

As families search for “disappeared” detainees, Appeals Court judge says Venezuelan migrants treated worse than Nazi agents were

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Venezuelan immigrants are desperately searching for information about family members, who have been detained and “disappeared” by Immigration and Customs Enforcement (ICE), amid reports that ICE has removed numerous detainees from its deportation database.

According to a report in the *Washington Post*, which interviewed Venezuelan immigrants in Texas, ICE’s online detainee locator—once used to identify where detained individuals were being held—now simply returns the message: “Your search has returned zero (0) matching records.”

Family members fear their relatives were placed on March 15 flights to El Salvador and are now being held in a Salvadoran prison notorious for violence, torture and murder. ICE has, however, refused to confirm their whereabouts. When the wife of one detainee visited the ICE office in Dallas to seek information, she was threatened with arrest.

White House Press Secretary Karoline Leavitt claimed the Trump administration is withholding the names of those deported to El Salvador “because of privacy concerns at this time”—a cynical and absurd assertion, given that Trump has publicly vilified the deported Venezuelans as gang members, murderers and rapists.

The real purpose of the silence is both cruelty and concealment. Trump and his fascist advisers like Stephen Miller and Tom Homan are deliberately tormenting families with uncertainty, while keeping detainees’ locations secret in order to hinder legal efforts to challenge the illegal deportations in court.

Monday’s *Post* report came amid a series of legal and policy developments surrounding the Venezuelan deportations—the first time a US president has invoked the 1798 Alien Enemies Act during peacetime. Those targeted have been given no opportunity for due process or to

challenge their designation as “enemy aliens.”

On Monday afternoon, a three-judge panel of the US Court of Appeals for the D.C. Circuit heard arguments from the Justice Department and attorneys for the Venezuelan migrants over the Trump administration’s emergency motion to overturn a temporary restraining order issued by District Court Judge James Boasberg on March 15.

Judge Boasberg barred the administration from deporting Venezuelans accused of belonging to the Tren de Aragua gang until they were granted a judicial hearing. He explicitly ordered that any planes already in transit with deportees be turned around and returned to the United States. The Trump administration refused to comply, appealed the order and disingenuously claimed it was not defying the court.

At least one of the three appellate judges expressed strong opposition to the administration’s conduct. Citing the treatment of alleged Nazis arrested inside the United States during World War II, Judge Patricia Millett said, “Nazis got better treatment under the Alien Enemies Act” than the Venezuelans.

She pointed out that there were formal hearings and published regulations governing the treatment of the alleged Nazi detainees. In contrast, she said, for the Venezuelans:

There were planeloads of people. There were no procedures in place to notify people.

She continued:

There’s no regulations, and nothing was adopted by the agency officials that were administering this. The people weren’t given notice. They weren’t told

where they were going. They ... had no opportunity to file habeas or any type of action to challenge the removal under the AEA.

Assistant Attorney General Drew Ensign compared Boasberg's restraining order to a judge directing a carrier group from the South China Sea to the Persian Gulf, but Judge Millett, appointed by Democrat Barack Obama, rejected the comparison. She said:

Asserting a power to do that is not ordering ships to relocate in foreign waters, right? That is a straight up judicial process that's allowed by the Supreme Court and Circuit precedent.

When Ensign persisted, saying, "I think the intrusion upon the War Powers and foreign policy powers of the president is utterly unprecedented," Millett replied:

Well, this is an unprecedented action as well. So of course, there's no precedent for it, because no president has ever used this statute this way, which isn't to say one way or the other if it can be done, but simply to say we are in unprecedented territory.

Despite the Trump administration's frenzied claims that Boasberg was attempting to usurp the president's powers as commander-in-chief, there is ample precedent for judicial review of presidential military actions. As recently as the George W. Bush administration, the White House accepted court oversight of its detention of prisoners at the CIA torture facility in Guantanamo Bay during the "war on terror."

The three-judge panel—comprised of Trump appointee Justin Walker, George H. W. Bush appointee Karen Henderson and Millett—said it would issue a ruling on the Trump administration's appeal within several days.

In the meantime, Judge Boasberg handed down Monday a further ruling that five named plaintiffs represented by the ACLU and other immigrant rights' groups were likely to prevail in their demand that "before they may be deported, they are entitled to individualized hearings to determine whether the Act applies to them at all."

He said it was not necessary for him to rule on whether the Alien Enemies Act had been properly invoked, since the due process claim took priority. The plaintiffs faced irreparable

harm from their removal to a Salvadorean prison where they face "torture, beatings, and even death."

"Because the named Plaintiffs dispute that they are members of Tren de Aragua, they may not be deported until a court has been able to decide the merits of their challenge," he wrote. The Alien Enemies Act, he said, "arguably envisions that those caught up in its web must be given the opportunity to seek such review."

The flimsiness of the factual assertions of the Trump administration were demonstrated when the ACLU reported that of the more 200 prisoners sent to El Salvador as alleged Venezuelan gang members, eight were actually women, contrary to US government claims that all the prisoners were men. Salvadoran officials refused to accept the women and sent them back to the US.

In a further broadening of the anti-immigrant campaign, the Department of Homeland Security announced March 21 that Trump was ending a program under which some 531,000 immigrants from Cuba, Haiti, Nicaragua and Venezuela had temporary approval to enter the United States and receive work permits valid for two years. More than 80 percent of those migrants were living in Florida, according to ICE records.

The program, dubbed CHNV after the initials of the four countries, was established in October 2022 by the Biden administration, in an effort to appeal to anti-communist sentiment in the Cuban, Nicaraguan and Venezuelan exile communities in Florida, while including some Haitians, victims of natural disasters and gang violence, as well. According to published reports, by the end of 2024, 531,690 people had come through the program, including 110,240 Cubans, 211,040 Haitians, 93,070 Nicaraguans and 117,330 Venezuelans.

This is separate from the termination of Temporary Protected Status for 250,000 Venezuelans, set to end April 2, and for 500,000 Haitians, set to end in August, based on decisions issued by DHS Secretary Kristi Noem.



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