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In Friday court hearing

Judge denounces Trump’s “incredibly troublesome” invocation of Alien Enemies Act



Judge James E. Boasberg, speaks at a Naturalization ceremony held in the National Archives Rotunda in Washington, DC Sept. 15, 2023. [Photo: US National Archives]

In a court hearing Friday, federal Judge James Boasberg denied the Justice Department’s request to remove a temporary restraining order blocking the Trump administration from deporting immigrants under the Alien Enemies Act (AEA). The case is the focal point of an increasingly violent and unhinged campaign by the Trump administration to assert unlimited presidential powers that supposedly cannot be constrained by the courts—constitutionally a co-equal branch of government.

Boasberg first issued his order last Saturday, blocking deportations under the 18th-century law, which the Trump administration promptly ignored, expelling approximately 261 people without due process to El Salvador’s notorious Terrorism Confinement Center, or CECOT.

Prior to Trump’s invocation of the reactionary law on March 15, the last time the US government used the AEA was during and after World War II to imprison approximately 120,000 Japanese Americans in “relocation camps.” In Friday’s hour-long hearing, Boasberg

questioned the Trump administration's invocation of the AEA, describing it as "incredibly troublesome," "problematic," and "concerning."

"Why was this proclamation essentially signed in the dark?" Boasberg asked. "Then these people rushed onto planes. It seems to me the only reason to do that is if you know it's a problem and you want to get them out of the country."

Friday's hearing began with Boasberg castigating the government for issuing filings in response to him that use "the kind of intemperate and disrespectful language I'm not used to hearing from the United States."

Boasberg questioned Deputy Assistant Attorney General Drew Ensign over the government's invocation of the Act and the lack of due process in verifying whether those deported were actually who the government said they were.

"How's this going to work?" Boasberg asked. "What's the role of the court in ensuring that individuals are not erroneously classified as TdA members and removed to some Salvadoran prison when they're not even subject to the proclamation?" He added, "What happens if someone is not a member of a [gang] or Venezuelan citizen... how do they challenge their removal?"

The Trump administration has maintained that those deported under the AEA —roughly half of the 261 people expelled last Saturday— were members of the Venezuelan gang Tren de Aragua (TdA). The other half the administration claims were deported under the Immigration and Nationality Act (INA).

Multiple reports in the past week, citing family members and attorneys representing those imprisoned, have refuted the Trump administration's claims that the individuals deported under the AEA were TdA members. On Friday, the *Wall Street Journal* reported that several Venezuelan immigrants transferred to CECOT last Saturday had been detained by ICE agents following Trump's inauguration. They were falsely accused of gang affiliation simply because they had tattoos depicting roses, crowns or crosses.

Revealing the dictatorial character of the Trump administration's actions, Boasberg posed a hypothetical scenario during Friday's hearing, asking whether, in the government's view, the president could declare an "invasion" by China if Chinese fishing vessels were simply off the US coast. If the president invoked the AEA under such circumstances, Boasberg asked, could he then detain and deport all fishermen of Chinese descent residing in the country? Ensign replied that it was indeed the government's position that the president could take such action. Boasberg replied incredulously, "If the courts can't review it, then the president could say that anybody is invading the United States."

Since the initial ruling last Saturday, the Trump administration has refused to provide Boasberg with the exact times the planes carrying immigrants took off from the US, exited US airspace and landed in El Salvador. On Thursday, Boasberg accused the government of evading “its obligations” to the court by repeatedly submitting only “the same general information about the flights.”

Trump’s lawyers at the DoJ have indicated that providing Boasberg that information would violate “national security.” In response, Boasberg ordered the government to inform him by Tuesday if the administration planned to invoke the “state secrets act” to block giving information to the court.

Turning to last Saturday, Boasberg questioned Ensign if he understood that he, Boasberg, did not want the flights to leave the United States.

“Did you not understand my statements in that hearing? Did you understand my orders to turn the plane around?” Ensign replied that he did and that he “understood the intent that you meant that to be effective at that time.” In previous hearings throughout the week, DoJ lawyers argued that they were not violating Boasberg’s order since the flights had already left US airspace by the time the order was issued, a novel and absurd argument.

On Friday, Ensign admitted that the government understood Boasberg’s order to mean that the planes should have been turned around. With this admission, there is now the possibility that Boasberg could hold the government in contempt for violating his orders, potentially imposing fines or even imprisonment.

However, even if Boasberg finds Trump administration officials in contempt and orders US Marshals to enforce his ruling, there is no guarantee the orders would be carried out. The US Marshals Service is part of the executive branch, under the authority of Attorney General Pam Bondi, a loyal Trump ally.

“Legal experts,” the *Washington Post* wrote Friday, “say it’s an open question whether Trump and his appointees would follow through” if Boasberg were to levy fines or order the arrest of Trump administration officials.

In the week since Boasberg ordered a hold to deportations under the AEA last Saturday, he and other federal judges have been subjected to a barrage of fascist incitement by Trump and his followers throughout the Republican Party and MAGA-aligned media.

In a long screed on his Truth social account Thursday, Trump denounced “Unlawful Nationwide Injunctions by Radical Left Judges.” He added that these “people are Lunatics...”

Turning to the Supreme Court, Trump warned: “If Justice Roberts and the the United States

Supreme Court do not fix this toxic and unprecedented situation IMMEDIATELY, our Country is in very serious trouble!”

Trump continued to threaten judges on Friday, writing on his social media account, “No District Court Judge, or any Judge, can assume the duties of the President of the United States.”

Before Friday’s afternoon hearing, Trump declared that Secretary of State Marco Rubio “has the authority to get bad people out of our country,” regardless of “a judge sitting behind a bench that has no idea what goes on.” His deputy chief of staff, Stephen Miller, denounced any suggestion that “a single Marxist judge in San Francisco have the same executive power as the Commander-in-Chief.”

After Friday’s hearing, however, Trump, in a blatant lie, claimed he did not know who invoked the Alien Enemies Act. Questioned over his invocation of the AEA, Trump replied, “I don’t know when it was signed, because I didn’t sign it, other people handled it.”

As of this writing, the presidential declaration, featuring Trump’s signature, is still available on the [federal register](#) and the official [White House](#) web site.

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