



# LEGAL SHOWDOWN AS JUSTICE DEPARTMENT RESISTS JUDGE'S DEMAND FOR MORE DETAILS ON DEPORTATION FLIGHTS - ASSOCIATED PRESS

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*A mega-prison known as Detention Center Against Terrorism (CECOT) stands in Tecoluca, El Salvador, March 5, 2023.*

The Justice Department is resisting a federal judge's demand for more information about flights that took [deportees to](#) El Salvador, arguing on Wednesday that the court should end its "continued intrusions" into the authority of the executive branch.

It's the latest development in a showdown between the Trump administration and the judge who temporarily blocked deportations under an [18th century wartime declaration](#). President Donald Trump has called for the judge's impeachment as the Republican escalates his conflict with a judiciary after a series of court setbacks over his executive actions.

[U.S. District Judge James E. Boasberg](#), who was nominated to the federal bench by Democratic President Barack Obama, had ordered the Trump administration to answer several questions under seal, where the information would not be publicly exposed. There were questions about the planes' takeoff and landing times, and the number of people deported under Trump's proclamation.

The judge [has questioned whether the Trump administration ignored his court order](#) on Saturday to turn around planes with deportees headed for the Central American country, which had agreed to house them in a notorious prison.

In court papers filed hours before the deadline to respond Wednesday, the Justice Department said the judge's questions are "grave encroachments on core aspects of absolute and unreviewable Executive Branch authority relating to national security, foreign relations and foreign policy." The department said it was considering invoking the "state secrets privilege" to allow the government to withhold some of the information sought by the court.

"The underlying premise of these orders ... is that the Judicial Branch is superior to the Executive Branch, particularly on non-legal matters involving foreign affairs and national security. The Government disagrees," Justice Department lawyers wrote. "The two branches

are co-equal, and the Court's continued intrusions into the prerogatives of the Executive Branch, especially on a non-legal and factually irrelevant matter, should end.”

Boasberg later issued an order giving the administration until Thursday at 12 p.m. EDT to either provide the requested information or make a claim that it must be withheld because it would harm “state secrets.” He took issue with the government's characterization of his request as a “unnecessary judicial fishing” expedition, saying it was necessary to “determine if the government deliberately flouted” his order to turn around the flights, “and if so, what the consequences should be.”

He also questioned how providing the information to the court could “jeopardize state secrets,” given that administration officials have already publicly released many details about the flights.

Trump invoked the Alien Enemies Act, which has only been used three times before in U.S. history, all during congressionally declared wars, and claimed there was an invasion by the Venezuelan gang Tren de Aragua.

Boasberg ordered the administration not to deport, through that 1798 law, anyone in its custody.

Told there were planes in the air headed to El Salvador, Boasberg said Saturday evening that he and the government needed to move fast. “You shall inform your clients of this immediately, and that any plane containing these folks that is going to take off or is in the air needs to be returned to the United States,” Boasberg told the government’s lawyer.

Hours later, El Salvador’s president, Nayib Bukele, said the deportees had arrived in his country. “Oopsie...too late” he said in a social media post, above an article referencing Boasberg’s original order.

The administration contends that a judge lacks the authority to tell the president whether he can determine the country is being invaded under the act, or how to defend it.

Boasberg's new order for answers came after the administration provided limited information in response to a sharp questioning from the judge at a Monday hearing.

The administration said in a filing Tuesday that two planes took off before Boasberg’s order went into effect, and a third plane that took off after the ruling came down did not include anyone deported under the law. The administration declined, however, to provide estimates about the number of people subject to the proclamation.

White House press secretary Karoline Leavitt told reporters during a Monday briefing that about 261 people were deported, including 137 under the law.