

# In federal court, Trump administration refuses to return or acknowledge existence of Abrego Garcia

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Following a Supreme Court ruling on Thursday, the Trump administration has steadfastly refused to return—or even acknowledge the whereabouts of—Kilmar Abrego Garcia, a 29-year-old Maryland resident. He is one of more than 260 men who were kidnapped by the US immigration Gestapo and deported to El Salvador's Terrorism Confinement Center (CECOT) under the Alien Enemies Act.

In a court filing on Friday—submitted after flouting multiple deadlines—Justice Department attorneys appeared before Judge Paula Xinis of the US District Court for the District of Maryland. Justice Department attorney Paul Ensign showed open contempt for the court, refusing to provide any information on the whereabouts of Abrego Garcia, whom the government admits was deported to El Salvador “by mistake,” or what steps, if any, were being taken to secure his return to the United States.

In response to multiple questions from the bench—such as “Where is he?” “What have the defendants done to facilitate Mr. Abrego Garcia’s return?” and “Have they done anything?”—Ensign replied, “We don’t have that information.” Judge Xinis concluded the hearing by ordering the administration to provide daily updates on whether it is taking any action to comply with her orders.

The Trump administration’s treatment of Abrego Garcia is a central component of its efforts to establish a presidential dictatorship.

Abrego Garcia fled El Salvador at the age of 14 and sought asylum in the United States, citing the threat of gang violence. Long a Maryland resident, he is married to a US citizen and has three children. In a 2019 court hearing, an immigration judge ruled that Abrego Garcia could not be deported to El Salvador due to credible threats from local gangs.

One month ago, on March 12, after finishing a day of work, Abrego Garcia was abducted by Immigration and Customs Enforcement (ICE) agents while picking up his five-year-old son from his grandmother’s house. The agents told

his wife that she had 10 minutes to retrieve their son, or he would be turned over to child protective services.

Three days later he was transported to El Salvador on the basis of Trump’s invocation of the Alien Enemies Act.

The Alien Enemies Act grants the president virtually unchecked power to detain and deport individuals without due process. Before Trump invoked the law last month, it had only been used during actual wars—the War of 1812 and the First and Second World Wars. During World War II, more than 120,000 Japanese Americans were kidnapped and imprisoned in remote, Army-operated detention camps.

In invoking the Alien Enemies Act last month, Trump claimed the US was being “invaded” by two gangs: MS-13 and Tren de Aragua, a Venezuelan organization with virtually no presence in the United States and fewer than 10,000 members worldwide. Following the declaration, the Trump administration immediately began deporting alleged “gang” members to CECOT without due process. It has been widely reported that the administration is paying its fascist client government in El Salvador \$6 million to keep the men imprisoned.

On March 15, as ICE-operated planes carrying their human cargo were en route to El Salvador, Judge James Boasberg of the US District Court for the District of Columbia ordered the deportation flights to be turned around. The Trump administration ignored the order and all the men were flown to the Salvadoran gulag, where they have remained imprisoned and incommunicado.

On April 4, Judge Xinis ordered the Trump administration to “facilitate and effectuate the return of Abrego Garcia to the United States” by no later than 11:59 p.m. on April 7. The ruling followed a hearing that same day in which Justice Department attorney Erez Reuveni admitted the government had made an “administrative error” in deporting Abrego Garcia, stating:

The facts are conceded, plaintiff Abrego Garcia should not have been removed.

Following the hearing, Trump's Attorney General Pam Bondi placed Reuveni on indefinite paid leave, citing his failure to "zealously advocate on behalf of the United States."

After Judge Xinis's ruling, the Trump administration made no effort to "facilitate and effectuate" Abrego Garcia's return to the United States. Instead, it immediately appealed the case to the Supreme Court, and on April 7, Chief Justice John Roberts issued an administrative stay temporarily blocking Judge Xinis's directive.

On April 10, the US Supreme Court issued a unanimous decision ordering the Trump administration to "facilitate" Abrego Garcia's return to the United States, but it removed any time requirement for when this should occur. In a further gift to Trump and his budding dictatorship, the unsigned decision questioned the clarity of the term "effectuate" and instructed Judge Xinis to "clarify [her] directive, with due regard for the deference owed to the Executive Branch in the conduct of foreign affairs."

In hearings concerning Abrego Garcia and others deported to El Salvador under the Alien Enemies Act, the US government has claimed it cannot secure their return because El Salvador lies outside US jurisdiction.

Legally, the term "facilitate" means the government must take good faith steps to bring about a result, but it is not necessarily held responsible if forces outside its control prevent success. In contrast, "effectuate" implies a requirement to complete the action, and the government could be held in contempt if it fails to do so.

The United States is not at "war" with El Salvador. On the contrary, it has entered into a contract to transform the country into a larger version of the Guantanamo Bay torture complex—a legal "black hole" where the US government can disappear anyone it wants without trial or due process. "Effectuating" the return of Abrego Garcia would have no negative impact on US "foreign affairs" in regards to El Salvador.

By ordering Judge Xinis to show "deference" to the Trump administration and questioning the authority of the court to "effectuate" Abrego Garcia's return, the Supreme Court handed the administration a tanker-sized loophole to defy the lower court's order.

A central aim of the Trump administration is to create the precedent that the president can authorize the deportation of anyone, including US citizens, and place them outside of any judicial review.

This was acknowledged in a warning alongside the

Thursday ruling issued by Justice Sonya Sotomayor, with Justices Elena Kagan and Ketanji Brown Jackson joining. Sotomayor wrote:

The Government's argument, moreover, implies that it could deport and incarcerate any person, including U.S. Citizens, without legal consequence, so long as it does so before a court can intervene.

After the Supreme Court's ruling, Judge Xinis updated her order to remove the term "effectuate."

Questioned by a reporter during the White House press briefing on Friday if the Trump administration expected the president of El Salvador to bring Abrego Garcia with him when he visits the White House on Monday, Press Secretary Karoline Leavitt declared:

The Supreme Court made their ruling last night very clear, that it is the administration's responsibility to *facilitate* the return, not to *effectuate* the return...

Leavitt added:

President Bukele will be here at the White House on Monday to talk about the cooperation, which is at an all-time high and we very much appreciate President Bukele and El Salvador's cooperation in the repatriation of El Salvadorian gang members who the previous administration allowed to infiltrate our country.

In other words, not only will the Trump administration do nothing to ensure Abrego Garcia is returned to the United States, but it is determined to enormously expand its deportation operations to the Salvadoran gulag.



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