

Trump-appointed judge rules administration improperly invoked Alien Enemies Act, blocks deportations in Texas

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In a significant ruling Thursday, Trump-appointed US District Judge Fernando Rodriguez Jr. in Brownsville, Texas ruled the Trump administration exceeded its authority in deporting Venezuelans 14 years and older and alleged to be Tren de Aragua gang members, having improperly invoked the 1798 Alien Enemies Act.

Judge Rodriguez Jr. wrote:

[T]he historical record renders clear that the President's invocation of the AEA through the Proclamation exceeds the scope of the statute and is contrary to the plain, ordinary meaning of the statute's terms.

Respondents do not possess the lawful authority under the AEA, and based on the Proclamation, to detain Venezuelan aliens, transfer them within the United States, or remove them from the country.

The ruling will not free imprisoned immigrants, only prevent their deportation under the Alien Enemies Act (AEA). The judge wrote:

Executive Branch has and will continue to rely on the Immigration and Nationality Act to remove aliens found to represent a danger to the country. The question that this lawsuit presents is whether the President can utilize a specific statute, the AEA, to detain and remove Venezuelan aliens who are members of TdA.

It is the fourth time a federal judge has blocked deportations under the AEA within their judicial districts since Trump invoked the wartime law on March 15.

Lawyers for the imprisoned facing deportation presented three arguments before the court. First they argued that under the AEA Proclamation issued by Trump, their clients were not given reasonable "notice and a meaningful opportunity to challenge their designation as alien enemies."

Second, they challenged the AEA Proclamation itself, asserting there is no "invasion" or "predatory incursion" against the United States by any "foreign nation or government," including Venezuela.

Finally, they argued that the Proclamation targeting Venezuelans fleeing political persecution "violates the specific protections that Congress established under the Immigration and Nationality Act for non-citizens seeking humanitarian protection."

The court did not rule in petitioners' favor in relation to the first argument, noting that because their case was before him, they had been given "reasonable notice" and a "meaningful opportunity" to challenge their removal under the AEA. However, the court acknowledged that hundreds or thousands of others facing deportation have not been given notice.

The court also did not rule on the third argument, based on jurisdictional grounds.

But in relation to the second argument, the federal judge agreed that the US was not under an "invasion" or "predatory incursion."

Judge Rodriguez Jr. wrote that "the Proclamation's language cannot be read as describing conduct that falls within the meaning of 'invasion' for purposes of the AEA." He added that he had "reviewed numerous historical records using 'invasion,' 'predatory incursion,' and 'incursion' for the period from 1780 through 1820."

He wrote:

In the significant majority of the records, the use of "invasion" and "predatory incursion" referred to an attack by military forces. This held true even when the historical record did not concern the Revolutionary War or the War of 1812.

As for "predatory incursion," the Proclamation does not describe an armed group of individuals entering the United States as an organized unit to attack a city, coastal town, or other defined geographical area, with the purpose of plundering or destroying property and lives. While the Proclamation references that TdA members have harmed lives in the United States and engage in crime, the Proclamation does not suggest that they have done so through an organized armed attack, or that Venezuela has threatened or attempted such an attack through TdA members. As a result, the Proclamation also falls short of describing a "predatory incursion" as that concept was understood at the time of the AEA's enactment.

The three petitioners before the court are all facing deportation under the AEA while detained in Texas, which currently houses nearly a quarter of the roughly 48,000 people in the American immigration gulag. Two of the three petitioners before the court recently claimed asylum in the US and all of them denied being members of Tren de Aragua.

Petitioner J.A.V is a Venezuelan national who was arrested in February 2025 by ICE agents at his asylum claim interview. Despite denying membership in TdA, J.A.V. was imprisoned. On March 9 he was transferred to El Valle Detention Center in Raymondville, Texas, and five

days later, on March 14, he was told he would be “removed” in the next two days.

Similarly, petitioner J.G.G. is a Venezuelan national who said he entered the US to escape torture in Venezuela because a family member is a known political dissident. On March 6, J.G.G. was transferred from California to the El Valle Detention Center and on March 14 the government tried to deport him to El Salvador, but the plane did not leave. J.G.G. was told he would be removed the following day.

Petitioner W.G.H. had been living in Brooklyn, New York with his wife and step-daughter when he was arrested by ICE agents on February 20. On March 7, ICE agents submitted a form claiming that an immigration court identified W.G.H. as a TdA “gang associate.” On March 10, W.G.H. was transferred to El Valle and told by prison guards he would be removed on March 15 or 16.

In his ruling, Judge Rodriguez Jr. gave deference to Congress and the executive branch over immigration and foreign policy, but argued it was within the court’s jurisdiction to interpret “Congressional statutes to determine whether a government official has exceeded the statute’s scope.”

He wrote:

Allowing the President to unilaterally define the conditions when he may invoke the AEA, and then summarily declare that those conditions exist, would remove all limitations to the Executive Branch’s authority under the AEA, and would strip the courts of their traditional role of interpreting Congressional statutes to determine whether a government official has exceeded the statute’s scope.

The government argued that “invasion” under the AEA was analogous to nebulous terms such as “hostile entrance” or “hostile encroachment” into the United States. In contrast, lawyers for the immigrants relied on the historical use of the terms to establish that Trump’s proclamation “does not entail a military action, either actual or threatened, against the nation.”

Judge Rodriguez Jr. agreed, writing that an “invasion” as defined under the AEA means there:

... was an entry into the nation’s territory by a military force or an organized, armed force, with the purpose of conquering or obtaining control over territory. In a similar vein, the common usage of “predatory incursion” and, to a lesser degree, “incursion,” referenced a military force or an organized, armed force entering a territory to destroy property, plunder, and harm individuals, with a subsequent retreat from that territory.

Even with Thursday’s ruling, there is no guarantee that Trump and his gang of fascists will not continue to ignore the courts and the Constitution in their bid to establish a presidential dictatorship.

Speaking to Trump in the Oval Office earlier this week, ABC’s Terry Moran raised the continued imprisonment of Kilmar Abrego Garcia, a Maryland resident illegally deported to El Salvador along with nearly 300 other men this past March. Roughly half of those deported to the notorious Terrorism Confinement Center (CECOT) were sent under the Alien Enemies Act.

“You could get him back, there is phone on this desk,” Moran said. “I could,” replied Trump, admitting that while he could have Abrego Garcia, and the hundreds of others wrongly imprisoned in CECOT, released, he

would continue to ignore the Supreme Court’s ruling.

Moran continued: “You could call up the president of El Salvador and say, ‘Send him back,’ right now.”

Trump replied, “And if he were the gentleman that you say he is, I would do that, but he’s not.”

Moran rebutted, “But the [Supreme] Court has ordered you to facilitate his release...”

Trump interjected, “I’m not the one making this decision. We have lawyers that don’t want to do this, Terry...”

“But you are the president!” Moran replied. “The buck stops in this office.”

“No, no, no,” Trump responded. “I follow the law. You want me to follow the law? If I were the president that just wanted to do anything, I’d probably keep him right where he is.”

In the same interview, Trump claimed the media was lying about Abrego Garcia’s alleged gang affiliation because it did not lend credence to a photo-shopped image disseminated by fascists online. The forgery, which added the letters/numbers M S 1 3 to Abrego Garcia’s knuckles, was shared by Trump on X.

Trump said the media claimed Abrego Garcia “... wasn’t a member of a gang. And then they looked and on his knuckles he had MS-13.”

Moran interjected, “There was a dispute about that,” to which Trump replied, “But wait a minute. But wait a minute. He had MS-13 on his knuckles, tattooed.”

Moran replied, “Well, they didn’t say that. He had some tattoos that are interpreted that way, but let’s move on...”

Trump, adamant in advancing the lie, said, “But wait a minute. Hey Terry. Terry. Terry. Don’t do that.”

Moran replied, “He did not have the letter M, S, 1, 3.”

Trump: “It says MS-13.”

Moran: “That was photo-shopped.”

Trump, leaning in, hissed:

That was photo-shopped? Terry, you can’t do that. Hey, they are giving you the big break of a lifetime. You know, you are doing the interview. I picked you because, frankly, I never heard of you, but that’s okay. I picked you, Terry, but you are not being very nice. He had MS-13 tattoos.

Moran tried to move on, “We’ll agree to disagree,” to which Trump replied, “Terry, do you want me to show you the picture?”

Moran: “I saw the picture. We’ll agree to disagree.”

Trump: “You think that was photo-shopped? Don’t photo-shop it. Go look at his hand. He had MS-13.”

Moran again tried to steer the conversation towards another topic, specifically the ongoing war in Ukraine, but Trump would not cease advancing his fascist conspiracy theory.

“No, no, no, no. He had MS, as clear as you can be. Not interpreted. This is why people no longer believe the news, because it’s fake,” Trump said.

Moran replied, “When he was photographed in El Salvador, they were not there. But let’s just go on. They aren’t there when he is in El Salvador.”

Trump responded, “Oh, oh, they weren’t there, but they are there now right?”

Moran: “No. They are in your picture.”

Trump: “Terry, he’s got MS-13 on his knuckles.”

Moran softly replied "All right."

Trump hissed in reply, "It's... you such a disservice. Why don't you just say yes, he does? And you know, go on to something else."



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