**GREGG JARRETT: The law supports Trump's deportation of violent gang members, despite judge's errant ruling**

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Published March 17, 2025 2:23pm EDT

Many in the media would have you believe that President [Donald Trump](https://www.foxnews.com/category/person/donald-trump) has commandeered an obscure law to wrongly [deport](https://www.foxnews.com/media/tom-homan-calls-out-federal-judge-defying-logic-ruling-stall-trump-deportations) violent members of a terrorist gang known as Tren de Aragua (TdA).

In truth, the law is neither obscure nor being wrongfully deployed.

The Alien Enemies Act (AEA) was passed by Congress and [signed into law](https://www.foxnews.com/politics/white-house-blasts-judge-attempting-halt-deportation-flights-el-salvador-no-lawful-basis) in 1798. It is well-established, has never been repealed, and has been reviewed by courts numerous times. Four different presidents have invoked it, three of them Democrats in the 20th century. Moreover, the act is not limited to wartime authority as some claim.  Presidents Woodrow Wilson and Harry Truman used the act well after both world wars had ended.

The AEA permits a president to order the [arrest and removal](https://www.foxnews.com/category/us/immigration/deportation) without a court hearing of "alien enemies" whenever there is a declared war *or* any "predatory incursion" perpetrated, attempted or threatened against the United States. A predatory incursion is broadly defined as entry into the U.S. for purposes that are contrary to the nation’s interests or laws. The language gives a president broad latitude in his core duty to protect the safety and security of the citizenry.

In 1948, the U.S. Supreme Court upheld Truman’s use of the AEA and ruled that the law itself was constitutional (Ludecke v. Watkins, 33 US 160). Importantly, the high court stated that a president’s decision under the Act "precludes judicial review of the removal order." In other words, a judge cannot second-guess the president. The court explained, "The very nature of the President’s power to order the removal of all enemy aliens rejects the notion that courts may pass judgment upon the exercise of his discretion."

The Supreme Court’s ruling embraced what is called the "political question doctrine." That is, the federal courts may not intervene in presidential decision-making that is inherently political in nature, such as the conduct of foreign affairs and national security. By analogy, we do not permit judges to halt drone strikes or shut down intelligence operations.

[Video](https://www.foxnews.com/video/6370150767112)

This brings us to the events of the last several days. On Friday, President Trump invoked the Alien Enemies Act under the "predatory incursion" provision. Some 260 illegal aliens were promptly deported to El Salvador, many of them under the authority of the AEA. They include suspected murderers, rapists, and other violent criminals who engaged in kidnappings, extortions, and human, drug, and weapons trafficking.

A substantial number of those expelled were known members of Tren de Aragua, which is officially designated as a Foreign Terrorist Organization. According to the White House, "They unlawfully infiltrated the U.S. and are conducting irregular warfare and undertaking hostile actions against the United States." Evidence shows that they engaged in narco-terrorism while operating at the behest of a foreign country, Venezuela’s Nicholas Maduro regime.

Even before Trump announced his [proclamation](https://www.foxnews.com/video/6370152288112), attorneys for the American Civil Liberties Union (ACLU) sprinted to a federal district judge in Washington DC in what looks like a classic case of "forum shopping" – picking a preferable judge in a favorable venue. Predictably, Judge James Boasberg, an Obama appointee, issued a temporary restraining order (TRO) in an attempt to block Trump’s actions.

There are several troubling aspects of Boasberg’s directive. First, he acted without bothering to hear from the government, depriving the Trump administration of any chance to respond. Second, the five named plaintiffs in the ACLU’s petition were TdA gang members detained in Texas, where a Washington, D.C., judge has no jurisdiction. Third, the exclusive remedy for a litigant who contests the AEA is a habeas corpus petition, not a temporary restraining order. Fourth, the judge magically transformed the entire case into a class action and extended his restraining order to all noncitizens that might be affected by Trump’s invocation of the AEA.

Finally, Boasberg let it be known that he wanted any airplanes carrying TdA terrorists to turn around midair and return to the U.S. Curiously, his return flight demand was not contained in Boasberg’s final written TRO. Likely, he realized that no judge has the power to issue an order redirecting flights beyond U.S. soil and airspace. But his willingness to verbalize such a lawless desire is a window into the thinking of an activist judge whose own political views or personal animus toward Trump may be dictating his judicial decision instead of the law.

[Video](https://www.foxnews.com/video/6370151940112)

On behalf of the president, the [Department of Justice](https://www.foxnews.com/politics/white-house-blasts-judge-attempting-halt-deportation-flights-el-salvador-no-lawful-basis) is now seeking a stay pending a review by the D.C. Circuit Court of Appeals. Depending on the middle court’s ruling, the case could end up once again in the hands of the Supreme Court.

Judge Boasberg reportedly stated that the Alien Enemies Act does not "provide a basis for the president’s proclamation given that the terms invasion, predatory incursion really relate to hostile acts perpetrated by any nation and commensurate to war." If true, that comment can only be described as a hasty judgment utterly bereft of any knowledge or relevant information since no fair hearing was held before he issued his TRO. Boasberg should object to himself for assuming facts not in evidence.

Fatigued with violent immigrant crime, the American people are substantially in favor of deportations. They expressed their desire at the ballot box. Does any serious person believe that dangerous foreign gangs like Tren de Aragua who have terrorized innocent victims should be allowed to stay here? President Trump is utilizing every tool that the law affords to evict enemy aliens who pose a constant threat.