No. 25-10830

United States Court of Appeals for the Fifth Circuit

TONY MCDONALD,

Plaintiff-Appellant,

v.

FEDERAL ELECTION COMMISSION,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas, Fort Worth Division
(Dist. Ct. No. 4:25-CV-153-P)

APPELLANT'S PETITION FOR REHEARING *EN BANC*

Charles Miller
INSTITUTE FOR FREE SPEECH
1150 Connecticut Ave., NW, Suite 801
Washington, D.C. 20036
Tel: (202) 301-9800
Fax: (202) 301-3399
cmiller@ifs.org

Counsel for Plaintiff-Appellant
Tony McDonald

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

PLAINTIFF-PETITIONER	COUNSEL FOR PETITIONER
Tony McDonald	Charles Miller INSTITUTE FOR FREE SPEECH 1150 Connecticut Ave., NW Suite 801 Washington, D.C. 20036 Warren V. Norred, P.E. NORRED LAW, PLLC 515 East Border Street Arlington, Texas 76010 Courtney Corbello (prior counsel)

The Defendant-Appellee is the Federal Government. The rule does not require any further certification regarding it or its attorneys.

Respectfully Submitted,

/s/ *Charles Miller*
Charles Miller
Record Counsel for Plaintiff-Appellant

RULE 40(B)(2) STATEMENT

The panel opinion conflicts with *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595 (2021) by failing to recognize Plaintiff Tony McDonald's First Amendment injuries, specifically: (1) the injury caused by the mandated disclosure of McDonald's campaign contributions to the Federal Elections Commission (FEC) and the FEC's public disclosure of the same; (2) the FEC's maintenance of McDonald's information in a public database, which injures McDonald each time that information is revealed to a new person; and, (3) the disclosure regime's ongoing chilling McDonald from making additional donations.

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STATEMENT OF ISSUE MERITING EN BANC RECONSIDERATION

Whether the chilling effect of the government mandating disclosure of private donor information constitutes a cognizable First Amendment injury.

STATEMENT OF THE COURSE OF PROCEEDINGS AND DISPOSITION

Tony McDonald filed this lawsuit in the U.S. District Court for the Northern District of Texas, Ft. Worth Division, on February 18, 2025, challenging the constitutionality of 52 U.S.C. § 30116(a)(8). ROA 6-13. The FEC moved to dismiss the case on April 22, 2025. ROA 80. The district court granted the motion on July 9, 2025. ROA at 146-151.

The District Court reasoned:

> McDonald argues that the disclosure of his past contributions is sufficient. Based on these pleadings, McDonald must show a concrete injury in fact just like any other plaintiff.
>
> ...
>
> The "disclosure of donor information" is not a "constitutional injury in and of itself."

ROA 149-150.

McDonald appealed on July 14, 2025. ROA 153. A panel of this court affirmed the dismissal in an unpublished opinion on March 2, 2026. Doc 65-1.

STATEMENT OF PERTINENT FACTS

A. The Regulatory Regime

Campaign committees maintained by candidates for federal office must report to the FEC the identity of "each [] person (other than a political committee)" whose contributions exceed $200 within the calendar year," together with the date and amount of any such contribution[.]" 52 U.S.C. § 30104(b)(3).

However, conduit committees—committees that aggregate contributions from various donors and then pass them on to campaign committees—must report the identities of all donors whose contributions they pass through to campaigns, regardless of how small those donations may be. 52 U.S.C. § 30116(a)(8).

B. Tony McDonald

Tony McDonald donated $50 to support a federal candidate on June 30, 2023. ROA 12. McDonald chose to give less than $200, in part, so that his donation would remain anonymous. *Id*. However, unbeknownst to McDonald, at the time of his donation his chosen recipient routed donations through a conduit PAC used by many Republican

candidates—WinRed. *Id*. As a result, McDonald was publicly reported to the FEC as having contributed via a superPAC. *Id*.

Additionally, McDonald sometimes donates to candidates for reasons other than his support for their candidacy. *Id*. For example, McDonald has donated, and will donate in the future, simply to assist a candidate to qualify for a debate, or because the candidate offered donation incentives. ROA at 13. These types of donations do not indicate personal support for the candidate, yet disclosure of the donation would imply, and is required so that it may imply, such support. *Id*. Plaintiff does not want to justify such contributions, or have his support presumed because of these small donations. *Id*.

Specifically, McDonald donated $1 to Marianne Williamson for President on June 27, 2019, to help her qualify for Democratic debates, even though he did not support her candidacy. *Id*. This donation was processed through ActBlue, a conduit platform used by many Democratic candidates. *Id*. Unbeknownst to McDonald, his donation was reported as a donation to ActBlue, earmarked for Williamson. *Id*.

McDonald made a similar $1 donation to a Republican presidential contender in the 2024 cycle. *Id*. However, apparently because either

that candidate did not use a conduit, or the conduit failed to report the donation, the 2024 donation was not reported at all. *Id.*

McDonald is concerned that if information about his donations remain on the FEC website, his future political activities will be impacted, thus he has reduced his giving. *Id.* Due to his involvement in party politics, McDonald has various reasons for wanting to keep his small dollar donations private. *Id.* Some of McDonald's donations will be made to candidates in contested primaries, including in Texas where he lives and works. *Id.* McDonald is General Counsel for the Tarrant County Republican Party. *Id.* He would not want his personal support for a candidate to imply that the Tarrant County Republican Party as an institution supports any candidate to which he donates. *Id.*

If McDonald's small donations were revealed, he fears repercussions for himself and the Tarrant County Republican Party, in the form of demands for similar donations from other candidates, confusion over the Tarrant County Republican Party's stance in primary races, and misunderstandings regarding the intent and implications of McDonald's donations. ROA 14. McDonald wants to make additional small dollar donations but is afraid to do so because such donations might be

disclosed simply based upon the manner in which candidates processes donations. *Id*. Thus, McDonald is chilled in his ability to express his political views through donations to his chosen political candidates. *Id*. McDonald is forced to choose between freely voicing support for candidates and policies through monetary donations and maintaining his privacy. *Id*.

ARGUMENT AND AUTHORITIES

Plaintiff Tony McDonald is a small-dollar campaign donor who alleges that a federal statute that requires disclosure of small-dollar donors who give through a conduit (but not those who give directly) is unconstitutional. The speech and associational rights at issue here are at the core of the First Amendment, meriting *en banc* review.

The unpublished panel opinion erred by concluding that a plaintiff must allege an "economic, physical, [or] other concrete harm" to have standing. Op. at 4. Rather, in this First Amendment case, an allegation that Plaintiff's right to associate with others to engage in political speech has been or will be infringed or chilled affords standing to sue. *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462-463 (1958).

In its most recent donor privacy case, the Supreme Court found standing where "[t]he petitioners alleged that disclosure of their Schedule Bs (to the California Attorney General) would make their donors less likely to contribute and would subject them to the risk of reprisals." *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 603 (2021) ("*AFPF*"). Beyond the disclosure to the government providing standing, the Court found a "reasonably justified fear of [public] disclosure" also afforded standing. *Id.* at 605. In donor disclosure cases, injury (and thus standing) exists because "the deterrent effect on the exercise of First Amendment rights arises as an inevitable result of the government's conduct in requiring disclosure." *Id.* at 607 (cleaned up). As the Supreme Court said 50 years ago, "compelled disclosure imposes" a "significant encroachments on First Amendment rights." *Buckley v. Valeo*, 424 U.S. 1, 64 (1976). In other words, mandated disclosure itself constitutes a First Amendment injury.

AFPF, the seminal donor privacy case, is of recent ventage. Yet, the panel relegated its discussion of *AFPF* to a footnote. Op. at n.1. The panel claimed *AFPF* merely assumed standing existed in donor privacy cases without so deciding. *Id.* This is an unfair reading of *AFPF*, and

ignores the seriousness with which the Supreme Court takes standing in all First Amendment cases. *See, e.g., Murthy v. Missouri*, 603 U.S. 43 (2024).

Standing exists in donor disclosure cases based on the "possible deterrent effect of disclosure." *AFPF*, 594 U.S., at 616. "The disclosure requirement creates an unnecessary risk of chilling in violation of the First Amendment, indiscriminately sweeping up the information of every [ ] donor with reason to remain anonymous." *Id*. at 616-617. "The deterrent effect" of disclosure "is real and pervasive." *Id*. at 617. "When it comes to the freedom of association, the protections of the First Amendment are triggered not only by actual restrictions on an individual's ability to join with others to further shared goals. The risk of a chilling effect on association is enough." *Id*. at 618.

Here, McDonald alleged that he is harmed by the past disclosure of his small-dollar donations, the likelihood for additional disclosure of his past donations, and the chilling effect of the potential disclosure of future donations to his donor activity. These allegations more than adequately afford standing.

The panel's dismissal of *AFPF* as not being a standing case—and thus refusal to follow it—doesn't withstand review. If "[t]he risk of a chilling effect on association is enough," to prevail on a claim, *id.* at 618, it must also be enough to state a claim.

This syllogism is emphasized by the *AFPF* dissent spending the bulk of its writing discussing the standing implications of the decision. "Today, the Court holds that reporting and disclosure requirements must be narrowly tailored even if a plaintiff demonstrates no burden at all." *Id.* at 623 (Sotomayer, J., dissenting). "The Court discards its decades-long requirement that, to establish a cognizable burden on their associational rights, plaintiffs must plead and prove that disclosure will likely expose them to objective harms, such as threats, harassment, or reprisals." *Id.* "Today, the Court abandons the requirement that plaintiffs demonstrate that they are chilled, much less that they are reasonably chilled. Instead, it presumes … that all disclosure requirements impose associational burdens." *Id.* at 629. "[A] subjective preference for privacy, which previously did not confer standing, now subjects disclosure requirements to close scrutiny." *Id.* "[T]he Court jettisons completely the longstanding requirement that

plaintiffs demonstrate an actual First Amendment burden before the Court will subject government action to close scrutiny." *Id.* at 646.

Based upon the holding and reasoning of *AFPF*, and the *AFPF* dissent's focus on the standing doctrine the majority employed, it is safe to say that *AFPF* is a standing case. The panel broke from Supreme Court precedent in refusing to apply *AFPF* here.

Nor is *AFPF* the only Supreme Court case to recognize that the liberty interest lost through disclosure constitute an actionable injury. *See, e.g., Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 91 (1982) ("[t]he Constitution protects against the compelled disclosure of political associations and beliefs"); *NAACP v. Alabama,* 357 U.S., at 462 ("Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association"); *Talley v. California*, 362 U. S. 60, 65 (1960) ("identification and fear of reprisal might deter perfectly peaceful discussions of public matters of importance"). Because disclosure is the injury, *AFPF* confers standing in donor disclosure cases.

Post *AFPF,* a panel of this court recognized in the context of a donor disclosure discovery dispute, "[appellant] and its donors would bear a

heavy burden if [appellant] had to release this information. It could enable others to harass or intimidate [appellant] or its donors." *X Corp. v. Media Matters for Am.*, 120 F.4th 190, 199 (5th Cir. 2024). *X Corp.* had no difficulty in recognizing the injury of disclosure. The "inevitable" deterrent effect of disclosure on associational rights and political speech, recognized in *AFPF*, affords standing to those whose information has been, or may be, subject to disclosure.

The panel opinion attempted to distinguish *AFPF* from this case because AFPF decided only the facial claim, not the as-applied claim the plaintiffs brought. This distinction makes no difference. In fact, as-applied standing is at least as forgiving as in a more-demanding facial claim. *Doe v. Reed*, 561 U.S. 186, 204 (2010) (Alito, J., concurring) ("From its inception, therefore, the as-applied exemption has not imposed onerous burdens of proof on speakers who fear that disclosure might lead to harassment or intimidation."). The chilling effect of disclosure is what matters and is evident. When donor "information is posted on the Internet," as the FEC does here, "anyone with access to a computer could compile a wealth of information about all of those

persons …. The potential that such information could be used for harassment is vast." *Id.* at 208.

This court has previously recognized that "[c]hilling a plaintiff's speech is a constitutional harm adequate to satisfy the injury-in-fact requirement." *Hou. Chron. Publ'g Co. v. City of League City*, 488 F.3d 613, 618 (5th Cir. 2007); *see also*, *Nat'l Rifle Ass'n of Am. v. Magaw,* 132 F.3d 272, 279 (6th Cir. 1997) (holding that an injury sufficient to maintain an action for declaratory relief exists "when a statute … chills protected First Amendment activity… .") (cleaned up). This same standard should be applied here.

The panel opinion also reasoned that *AFPF* did not apply to McDonald because he is not the regulated party. Op. at 5-6. However, as the donor, it is McDonald whose information is subject to disclosure under the regulation. "Where a plaintiff is himself an object of the [law] at issue[,] there is ordinarily little question that the [law] has caused him injury… ." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561-62 (1992). Contributions by "a person" are required to be reported to the FEC. 52 U.S.C. § 30116(a)(8). As such, the donor is an "indirect object" of the reporting requirement because the donor's information is being

reported. Being the "indirect object" of a statute "is enough to establish traceability." *Young Conservatives of Tex. Found. v. Smatresk,* 73 F.4th 304, 310 (5th Cir. 2023).

The donor is the person most concerned with the disclosure of his donation. "It would be perverse indeed to hold that the very object of the law[] … could not challenge the [mandate]." *Roman v. Cessna Aircraft Co.*, 55 F.3d 542, 544 (10th Cir. 1995).

The panel opinion wrongly concluded that McDonald cannot bring this claim because "an immediately impending chill" was not alleged. Op at 6. However, this court has found a statement of "inten[t] to engage in the political process and in activities prohibited under Texas election law soon" to be sufficient to obtain standing just last year. *Inst. for Free Speech v. Johnson*, 148 F.4th 318, 332 (5th Cir. 2025). Here, McDonald stated an intent to engage in political giving subject to disclosure under federal law soon. That suffices for standing for a claim of chill of future activities. McDonald also requested the district court order the removal of his past contributions from the FEC database, which the panel did not address.

The panel opinion attempted to avoid applying the standing rules of *AFPF* by erroneously stating that *AFPF* does not impact standing analysis, and by noting insignificant distinctions between the two cases. AFPF held that unwarranted disclosure is a First Amendment injury that chills speech. Through its enforcement of federal law, the Defendant FEC has required the disclosure of McDonald's past small-dollar conduit donations. It maintains records of those past donations, his name, employment and address on its website for anyone to locate. The FEC will continue to require the disclose of McDonald's intended future small-dollar conduit donations to it and post those on its website too. As such, McDonald is both harmed by the past disclosures and ongoing website posting, and is chilled from making similar donations going forward.

McDonald has standing to pursue his claim. The panel's conclusion otherwise conflicts with *Americans for Prosperity Foundation v. Bonta.* McDonald's claim goes to the foundation of our republic—the ability to freely associate to participate in the electoral process by donating to federal candidates. As such, this matter merits reconsideration *en banc*.

CONCLUSION

For the reasons stated above, Tony McDonald respectfully requests the *en banc* court reconsider this appeal.

Dated: April 16, 2026

Respectfully submitted,

/s/ *Charles Miller*

Charles Miller
INSTITUTE FOR FREE SPEECH
1150 Connecticut Ave., NW, Suite 801
Washington, D.C. 20036
Tel: (202) 301-9800
Fax: (202) 301-3399
cmiller@ifs.org

Counsel for Plaintiff-Appellant

CERTIFICATE OF TYPE-VOLUME LIMIT, AND
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I hereby certify on this 16th day of April, 2026 that:

1. This document complies with the length limit of Fed. R. App. P. 40(d)(3), because the brief is contains 2,557 words.
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/s/ *Charles Miller*
Charles M. Miller

United States Court of Appeals for the Fifth Circuit

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Fifth Circuit
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No. 25-10830

TONY MCDONALD,

Plaintiff—Appellant,

versus

FEDERAL ELECTION COMMISSION,

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CV-153

Before CLEMENT, DOUGLAS, and RAMIREZ, *Circuit Judges*.

PER CURIAM:[*]

Appellant Tony McDonald appeals the district court's order granting Appellee Federal Election Commission (FEC)'s motion to dismiss without prejudice for lack of subject matter jurisdiction. We AFFIRM.

I

McDonald contributed $1 to Marianne Williamson's presidential campaign in June 2019. This contribution was processed through ActBlue.

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

As is required by 52 U.S.C. § 30116(a)(8), which governs the disclosure of contributions made through conduit platforms, the contribution was disclosed to the FEC. In June 2023, McDonald made another contribution of $50 to an unnamed federal candidate. McDonald allegedly limited his contribution to under $200 in part because he believed it would remain anonymous. Unknown to McDonald, this contribution was also routed through a conduit, so it was also publicly reported to the FEC.

McDonald sued the FEC in the Northern District of Texas on February 18, 2025. He claimed that 52 U.S.C. § 30116(a)(8)'s requirement that conduit platforms report all donations to the FEC is unconstitutional under the First Amendment as applied to donations of up to $200, because it burdens donors' rights of association and political speech. He contrasted this requirement with 52 U.S.C. § 30104(b)(3)(A)'s limited disclosure requirement for contributions made directly to political committees, which applies only to persons making contributions worth more than $200 per calendar year or election cycle. McDonald requested declaratory and injunctive relief removing his past small-dollar donations from the FEC's public reports and permanently enjoining the FEC from requiring his donations to conduit platforms of $200 or less to be disclosed.

The FEC moved to dismiss McDonald's complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). The district court granted the FEC's motion without prejudice on the grounds that McDonald had not alleged an Article III injury and thus did not have standing to pursue his claim. The district court did not go beyond injury in fact, the first prong of the standing analysis, because it determined that the public disclosure of donor information is not in itself a cognizable injury, and that McDonald had alleged no separate injury downstream from that disclosure.

II

"We review *de novo* the dismissal for lack of subject matter jurisdiction." *Umphress v. Hall*, 133 F.4th 455, 462 (5th Cir. 2025) (per curiam). "The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction," but we "must accept as true the complaint's factual allegations." *Id.* (citation modified).

III

To establish standing, a plaintiff "must demonstrate that he has suffered (1) an injury in fact, (2) that is fairly traceable to the Defendant['s] actions, (3) that is likely to be redressed by a favorable outcome." *Abdullah v. Paxton*, 65 F.4th 204, 208 (5th Cir. 2023) (per curiam) (citation modified). To satisfy the injury-in-fact requirement, a plaintiff "must plead that he has sustained or is immediately in danger of sustaining some direct injury." *Id.* (citation modified). "That injury needs to be concrete and particularized, as well as actual or imminent," and, "importantly, it cannot be speculative, conjectural, or hypothetical," so "allegations of only a possible future injury . . . will not suffice." *Id.* (citation modified).

On appeal, McDonald argues that the district court erred in holding that he had suffered no injury (1) because anonymous speakers suffer an injury in fact when the government violates their right to remain unknown, and (2) because laws requiring donor disclosure chill speech and association, which is itself an injury. In response, the FEC argues that McDonald's anonymous speaker-based cases deal with harms from disclosures that predictably generate some other, more concrete harm such as threats or harassment, and that the chilled-speech line of cases only applies to pre-enforcement challenges where plaintiffs allege the imminent enforcement of a challenged law against them. We agree with the FEC.

First, McDonald points to no case where the disclosure of donor information without more was held to amount to a cognizable Article III injury. In *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), for instance, the Supreme Court treated a court order compelling disclosure of names and addresses of the NAACP's Alabama membership as inflicting a concrete harm, but noted that the NAACP had "made an uncontroverted showing that on past occasions revelation of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility." *NAACP*, 357 U.S. at 462. "*Under these circumstances*," the Court concluded, "it [is] apparent that compelled disclosure of [the NAACP's] Alabama membership is *likely to affect adversely the ability of petitioner and its members to pursue their collective effort to foster beliefs which they admittedly have the right to advocate*, in that it may induce members to withdraw from the Association and dissuade others from joining it because of fear . . . ." *Id.* at 462–63 (emphasis added); *see also Citizens United v. Federal Election Comm'n*, 558 U.S. 310, 367, 370 (2010) (stating that as-applied challenges to disclosure requirements may be brought based on a reasonable probability of threats, harassment, or reprisals, and distinguishing where no such threats were shown). Far from alleging past or impending economic, physical, and other concrete harm, McDonald's complaint only speculates that 52 U.S.C. § 30116(a)(8)'s disclosure requirement may "adversely impact [his] political activities, including his future giving," and that, as General Counsel for the Tarrant County Republican Party, he "would not want his personal support for a candidate to imply that the Tarrant County Republican Party as an institution supports the candidate."[1] This kind of speculative, "some day"

[1] The Supreme Court's assumption that the plaintiff organizations in *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595 (2021), had standing does not compel the opposite conclusion. In that case, the plaintiffs challenged the required disclosure of their major

harm, "without any description of concrete plans, or indeed even any specification of *when* the some day will be," does not satisfy the imminent concrete injury requirement, and McDonald alleges no past harm beyond disclosure. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 564 (1992).

Second, McDonald's attempt to invoke the chilled speech line of First Amendment standing cases is unavailing. Our chilled speech cases are best understood as an exception to the ordinary way standing works: because First Amendment rights require "breathing space" to survive, courts "relax[]" standing requirements somewhat in certain First Amendment cases. *United States v. Jubert*, 139 F.4th 484, 493 (5th Cir. 2025) (quoting *Broadrick v.*

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donors to the state, and "introduced evidence that they and their supporters ha[d] been subjected to bomb threats, protests, stalking, and physical violence." *Americans for Prosperity*, 594 U.S. at 617; *see also X Corp. v. Media Matters for Am.*, 120 F.4th 190, 198–99 (5th Cir. 2024) (staying discovery order compelling disclosure of defendant's donors on grounds that it was unnecessary and "could enable others to harass or intimidate" the defendant or its donors in part based on potential for First Amendment harm, but declining to reach First Amendment issues). *Americans for Prosperity* does state that facial challenges to disclosure requirements do not require a "demanding showing" of potential harassment or reprisal prior to a showing that the challenged law is narrowly tailored to an important government interest, but McDonald does not bring a facial challenge based on an immediately impending chill of the kind at issue in that case—there, the plaintiffs had already taken the precise action triggering the challenged disclosure requirement, but declined to disclose due to the alleged chill. 594 U.S. at 617, 620. Instead, he states generally that he "wants to make additional small dollar donations in the future" but "fears repercussions" like "demands for similar donations from other candidates" or "confusion over the Tarrant County Republican Party's stance in primary races." Moreover, unlike the plaintiffs in *Americans for Prosperity*, McDonald does not challenge a law that directly requires *him* to disclose anything; rather, he challenges the requirement that the conduit platforms disclose information about him to the FEC, when he is free to make direct campaign contributions without triggering the disclosure requirement. Thus, McDonald is at two removes from *Americans for Prosperity*. In sum, *Americans for Prosperity* is not about any alleged harm from a prior disclosure, and, without discussing standing, only addresses a challenge based on particular required disclosures that were at the time "certainly impending," not merely a "product of . . . fear." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 417 (2013).

Oklahoma, 413 U.S. 601, 611 (1973)); *see also Book People, Inc. v. Wong*, 91 F.4th 318, 329–31 (5th Cir. 2024) (finding that the injury-in-fact requirement was satisfied where law prohibited plaintiff bookstores from selling books to public schools without engaging in compelled speech). But we have never held that they may be so relaxed as to permit a challenge to a law that does not even arguably proscribe any conduct of the plaintiff, and McDonald points us to no case where another court has done so. *See Speech First, Inc. v. Fenves*, 979 F.3d 319, 332 (5th Cir. 2020) ("[Plaintiff] must clearly show a likelihood that its . . . constitutionally protected speech is arguably proscribed, or at least arguably regulated, by the . . . [challenged] policies."); *Book People*, 91 F.4th at 330–31 (emphasizing that challenged law restricted plaintiffs' own conduct, and indirect enforcement resulted in predictable coercion); *Jubert*, 139 F.4th at 492–93 (discussing the "oddity" of facial overbreadth challenges based on the potential First Amendment harm to another).

The general rule is that "[a] threatened future injury must be 'certainly impending' to constitute an injury in fact, and a 'theory of standing[ ] which relies on a highly attenuated chain of possibilities[ ] does not satisfy the [certainly-impending] requirement.'" *Louisiana v. Haaland*, 86 F.4th 663, 666 (5th Cir. 2023) (alterations in original) (quoting *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 410 (2013)). McDonald's speculation about what he might do in response to the possibility of future disclosures, and what someone else might think based on such unspecified hypothetical disclosures, is a "subjective" chill of the kind that we have consistently excluded from this exceptional form of standing. *Texas State LULAC v. Elfant*, 52 F.4th 248, 256 (5th Cir. 2022); *see also Pool v. City of Houston*, 978 F.3d 307, 311 (5th Cir. 2020) ("Not just anyone has standing to bring such a [First Amendment chill-based] suit. Plaintiffs . . . must show that they are

seriously interested in disobeying, and the defendant seriously intent on enforcing, the challenged measure." (citation modified)).

IV

The district court's judgment is AFFIRMED.