

# Trump escalates fight with federal courts over deportation authority

*Several legal experts said the deportation episode marks a dramatic — and troubling — escalation in the Trump administration’s pushback against the courts.*

**By Justin Jouvenal, Natalie Allison, Ann E. Marimow and Marianne LeVine**  
**Washington Post**

The Trump administration’s battle with the federal court system escalated sharply on Monday, with government lawyers calling for the removal of a judge who blocked the deportation of alleged Venezuelan gang members and refusing to answer some questions in court.

The administration for weeks has questioned the authority of courts to constrain the president, harshly attacking judges who issue nationwide injunctions and finding ways to circumvent certain adverse rulings.

Some legal experts describe the pushback as a breakdown in the fragile balance of powers between the branches of government, which includes lower courts making initial rulings about executive initiatives that can be appealed all the way to the Supreme Court.

Other experts offered more modulated assessments of the Trump administration’s aggressive legal posture, while acknowledging the judicial system was being put under intense strain.

Steve Vladeck, a Georgetown University law professor, said the country is seeing “an unprecedented degree of resistance, willful or otherwise, to judicial mandates against the federal government.”

“It’s hard to imagine that this is going to get better before it gets worse,” Vladeck said in an email. “If the government is correct that these orders are legally flawed, it should be appealing them, not resisting them.”

The showdown reached a climax at a testy hearing Monday evening at which James E. Boasberg, the chief judge for the U.S. District Court in D.C., demanded the government explain why it had appeared to flout his Saturday evening order requiring planes deporting migrants to turn around mid-flight.

Boasberg had barred the Trump administration from using a controversial wartime authority called the Alien Enemies Act to speedily remove alleged members of the Tren de Aragua gang without the usual due process. He sounded incredulous when Justice Department lawyer Abhishek Kampli said Boasberg's verbal order to turn the planes around would only have had force if he put it in writing.

"A heck of a stretch," the judge said.

The government also suggested that it was restrained from providing the court with further information about the flights because of security concerns. Boasberg appeared puzzled, noting that he reviews classified information frequently.

And the judge appeared to grimace when Kampli questioned his authority to order planes to land once they were outside U.S. airspace.

Boasberg asked if Kampli was "saying that the president has extra powers" when a plane is over international waters.

"We believe we complied with the order," Kampli answered.

Hours afterward, U.S. Attorney General Pam Bondi called Boasberg's order an "intrusion on the president's authority."

"These are foreign terrorists. The president has identified them and designated them," she told Fox's Jeanine Pirro. "And we will continue to follow the Alien Enemies Act."

Justice Department lawyers wrote an unusual letter to the federal appeals court in D.C. before the hearing, accusing Boasberg of "micromanagement" and seeking to remove him from the case.

"The Government cannot — and will not — be forced to answer sensitive questions of national security and foreign relations in a rushed posture without orderly briefing and a showing that these questions are somehow material to a

live issue,” Deputy Assistant Attorney General Drew Ensign wrote to the clerk of the appeals court.

Michael J. Gerhardt, a professor of constitutional law at the University of North Carolina School of Law, said the administration’s response to Boasberg’s order could be one of the first real assertions of judicial defiance by the president.

“We might just be there,” Gerhardt said, calling the administration’s rationale for allowing the deportation flights to complete their mission “really hard to believe.”

Trump secretly signed a proclamation Friday invoking the [Alien Enemies Act of 1798](#) to deport — without the normal due process — Venezuelans age 14 and over who the government said belong to the [Tren de Aragua gang](#). On Saturday, five Venezuelans filed suit to block their deportation under the order, and Boasberg issued a stay on their removal.

The judge then extended his order to block the deportation of all Venezuelan migrants using the act, which had only previously been invoked during wartime — including to imprison tens of thousands of Japanese Americans during World War II.

By then, two flights had already taken off containing deportees. A third left after Boasberg issued his ruling, [according to a timeline](#) assembled by The Washington Post, though Trump officials said in a court filing Monday that those on the third flight were deported under a different legal authority.

All three flights landed after Boasberg gave his order for any flights using the Alien Enemies Act deportation authority to turn around. Trump officials said Sunday that 137 alleged gang members were deported under the act.

On Monday, Boasberg ordered Trump officials to provide by Tuesday a sworn declaration that no one was deported under the authority of the Alien Enemies Act after his verbal order was made to turn the planes around. The judge also ordered officials to detail when the order was issued and provide a count of how many alleged gang members still in the United States are subject to the order.

The plan to send the alleged gang members to El Salvador was hatched by White House deputy chief of staff Stephen Miller and Department of Homeland

Security Secretary Kristi L. Noem, according to a White House official who spoke on the condition of anonymity to discuss internal strategy.

Trump's advisers argue that they are merely making use of legal mechanisms that are already in place for the president, despite the fact that some — like the Alien Enemies Act — have hardly been used in modern history. “But it’s on the books,” said a second White House official, speaking on the condition of anonymity to discuss the administration’s thinking.

On Sunday, a flurry of posts by Trump-aligned social media influencers and White House officials themselves cheered the administration’s actions, sharing video clips set to hip-hop music that showed tattooed, shackled men being led off planes and shaved inside the mega prison in El Salvador.

White House staff quickly mobilized its [network of influencers and allies](#) to boost the content, a way to “flex our muscles,” the second administration official said.

While some of the White House’s public statements were viewed by Trump critics as flippant and defiant of the judge’s ruling, administration officials consulted with lawyers and top leaders of the National Security Council; the Departments of State, Defense and Homeland Security; and other entities about messaging ahead of making some of their social media posts and remarks, the second White House official said.

Top White House advisers say they are confident in the actions they’re taking and believe Trump’s team is being sufficiently cognizant of the forthcoming court fights.

“I say this with no disrespect to any of the previous administrations, and I’m trying to phrase this as delicately as possible,” the second official said. “This White House has the balls to do it.”

Josh Blackman, a professor at the South Texas College of Law Houston, said it was extraordinary for a judge to order the flights back to the United States. Boasberg, he added, should have given the government a chance to reply to his ruling.

“Turning planes around in midair may seem like a fair request from a judge, but in reality, there are complexities that the government never had a chance to explain,” Blackman said.

Nicholas R. Parrillo, a Yale Law School professor, has written extensively about the powers of federal courts over administration officials. It is not uncommon for agency compliance with court orders to be “imperfect and fraught,” he wrote in an article for Just Security, especially when an order requires action that is “costly or complex.”

Plaintiffs in other cases have also accused the Trump administration of violating court orders.

Attorneys for Rasha Alawieh, a 34-year-old kidney transplant specialist from Brown University, say the government “willfully” violated a ruling barring her deportation. Alawieh was sent back to Lebanon on Friday after a cousin petitioned a judge in Massachusetts to keep her in the country and won a restraining order. The cousin said in court filings that Alawieh had a valid visa.

Government officials responded in a Monday filing that the Customs and Border Protection watch commander was not notified of the ruling until after Alawieh had been deported, and that CBP would never “fail to abide by a court’s order.”

Attorneys for global health groups that have [sued to restart billions of dollars in foreign aid payments](#) from the U.S. Agency for International Development said in a status report Friday that the Trump administration had yet to fully comply with a judge’s order, despite repeated rulings mandating payments in recent weeks.

“The district court was crystal clear that it is unconstitutional for the administration to impound foreign assistance funds appropriated by Congress,” said Lauren Bateman, an attorney for some of the health groups.

The government has told the court it is analyzing the order to expend the foreign assistance funds and “will do so in consultation with the Office of Management and Budget.”

Last month, U.S. District Judge John J. McConnell Jr. in Rhode Island ruled the administration had violated the “plain text” of his order lifting a temporary freeze on trillions of dollars in federal grants and loans.

The administration has faced initial [setbacks in court](#) over its blitz of executive orders, which have triggered more than 120 lawsuits. Judges have blocked many of the administration's highest-profile efforts while the court challenges proceed, including Trump's orders to end birthright citizenship, fire thousands of probationary federal workers and dismantle some federal diversity initiatives.

Trump administration officials have [chafed at those rulings](#), particularly nationwide injunctions issued by federal district judges. Vice President JD Vance has said judges "aren't allowed to control the executive's legitimate power," while Elon Musk has called for judges to be impeached.

Georgetown University law professor David Super said the administration has tried to circumvent some rulings by shifting the legal rationale for its actions after being blocked.

"In some, they have tried to justify their noncompliance by advancing wildly implausible interpretations of the court orders," Super said in an email. "For example, they have invented new rationales for doing what they were ordered not to do and claimed that the injunction only applied to their previously-stated reasons."

The administration railed against judicial power in a [recent Supreme Court filing](#) that asked the justices to allow Trump's ban on birthright citizenship in some states, leaving his order paused by lower courts only in states that have specifically sued to stop it.

"This Court should declare that enough is enough before district courts' burgeoning reliance on universal injunctions becomes further entrenched," acting solicitor general Sarah Harris wrote. She then paraphrased a [social media post by Musk](#) from weeks earlier, which itself was an adaptation of a famous statement about justice by the Rev. Martin Luther King Jr. in his "[Letter From a Birmingham Jail](#)."

"Years of experience have shown that the Executive Branch cannot properly perform its functions if any judge anywhere can enjoin every presidential action everywhere," the court filing said.

*Ben Brasch, Jonathan Edwards, Justine McDaniel, Perry Stein and Aaron Schaffer contributed to this report.*