this muddle – besides giving Nauta and De Oliveira a shot at appealing to SCOTUS on the very narrowed question before the 11th Circuit: whether they can prohibit Merrick Garland from doing *anything* given it will cause them no harm.

By inviting DOJ to appeal, they have squarely invoked the 11th Circuit's appellate jurisdiction, meaning Cannon should be barred from meddling any more (not like that ever stopped her).

And if SCOTUS does nothing before 7:39PM on Sunday, then Garland can do what he says he wants: release the January 6 report and share the documents report with the Chairs and Ranking members of the Judiciary Committees.

But if DOJ files their appeal, then the 11th Circuit can weigh in on Cannon's far more expansive demands.

There are at least hints here that DOJ is going to take steps to share the reports one way or another.

Until then, we're waiting to learn how this game of Calvinball will turn out.

Update: Here's DOJ's motion to reverse Aileen Cannon.