

United States Senate

WASHINGTON, DC 20510

April 22, 2025

President Donald J. Trump
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Trump:

We call on you to immediately rescind the dangerous and offensive claim that you may transfer incarcerated U.S. citizens to El Salvador. We further urge you to follow the law and adhere to all applicable court orders and immediately facilitate the return to the United States of Kilmar Abrego Garcia, whom your Administration illegally deported to El Salvador in direct contravention of a court order specifically prohibiting such removal.¹ Your unprecedented actions threaten the constitutional protections of all Americans and violate the fundamental principles on which this nation was founded.

With regard to your shocking assertion about transferring Americans to El Salvador, you cannot deport Americans to a foreign country for any reason. This nation's founding fathers declared independence based on "repeated injuries and usurpations" by the then-King of Great Britain, including "transporting us beyond Seas to be tried for pretended offences" and "depriving us in many cases, of the benefits of Trial by Jury."² Accordingly, Congress has passed no provision into law that would permit exiling United States citizens to a foreign country for any reason. One conservative legal scholar called your threats to deport U.S. citizens "obviously illegal and unconstitutional."³

Our laws also do not allow you to send individuals from U.S. soil to El Salvador without due process. Further, the Executive Branch must comply with longstanding domestic and international law that prohibits the United States from transferring any person from our jurisdiction or effective control to a place where the person would face certain serious human rights violations.⁴ Your Administration's actions in sending individuals to a Salvadoran prison notorious for inhumane conditions underscore the urgency and applicability of these requirements.⁵ The bedrock principles of the Fifth Amendment's Due Process Clause protect

¹ *Noem v. Abrego Garcia*, 604 U.S. ____ (2025).

² [Declaration of Independence](#) (July 5, 1776).

³ Lawrence Hurley, [‘Obviously illegal’: Experts pan Trump’s plan to deport ‘homegrown criminals’](#), NBC News (Apr. 14, 2025).

⁴ Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, Division G, Subdiv. B, Title XXII, Ch. 3, Subch. B, § 2242 (*codified as* Note to U.S.C. § 1231); Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, June 26, 1987, 1465 U.N.T.S. 85; 8 U.S.C. 1231(b)(3); Article 33 of the Convention relating to the Status of Refugees, April 22, 1954, 189 U.N.T.S. 137; Protocol relating to the Status of Refugees, October 4, 1967, 606 U.N.T.S. 267.

⁵ Juanita Goebertus, [Human Rights Watch declaration on prison conditions in El Salvador for the J.G.G. v. Trump case](#), Human Rights Watch (Mar. 20, 2025).

individuals from being “deprived of life, liberty, or property, without due process of law.”⁶ Throughout our nation’s history, the Supreme Court has long read the Fifth Amendment’s guarantee of due process to require that the government provide persons with certain procedural due process protections,⁷ including notice and an opportunity to be heard before any such deprivation of liberty.⁸

Even under extraordinary wartime authorities such as the Alien Enemies Act, the Supreme Court of the United States has held that noncitizens should, at a minimum, have an opportunity to prove whether or not the Act should apply to them.⁹ In a statement accompanying the Supreme Court’s recent order for the federal government to facilitate the return of Mr. Abrego Garcia and “ensure that his case is handled as it would have been had he not been improperly sent to El Salvador,”¹⁰ Justice Sotomayor noted that your Administration’s argument suggesting that the government is permitted to leave Mr. Abrego Garcia in the Salvadoran prison after wrongfully sending him there “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.”¹¹ She went on to note that this is a “view [that] refutes itself.”¹²

You must immediately facilitate the return of Mr. Abrego Garcia, which is unquestionably within your power to do since your Administration is paying the government of El Salvador to detain him.¹³ As Judge Harvie Wilkinson, a conservative appointee of President Reagan, wrote in a unanimous Fourth Circuit opinion rejecting your Administration’s efforts to delay taking steps to bring Mr. Abrego Garcia back to the United States:

The government is asserting a right to stash away residents of this country in foreign prisons without the semblance of due process that is the foundation of our constitutional order. Further, it claims in essence that because it has rid itself of custody that there is nothing that can be done. This should be shocking not only to judges, but to the intuitive sense of liberty that Americans far removed from courthouses still hold dear.¹⁴

You must also end your unlawful attempts to deport noncitizens without due process under the Alien Enemies Act, as the Supreme Court ordered this weekend.¹⁵ You have no authority to openly defy court orders requiring you: (1) to return someone who has been wrongfully deported, or (2) to grant individuals the due process they are owed under our laws.¹⁶

⁶ U.S. Const. Amend. V.

⁷ *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (citing *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 895 (1961)).

⁸ *Twinning v. New Jersey*, 211 U.S. 78, 110 (1908).

⁹ *Trump v. J.G.G.*, 604 U.S. ____ (2025); *A.A.R.P. v. Trump*, 604 U.S. ____ (2025).

¹⁰ *Noem v. Abrego Garcia*, 604 U.S. ____ (2025).

¹¹ *Noem v. Abrego Garcia*, 640 U.S. ____ (2025) (Sotomayor, J., statement).

¹² *Id.*

¹³ Franco Ordoñez and Danielle Kurtzleben, [El Salvador's Bukele says 'preposterous' to suggest he return Abrego Garcia to U.S.](#), NPR News (Apr. 14, 2025).

¹⁴ *Abrego Garcia v. Noem*, Civ. No. 25-1404 (4th Cir. 2025).

¹⁵ Vaughn Hillyard, Julia Ainsley, Kayla McCormick, Sarah Dean and Rebecca Cohen, [As legal fight raged, ICE buses filled with Venezuelans heading toward airport turned around, video shows](#), NBC News (Apr. 20, 2025); *Trump v. J.G.G.*, 604 U.S. ____ (2025).

As Judge Boasberg wrote in his order last week concluding that probable cause exists to find the government in criminal contempt:

The Constitution does not tolerate willful disobedience of judicial orders—especially by officials of a coordinate branch who have sworn an oath to uphold it. To permit such officials to freely “annul the judgments of the courts of the United States” would not just “destroy the rights acquired under those judgments”; it would make “a solemn mockery” of “the constitution itself.” ... “So fatal a result must be deprecated by all.”¹⁷

You must immediately facilitate the return to the United States of Kilmar Abrego Garcia, follow all court orders, and withdraw your dangerous and offensive claims that you may transfer U.S. citizens to a foreign prison. The Constitution demands it.

Sincerely,



Richard J. Durbin
United States Senator



Chris Van Hollen
United States Senator



Angela Alsobrooks
United States Senator



Mazie K. Hirono
United States Senator



Christopher A. Coons
United States Senator



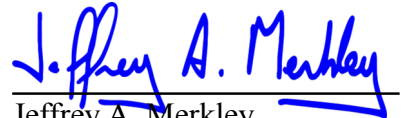
Alex Padilla
United States Senator

¹⁶ Lawrence Hurley and Ken Dilanian, [What happens if a president and the federal government fail to follow a judge's orders?](#), NBC News (Apr. 15, 2025).

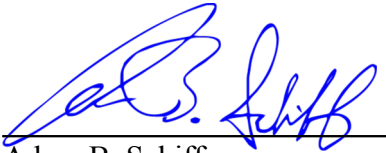
¹⁷ *Memorandum Opinion, J.G.G. v. Trump*, Civ. No. 25-766 (April 16, 2025), citing *U.S. v. Peters*, 9 U.S. 115, 136 (1809).



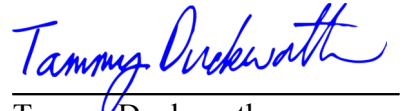
Richard Blumenthal
United States Senator



Jeffrey A. Merkley
United States Senator



Adam B. Schiff
United States Senator



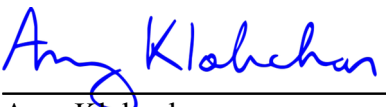
Tammy Duckworth
United States Senator



Peter Welch
United States Senator



Tim Kaine
United States Senator



Amy Klobuchar
United States Senator



Cory A. Booker
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



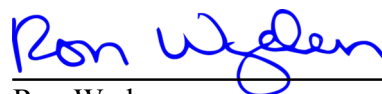
Lisa Blunt Rochester
United States Senator



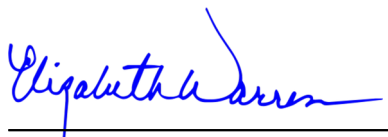
Raphael Warnock
United States Senator



John Hickenlooper
United States Senator



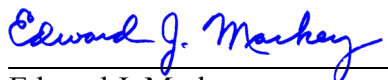
Ron Wyden
United States Senator



Elizabeth Warren
United States Senator



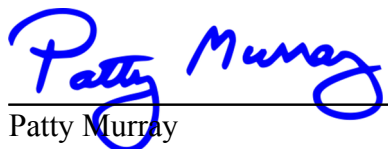
Tammy Baldwin
United States Senator



Edward J. Markey
United States Senator



Tina Smith
United States Senator



Patty Murray
United States Senator



Martin Heinrich
United States Senator