

# Supreme Court bars Trump deportation flights

**Patrick Martin**  
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In an emergency order issued between midnight and 1 a.m. on Saturday, the US Supreme Court halted an attempt by the Trump administration to ship dozens more Venezuelan migrants to a torture prison in El Salvador under an executive order in which he invoked the Alien Enemies Act of 1798.

The action—rare in both its timing and its evident distrust of the executive branch—led to at least one busload of migrants turning around as it reached the airport in Abilene, Texas and returning to a detention camp run by Immigration and Customs Enforcement (ICE).

Just as extraordinary as the late-night issuance of the order was the dissent filed by the two most fascistic justices on the high court, written by Samuel Alito and endorsed by Clarence Thomas. The two denounced the seven-member court majority—which apparently included all three justices nominated by Donald Trump—because they had acted on warnings by the American Civil Liberties Union that the mass deportation was only hours, or even minutes, away. That these warnings were true was apparently of no concern to Alito and Thomas.

A rapid-fire series of legal maneuvers began Wednesday when lawyers for two Venezuelan migrants held at Bluebonnet Detention Center in Anson, Texas filed habeas corpus motions against deporting their clients, following the procedure laid down by the Supreme Court last week.

Federal Judge James Hendrix, appointed by Trump during his first term, denied the motion the next day, stating he had received assurances in which the government had “answered unequivocally” that it did not intend to deport the two men. Their attorneys appealed to the Fifth Circuit Court of Appeals, the most conservative in the country, but the appeals court turned them down.

Also Thursday, immigration lawyers learned that a group of more than two dozen Venezuelan migrants had been moved by ICE from all over the country to the

Southern District of Texas. They had then been bused to the Bluebonnet facility, in the Northern District of Texas, evidently to evade a restraining order against deportation flights issued in the Southern District.

In a further demonstration of duplicity, ICE gave each migrant a notice, in English only, which many cannot read, declaring that he would be deported immediately. This was an effort to comply with the Supreme Court directive while robbing it of any substance, since the notice did not even inform the migrants that they could file an appeal against their deportation.

On Friday, ACLU lawyers appeared again before Judge Hendrix, but with an unusual request: that the judge issue his ruling, for or against their clients, by no later than 1:30 p.m., so they would have time to appeal it before any deportation flight could take off.

When Hendrix failed to meet this deadline, the lawyers for the migrants filed an appeal with the Fifth Circuit Court of Appeals, with the same declaration of urgency: rule quickly, so that an appeal can be filed with the Supreme Court. The ACLU attorneys then went directly to the Supreme Court, and the court majority took it up, bypassing both the Fifth Circuit and the justice who is assigned to oversee it, Samuel Alito, and acting before the Department of Justice could even file a response on the issue.

Given these circumstances, the decision of the Supreme Court to take up the matter at all, and then to issue an emergency order temporarily stopping the deportation flight until the matter could be considered by the lower courts, is unusual, perhaps unprecedented. The decision was made so rapidly that the order was issued before Alito could finish writing his five-page dissent. He only declared that his dissent would be coming, and published it later in the day.

As Mark Joseph Stern, the legal commentator at *Slate* magazine, observed:

The majority's decision to wade in straightaway points to a skepticism that the Justice Department was telling the truth. It's damning, too, that the majority did not even wait for DOJ to file a brief with the court before acting. The only plausible explanation for the court's order is that a majority feared the government would whisk away the migrants to El Salvador if it did not intervene immediately.

This fear was well-founded. NBC News reported Sunday it had obtained video of several ICE buses full of Venezuelan migrants headed towards Abilene Airport on late Friday evening, about 30 miles from the Bluebonnet Detention Center, with an escort of nearly two dozen police vehicles. The video shows the motorcade passing the Abilene Airport, looping around it, and then returning in the direction of the ICE prison.

"These men were close to spending their lives in a horrific foreign prison without ever having had any due process," Lee Gelernt, the lead ACLU immigration attorney, said after the ruling. "The case has a long way to go. But for now, we are relieved that the court has not allowed the Trump administration to hurry them away in secret."

The Supreme Court intervention is only a temporary reprieve, even assuming that the Trump administration abides by it. White House officials have already voiced their ire over the ruling, with Trump himself, in a post on Truth Social, sarcastically wishing "Happy Easter" to "WEAK and INEFFECTIVE Judges and Law Enforcement Officials who are allowing this sinister attack on our Nation to continue..."

The Department of Justice filed a motion with the Supreme Court later Saturday asking the justices to lift their own emergency order, but suggesting that, in the interim, the Trump administration wanted to shift the legal basis on which it claimed authority for the deportation flights. It sought to use other anti-immigrant laws, while litigation over the Alien Enemies Act continues.

"The government has agreed not to remove pursuant the AEA those AEA detainees who do file habeas claims," wrote US Solicitor General D. John Sauer. "This court should dissolve its current administrative stay and allow the lower courts to address the relevant legal and factual questions in the first instance—including the development of a proper factual record."

This language is remarkable as well, since it effectively admits that the government was prepared to ship dozens of migrants from Venezuela to a prison in a third country, El Salvador, without having provided the necessary legal and factual basis for doing so.

Moreover, in the most high-profile deportation case, that involving Maryland resident Kilmar Armando Abrego Garcia, the Trump administration did not make use of the Alien Enemies Act. ICE agents simply seized the immigrant worker, who has lived in the US for half his life and is married to a US citizen with whom he has three children, and put him on one of the earlier deportation flights to El Salvador.

Media attention over the case has focused on the visit by Maryland US Senator Chris Van Hollen to El Salvador, where he was able eventually to meet with Abrego Garcia, confirming for his family that he was alive and healthy.

Van Hollen, a Democrat, was featured on virtually every Sunday morning television interview program, where he denounced the Trump administration's lawless anti-migrant policy and called the denial of due process for Abrego Garcia a threat to the democratic rights of all Americans, citizens as well as non-citizens.

This is certainly true, but neither the courts nor the Democratic Party should be relied on to defend these rights. The perfidy of the Democrats was indicated, even as Van Hollen was visiting El Salvador, when California's Democratic Governor Gavin Newsom criticized the focus on Abrego Garcia as "the distraction of the day," saying that Democrats should instead draw attention to the economic consequences of Trump's tariff war.

Referring to Trump and the Republicans, Newsom said, "This is the debate they want." Democrats look like they are "defending MS-13" and "someone who's out of sight, out of mind in El Salvador."



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