United States District Court
Western District of Texas
El Paso Division

Julio Cesar Sanchez Puentes, and Luddis Norelia Sanchez Garcia, Petitioners, v. Mary De-Anda-Ybarra, in her official capacity as Field Office Director of the U.S. Immigration and Customs, Enforcement and Removal Operations in El Paso Field Office, *et al,* Respondents.	No. 3:25-CV-00127-DB

FEDERAL RESPONDENTS' RESPONSE TO AMENDED PETITION FOR A WRIT OF HABEAS CORPUS

Federal Respondents submit this response to Petitioners' amended petition for a writ of habeas corpus (Dkt. 9) ("Petition" or "Am. Pet."). Petitioners, Julio Cesar Sanchez Puentes ("Sanchez Puentes") and Luddis Norelia Sanchez Garcia ("Sanchez Garcia") (collectively "Petitioners"), natives and citizens of Venezuela, are in civil immigration detention pending proceedings to remove them from the country and are disputing their detention in Department of Homeland Security ("DHS") custody. The U.S. Immigration and Customs Enforcement ("ICE") has determined that Petitioners are members of the criminal organization Tren de Aragua, designated them as "Alien Enemies" removable from the United States, and thus, detained them under the authority provided by 50 U.S.C. § 21. Although Petitioners argue that their prior grant of Temporary Protected Status ("TPS"), which was terminated on April 1, 2025, prevents their detention while they are still within the time period to file an appeal of their TPS termination, they are incorrect. Although the statutory language at 8 U.S.C. § 1254a(d)(4) prevents the DHS

from detaining a noncitizen with TPS status based on their immigration status, the statute does not prohibit the detention of TPS recipients on other grounds. Here, as explained below, Petitioners are not being detained on account of their immigration status. They are detained because of their designation as Tren de Aragua members under the Alien Enemies Act. Their detention is, therefore, proper, and does not violate any statute or impede Petitioners' due process rights.

I. Factual Background

A. Government's Designation of Tren De Aragua as a Federal Terrorist Organization and Invocation of Executive Authority under the Alien Enemies Act, 50 U.S.C. §§ 21–24, against Tren de Aragua Members

Tren de Aragua is a transnational criminal organization that originated in Venezuela and has "conducted kidnappings, extorted businesses, bribed public officials, and authorized its members to attack and kill U.S. law enforcement." Office of the Spokesperson, Dep't of State, Designation of International Cartels (Feb. 20, 2025); *see also* Smith Decl., Ex. A, ¶¶ 6–7; Charles Decl., Ex. B. The President has found that Tren de Aragua operates "both within and outside the United States" and that its "extraordinarily violent" campaign of terror presents "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and has declared a national emergency to respond to that threat. Exec. Order No. 14,157, 90 Fed. Reg. 8439, 8439 (Jan. 29, 2025).

On February 20, 2025, the Secretary of State designated Tren de Aragua a Foreign Terrorist Organization. 90 Fed. Reg. 10,030 (Feb. 20, 2025). The immigration laws authorize such a designation when a foreign organization engages in "terrorist activity" or "retains the capability and intent" to do so, thereby threatening "the national security of the United States." 8 U.S.C. § 1189(a)(1), (d)(4); *see Holder v. Humanitarian Law Project*, 561 U.S. 1, 9 (2010).

On March 14, 2025, the President signed a proclamation, invoking his authority under the Alien Enemies Act, 50 U.S.C. §§ 21–24, against Tren de Aragua members. *See* Proclamation No. 10,903, 90 Fed. Reg. 13,033, 13,034 (Mar. 20, 2025) (the "Proclamation"). Originally enacted in 1798, the AEA grants the Executive broad power to remove enemy aliens. *See* 50 U.S.C. § 21. The AEA's remaining provisions outline procedures for implementing that broad authority. An "alien who becomes liable as an enemy" but who "is not chargeable with actual hostility, or other crime against the public safety," may be afforded some time to settle his affairs before departing. *Id.* § 22. In his proclamation, the President announced that "all Venezuelan citizens 14 years of age or older who are members of [Tren de Aragua], are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies" under 50 U.S.C. § 21. *Id.* at 13,034. Further, the President found "all such members of [Tren de Aragua] . . . chargeable with actual hostility against the United States" and "a danger to the public peace or safety of the United States." *Id.* The Proclamation adds that all such Tren de Aragua members "are subject to immediate apprehension, detention, and removal." *Id.* To that end, the President directed the Attorney General and the Secretary of Homeland Security to, "consistent with applicable law, apprehend, restrain, secure, and remove every Alien Enemy described" above. *Id.* Any such Tren de Aragua member found within the United States is "subject to summary apprehension" under the Proclamation. *Id.* at 13,035. Alien enemies so apprehended may be detained until their removal.[1] *Id.*

But the Proclamation permits a particularly expeditious, statutorily authorized removal

[1] Tren de Aragua members may also remain deportable under other authorities, including Title 8, as members of a foreign terrorist organization or otherwise. *See id.* at 13,034 (permitting Secretary of Homeland Security "discretion to apprehend and remove any Alien Enemy under any separate authority"); *see also* 8 U.S.C. §§ 1182(b)(3)(B), 1227(a)(4)(B).

method for individuals found to present serious national-security threats under specified circumstances.

B. Factual Background of this Suit

Petitioners, natives and citizens of Venezuela, entered the United States without inspection or permission from the United States government on October 13, 2022. *See* Dkt. 1-2, Parole Paperwork. Upon their apprehension by the Department of Homeland Security ("DHS"), they were initially detained before being paroled into the United States. *Id.*

Two years later, in 2024, Petitioners applied for temporary protected status ("TPS"). *See* Dkt 1-3, TPS Approvals. The USCIS granted Sanchez Garcia's TPS application on May 7, 2024, and Sanchez Puente's TPS application on August 1, 2024. *Id.*

On February 5, 2025, the DHS published a notice in the Federal Register terminating the 2024 Venezuela Designation as a TPS designated country, thereby terminating TPS for Venezuelan nationals as of April 1, 2025. Thus, Petitioners' lawful status in the United States terminated on April 1, 2025.

On February 27, 2025, the United States District Court for the Western District of Texas issued arrest warrants for Petitioners for violations of 8 U.S.C. § 1325. Dkt. 1-4, Misdemeanor Arrest Warrants. Pursuant to those warrants, Border Patrol agents arrested both Petitioners on March 10, 2025. Am. Pet. at ¶ 40. After being advised of her right to remain silent and right to consult with an attorney, Sanchez Garcia agreed to speak with United States Border Patrol and stated that she is associated with the Tren de Aragua. Ramirez Decl., Exh. F, at ¶ 15. She stated that she was previously married to Arrevala Rivara and identified him as a member of Tren de Aragua. *Id.* She stated that she knows other members of Tren de Aragua. *Id.* She identified her nickname as "La Licenciada." *Id.* She also stated that she separated from her ex-husband

approximately ten years ago and that her ex-husband was killed by the Venezuelan government due to his affiliation with Tren de Aragua. *Id.*

On March 21, 2025, United States immigration officials arrested and detained Petitioners in DHS custody under the authority of 8 U.S.C. § 1226(a), Am. Pet. at ¶ 44, and simultaneously served Petitioners with Notices to Appear (NTAs) in immigration court to answer the charges of removability from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as noncitizens present in the United States without admission or parole, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as noncitizens who lacked proper entry documents at the time of their admission to the United States. Dkt. 1-6 NTAs. Petitioners filed a habeas petition in the U.S. District Court for the Eastern District of Virginia, arguing that, as TPS holders, their detention was unlawful because of the statutory bar to detention in 8 U.S.C. § 1254a(d)(4). *Sanchez Puentes v. Charles*, No. 1:25-cv-00509 (E.D. Va, filed Mar. 21, 2025). The Court granted their habeas petition. Dkt. 1-7 Order; Dkt. 1-8 Tr. of March 28, 2025 Hr'g. The DHS complied with the Court's order, releasing Petitioners from custody.

On April 1, 2025, DHS provided notification that Petitioners' TPS had been withdrawn. Dkt. 1-1. On the same day, the Government represented to Petitioners' counsel that "based on the present circumstances" Petitioners would not be detained, noting that DHS "may revisit whether detention is appropriate" if "circumstances materially change." Dkt. 1-9, April 1, 2025 Email from AUSA Matthew Mezger.

On April 14, 2025, Petitioners attended a pretrial hearing for a federal criminal misdemeanor case in El Paso. Dkt. 1-10, W.D. Tex. Dockets. On April 16, 2025, in El Paso, DHS detained Petitioners. *See* Am. Pet. at ¶ 49. DHS records indicate that ICE initiated Sanchez Garcia's arrest and detention because DHS had received information that she had been determined

to be a Tren de Aragua member. Ramirez Decl., Exh. F, at ¶ 7. ICE arrested Sanchez Puentes based on indicia of Tren de Aragua membership, most specifically, his marriage to a Tren de Aragua member. *Id.* Once in ICE custody and on the same day of the apprehension, ICE ERO served each Petitioner with written notice that they had been determined to be an Alien Enemy under 50 U.S.C. § 21. *Id.* at ¶ 8. This written notice further specified that Petitioners were determined to be at least 14 years old, citizens of Venezuela, not United States citizens or lawful permanent residents of the United States, and members of Tren de Aragua. *Id.*; *see also* Am. Pet. at ¶ 52.

On April 21, 2025, Respondents discovered that additional notice was required to comply with the latest DHS procedures. ICE then took the necessary steps to comply with those procedures on Monday, April 21, serving the amended notices (Form AEA-21B) on Petitioners. *See* Notice and Warrant of Apprehension and Removal under the Alien Enemies Act, Exh. E; *see also* Ramirez Decl., Exh. F, at ¶ 8. The notices informed Petitioners that they have been "determined to be at least fourteen years of age; not a citizen or lawful permanent resident of the United States; a citizen of Venezuela; and a member of Tren de Aragua." *Id.* DHS used the Lionbridge Interpreter Service to translate the English-language documents into Spanish while serving Petitioners, and Petitioners verbally relayed that they understood, though they refused to sign the documents. Ramirez Decl., Exh. F, at ¶ 9.

ICE Enforcement and Removal Operations ("ERO") continues to detain these Petitioners under the Alien Enemies Act, and not under the Immigration and Nationality Act. Ramirez Decl., Exh. F, at ¶ 10.

C. DHS's Notice Procedure

In accordance with the Supreme Court's decision in *Trump v. J.G.G.*, 1:25:cv:00766, the

government has developed procedures for noncitizens newly subject to the Proclamation. Elliston Decl., Ex. D, ¶ 7. Under those procedures, a noncitizen who the government determines is subject to be removed as an alien enemy will receive individual notice of that determination. *Id.* ¶ 8. The notice will be provided to the noncitizen in a language that the noncitizen understands. *Id.* And the notice will allow the noncitizen a reasonable time to file a petition for a writ of habeas corpus. *Id.* Here, proper notice was provided on April 21, 2025. Exh. E. Petitioners concede that the notice was read to them in Spanish, which is their best language. *See* Pet. Opp. to Resp. Motion to Extend, Dkt. 12.

II. Argument

A. Jurisdiction

Where a noncitizen's arguments "fall within the 'core' of the writ of habeas," "jurisdiction lies in only one district: the district of confinement." *Trump v. J.G.G.*, 604 U.S. ——, No. 29A931, 2025 WL 1024097, at *1 (Apr. 7, 2025) (per curiam) (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)). Here, Petitioners are detained in El Paso Service Processing Center, *see* Ramirez Decl., Exh. F, at ¶ 10, and thus, jurisdiction properly lies with the Western District of Texas. *See* Am. Pet. at ¶ 55.

B. Petitioners' Detention Complies with 50 U.S.C. § 21

Petitioners' statutory theory is simple: They are TPS recipients; the applicable statute prohibits detention of TPS recipients; they are being detained; ergo, their detention violates the TPS statute. But Petitioners have overread the relevant statutory language: The statute does not say that federal immigration authorities may never detain a noncitizen with TPS status. What the statute actually provides is that a TPS recipient "shall not be detained . . . on the basis of the alien's immigration status in the United States." 8 U.S.C. § 1254a(d)(4) (emphasis added). The TPS

statute's prohibition of detention "on the basis of . . . immigration status," *id.* § 1254a(d)(4), means only that a noncitizen TPS recipient may not be detained simply because of the legal categorization of his or her presence in the country, or because immigration proceedings are ongoing to determine that legal categorization, *cf. D.B. v. Cardall*, 826 F.3d 721, 736-37 (4th Cir. 2016) (explaining that similarly worded statutory provision "support[ed] the argument that . . . custodial authority" extended only to noncitizens "in immigration proceedings"). As explained below, Petitioners are not being detained on the basis of their immigration status. Accordingly, their detention does not violate the statute.

Here, Petitioners' "immigration status" is not the "basis" of their detention. 8 U.S.C. § 1254a(d)(4). To be sure, the government contends that Petitioners are inadmissible and therefore removable. But although their alleged lack of lawful immigration status is why they have been placed in removal proceedings, that status is not why they are being detained pending the outcome of those proceedings. Rather, Petitioners are being detained because the government has determined that they have ties to Tren de Aragua—based on new information and an official AEA designation—and therefore pose a risk to public safety. This safety risk is a ground for detention wholly independent of Petitioners' "immigration status" and is therefore not subject to the TPS statute's detention restriction. Accordingly, 50 U.S.C. § 21 – which specifically permits the "restraint" and "secure[ment]" of noncitizens designated as alien enemies – controls here, and because that statute confers discretion to detain Petitioners prior to their removal, their present detention complies with applicable statutory authority.

There is no statutory basis to suggest that the authority to restrain an alien enemy under Title 50 is cabined by the distinct and separate authority to detain under Title 8. Indeed, it is akin to a situation where an alien who possesses TPS is detained by police for having committed a

crime. The relevant authorities' ability to detain on the basis of criminal conduct is not somehow cabined by the fact that the alien has TPS and is not subject to detention pursuant to 8 U.S.C. § 1254a. So too here. The authority under which Petitioners are held is Title 50. Their Title 8 temporary protected status, which has been withdrawn, neither affords them a defense to their detention under Title 50 nor provides a justification for release.[2]

C. Petitioners are members of Tren de Aragua

1. Framework

Traditionally, the petitioner alone generally bears the burden of proof. *See Garlotte v. Fordice*, 515 U.S. 39, 46 (1995) ("[T]he habeas petitioner generally bears the burden of proof."); *Eagles v. United States ex rel. Samuels*, 329 U.S. 304, 314 (1946) ("[Petitioner] had the burden of showing that he was unlawfully detained."); *Williams v. Kaiser*, 323 U.S. 471, 472, 474 (1945) (similar); *Walker v. Johnson*, 312 U.S. 275, 286 (1941) (similar); *Johnson v. Zerbst*, 304 U.S. 458, 468 (1938) (similar). "[I]n this context, AEA detainees must receive notice after the date of this order that they are subject to removal under the Act. The notice must be afforded within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs." *J.G.G.*, 2025 WL 1024097, at *2.

This case presents the question of what habeas procedures are constitutionally compelled to review whether each Petitioner is a member of Tren de Aragua. *Hamdi* provides the appropriate framework. The "capture and detention of lawful combatants and the capture, detention, and trial of unlawful combatants, by 'universal agreement and practice,' are 'important incident[s] of war.'"

[2] In *Gudino v. Lowe*, No. 1:25-cv-00571, 2025 WL 1162488 (M.D. Pa. Apr. 21, 2025), the court rejected a similar argument and found the statutory and regulatory language unambiguously clear in not preventing detention after TPS has been withdrawn even while a petitioner is challenging such withdrawal.

Hamdi, 542 U.S. at 518 (quoting *Ex parte Quirin*, 317 U.S. 1, 28 (1942)).[3] While, federal courts have "review[ed] applications for habeas relief in a wide variety of cases involving executive detention, in wartime as well as in times of peace," *Rasul v. Bush*, 542 U.S. 466, 474 (2004), the scope of review has been particularly limited in cases dealing with the military in periods of armed conflict. *See Burns v. Wilson*, 346 U.S. 137, 139 (1953) ("[I]n military habeas corpus the inquiry, the scope of matters open for review, has always been more narrow than in the civil cases.").

In *Hamdi*, the Supreme Court established a framework for adjudicating statutory habeas petitions filed on behalf of *citizens* detained in the United States as enemy combatants. The procedures afforded under the modern habeas statute and rules might define a ceiling of protection, but they clearly do not define a floor. The *Hamdi* framework is more than sufficient in the context of a habeas action filed by a noncitizen detained as an alien enemy for three reasons.

First, because noncitizens are entitled to lesser (and certainly not greater) constitutional protections than citizens, the framework that the Supreme Court deemed constitutionally sufficient for citizens, like Hamdi, held as wartime enemy combatants is more than constitutionally adequate for noncitizens, like Petitioners, detained as alien enemies. The proposition that citizens and non-citizens may be extended different constitutional protections is well established. *See, e.g.*, *United States v. Verdugo-Urquidez*, 494 U.S. 259, 273 (1990); *cf. Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976) ("In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens."). Simply put, if the *Hamdi* framework was sufficient for a citizen, it necessarily must be good enough for a noncitizen.

Second, "the full protections that accompany challenges to detentions in other settings may

[3] Under the rationale of *Marks v. United States*, 430 U.S. 188, 193 (1977), the plurality is the controlling opinion in *Hamdi* and is binding on this Court.

prove unworkable and inappropriate in the enemy-combatant setting." *Hamdi*, 542 U.S. at 535. Habeas review accommodates such limitations because the writ's "precise application . . . change[s] depending upon the circumstances." *Boumediene*, 553 U.S. at 779. The *Hamdi* framework is fully consistent with the constitutionally-required elements of habeas identified by *Boumediene*. Under *Boumediene*, a constitutional habeas court must have "some authority to assess the sufficiency of the Government's evidence against the detainee." *Id.* at 786. *Hamdi* provides the necessary elements of habeas review that, according to *Boumediene*, "accords with [the] test for procedural adequacy in the due process context." *Id.* at 781 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). In sum, the *Hamdi* framework allows this Court to assess the sufficiency of the evidence and allows the petitioners to submit their own evidence.

Under *Hamdi*'s framework, citizen enemy combatants are entitled to the "core" protections that constitute the "minimum requirements of due process." *Hamdi*, 542 U.S. at 535, 538. These core procedural rights are threefold: first, a detainee "must receive notice of the factual basis for his classification"; second, a detainee must have "a fair opportunity to rebut the Government's factual assertions"; and, third, the hearing must occur "before a neutral decisionmaker." *Id.* at 533. No more can be required as applied to alien enemies.

Third, adopting the *Hamdi* framework provides the appropriate balance between a noncitizen detainee's right under *Boumediene* to challenge his continued detention with the government's competing legitimate interests. In assessing what process is constitutionally required for evaluating the detainee's habeas petition, the *Hamdi* plurality applied the balancing test from *Mathews v. Eldridge*, under which "'the private interest that will be affected by the official action'" is balanced "against the Government's asserted interest, 'including the function involved' and the burdens the Government would face in providing greater process." 542 U.S. at 529 (quoting

Mathews, 424 U.S. at 335). On one side of the balance, the Court weighed the detainee's liberty interest in being free from physical detention. *Id.* "On the other side of the scale are the weighty and sensitive Governmental interests in ensuring that those who have in fact fought with the enemy during a war do not return to battle against the United States." *Id.* at 531; *see id.* at 536 ("[O]ur due process assessment must pay keen attention to the particular burdens faced by the Executive in the context of military action.").

Thus, the *Hamdi* plurality recognized that "the exigencies of the circumstances may demand that, aside from the[] core elements [of notice and an opportunity to rebut the government's factual assertions], enemy-combatant proceedings may be tailored to alleviate their uncommon potential to burden the Executive at a time of ongoing military conflict." *Id.* Similar concerns are present here given the Proclamation's satisfaction of both conditions of 50 U.S.C. § 21 requiring "an[] invasion" or a "predatory incursion" that is "perpetrated," or "attempted," or "threatened against the territory of the United States" and made by a "foreign nation" or "government." The *Hamdi* plurality thus explained, for example, that "[h]earsay . . . may need to be accepted as the most reliable available evidence from the Government in such a proceeding." *Id.* at 533-34.

In light of these competing interests, and to provide a workable mechanism to balance them, as well as to address the unique separation-of-powers concerns presented by enemy combatant litigation, the *Hamdi* plurality endorsed a "burden-shifting scheme" under which the government has the initial burden to "put[] forth credible evidence that the habeas petitioner meets the enemy-combatant criteria." 542 U.S. at 534. The plurality noted that "the Constitution would not be offended by a presumption in favor of the Government's evidence, so long as that presumption remained a rebuttable one and fair opportunity for rebuttal were provided." *Id.* Under

such a scheme, following a showing of credible evidence by the government, the burden would "shift to the petitioner to rebut that evidence with more persuasive evidence that he falls outside the criteria." *Id.* This approach "meet[s] the goal of ensuring that [any wrongly accused person] has a chance to prove military error while giving due regard to the Executive once it has put forth meaningful support for its conclusion that the detainee is in fact an enemy combatant." *Id.* These *Hamdi* procedures, which the Court explained are constitutionally sufficient for habeas proceedings involving U.S. citizens detained as enemy combatants in the United States, are *a fortiori* constitutionally sufficient for habeas procedures involving noncitizens detained as alien enemies. And because the procedures are spelled out by the Supreme Court, they are binding on this Court.

The role of the courts is only to assess whether a detainee is subject to the AEA proclamation, not to probe the national security and foreign-policy judgments of the President. *Ludecke*, 335 U.S. at 163-64 (providing habeas review only of whether detainee was subject to the proclamation and silent on the issue of deference); *see also J.G.G.*, 2025 WL 1024097, at *2 (opining on limited judicial review under the AEA); *El-Shifa Pharm. Indus. Co. v. United States*, 607 F.3d 836, 842 (D.C. Cir. 2010) ("The political question doctrine bars our review of claims that, regardless of how they are styled, call into question the prudence of the political branches in matters of foreign policy or national security constitutionally committed to their discretion."); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977) ("[The Supreme Court] ha[s] long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control." (cleaned up)). Thus, Respondents are entitled to deference in making the determination that Petitioners are members of TdA.

As here, the process will ordinarily begin with the government's designation notice. If a

petitioner challenges that designation, the Government will "put[] forth credible evidence that the habeas petitioner" met the criteria in order for ICE to determine that a petitioner is a member of TdA. *See Hamdi*, 542 U.S. at 534. This gives the petitioner full "notice of the factual basis for his classification." *Id.* at 533. The government's response is supported by credible evidence, and the burden shifts to the petitioner to rebut, "with more persuasive evidence," the Government's classification. *Id.* at 534. This affords a petitioner "a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker," *id.* at 533, and gives the Court a chance "to admit and consider relevant exculpatory evidence that was not introduced during the earlier proceeding." *Boumediene*, 553 U.S. at 786.

Hamdi very plainly explained that detention could be justified based upon information about a detainee's capture made by "a knowledgeable affiant" who would "summarize [the Government's] records." *Hamdi*, 542 U.S. at 534. *Hamdi* establishes that hearsay is the norm, not the exception, in the parties' submissions and during an evidentiary hearing if one is required. As the controlling plurality explained, "[h]earsay . . . may need to be accepted as the most reliable available evidence from the Government" in these habeas proceedings. *Id.* at 533-34. That statement does not set forth a standard for admissibility, but rather identifies what is likely the *best* evidence available. Indeed, the *Hamdi* plurality specifically directed the lower courts to consider the second-hand statements of government officials regarding a detainee's actions where the official was familiar with relevant government practices and has reviewed the government's "records and reports." *See id.* at 512-13, 534, 538 ("[A] habeas court . . . may accept affidavit evidence like that contained in the Mobbs Declaration.").

2. Credible evidence sufficient to invoke the AEA indicates Petitioners are Tren de Aragua gang members

The DHS properly designated Petitioners as alien enemies under the AEA. Several reliable and persuasive sources identify Sanchez Garcia as a Tren de Aragua member. *See* Ramirez Decl., Exh. F, at ¶ 13–15. First, the DHS properly based the designation, in part, on Sanchez Garcia's own admissions. *Id.* at ¶ 15. On March 10, 2025, after being read her *Miranda* rights, Sanchez Garcia stated that she was previously married to a member of Tren de Aragua and knows many members of that criminal organization. *Id.* She also confirmed her nickname, "La Licenciada." *Id.* Second, law enforcement intelligence identifies Sanchez Garcia as a Tren de Aragua member. *Id.* at ¶ 14. Specifically, as described in a law enforcement document dated August 21, 2024, a protected source who previously worked for the Venezuelan national police and was assigned to a special team targeting Tren de Aragua identified Sanchez Garcia by her name, biometrics, and photo, as a Tren de Aragua member. *Id.* Third, intelligence gathered through routine gang investigations identifies Sanchez Garcia as a member of Tren de Aragua. *Id.* at ¶ 13. In a report containing "highly reliable and verified" information, dated May 15, 2024, Sanchez Garcia is identified by full name, her admitted nickname "La Licenciada," date of birth, alien number, and Venezuelan "cedula," as a TdA member, according to both the Venezuelan National Police and the Colombian government. *Id.* Further, the report indicates that Sanchez Garcia is associated with narcotics trafficking for the Wilmer Guayabal faction of the Tren de Aragua. *Id.*

There is also sufficient indicia to support DHS's AEA designation of Sanchez Puentes as a member of Tren de Aragua. *See* Ramirez Decl., Exh. F, at ¶ 20. The government has not received intelligence confirming that Puentes is a member. *Id.* To determine that Sanchez Puentes is a TdA member, DHS properly relied on information indicating that he is married to, resides with, and entered the United States unlawfully with Sanchez Garcia, a known Tren de Aragua member. *Id.*

Petitioners have been provided notice of their designation in their best language and have been given an opportunity to dispute their designation. Exh. E.; Ramirez Decl., Exh. F, at ¶ 9.

D. Petitioners' Detention Does Not Violate the Administrative Procedure Act

Petitioners also argue that their detention violates the Administrative Procedure Act ("APA") because "the facts alleged do not form an adequate basis for [Petitioners'] designations as alien enemies under the AEA." Am. Pet. at ¶ 82. Contrary to their argument, Petitioners were properly designated as alien enemies for the reasons provided above. *See* Ramirez Decl., Exh. F, at ¶¶ 12–15, 20.

The Supreme Court held that individuals detained and facing removal under the AEA must receive notice and have an opportunity to be heard. *Trump v. J. G. G.*, No. 24A931, 2025 WL 1024097 (U.S. Apr. 7, 2025). Specifically, the notice must "be afforded within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs." *J. G. G.*, 2025 WL 1024097, at *2. Here, while Petitioners' prayer for relief includes a request for a 30-day window within which to respond, Am. Pet. at 24 ¶ 9, that request is not accompanied by an argument for why 30 days would be required here (or in any case) or any authority to support that duration. The Supreme Court's directive is merely that the notice be given within a reasonable time to permit habeas relief. That happened here – Petitioners are in habeas proceedings in a court of competent jurisdiction challenging their notice under the AEA just as the Supreme Court envisioned in *J. G. G.*, 2025 WL 1024097, at *2.

E. Petitioners' Detention Does Not Violate the Rights to Due Process

Petitioners argue that their due process rights were violated, specifically alleging (1) they have been denied their liberty without due process; (2) their detention "is not rationally related to any immigration purpose; (3) detention is not the least restrictive mechanism for accomplishing

any legitimate purpose; (4) their detention lacks statutory authorization; and (5) they have been denied proper notice of the charges against them and an opportunity to rebut those charges; and (6) they have been denied minimal procedural protections to challenge their removal. Am. Pet. at ¶¶ 86–89. Their arguments lack merit.

First, Petitioners have not been denied their liberty without due process. DHS properly interviewed Petitioners and designated them as alien enemies under 50 U.S.C. § 21. DHS also has complied with the notice requirements proscribed by the Supreme Court in *Trump v. J.G.G.*, 1:25:cv:00766. *See* Exh. E. Further, Petitioners were provided with ample opportunity to file a habeas petition, and indeed, have done so through chosen counsel.

Second, Petitioners' detention is rationally connected to an immigration purpose. Petitioners' TPS status was withdrawn, they are in removal proceedings, and the government intends to remove them from the United States at the conclusion of the temporary restraining order, because of their designation under the AEA.

Third, Petitioners' detention is the least restrictive mechanism for accomplishing a legitimate purpose. DHS has determined that these noncitizens are members of Tren de Aragua, and therefore, pose a threat to public safety. *See* Ramirez Decl., Exh. F, at ¶¶ 10, 12–15, 20.

Fourth, as discussed, Petitioners' detention is proper under 50 U.S.C. § 21, which authorizes securing and restraining noncitizens properly designated as Alien Enemies. Thus, the detention is not a statutory violation.

Fifth, as Petitioners admit in their opposition to Respondent's request for a scheduling modification, DHS has corrected its notice of Petitioners' designation, such that it now complies with the notice requirements. Exh. E; Exh. F at ¶ 9; Pet. Opp to Motion to Extend, Dkt. 12.

Sixth, despite Petitioners' objections, nothing has prevented Petitioners from pursuing relief from their detention through habeas. Accordingly, Petitioners have been afforded due process.

III. Conclusion

This Court should deny the petition for writ of habeas corpus.

Respectfully submitted,

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Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J.G.G., *et al.*,

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

No. 1:25-cv-766 (JEB)

Declaration Of Deputy Assistant Director Selwyn Smith

DECLARATION OF SELWYN SMITH

I, Selwyn Smith, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am a Deputy Assistant Director ("DAD") for Homeland Security Investigations ("HSI") at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS").

2. As the DAD of Countering Transnational Organized Crime, Public Safety and Border Security division ("PSBS"), I oversee a wide variety of investigative and special operations programs targeting Transnational Criminal Organizations involved in human smuggling, narcotics trafficking, racketeering and violent gang activity as well as other crimes enforced by HSI. These programmatic areas support the targeting of cross border criminal organizations that exploit America's legitimate trade, travel, and financial systems for illicit purposes.

3. I am aware that the instant lawsuit has been filed regarding the removal of Venezuelan members of Tren de Aragua ("TdA") pursuant to the Alien Enemies Act ("AEA").

4. I provide this declaration based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business.

5. On March 15, 2025, President Trump announced the Proclamation *Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua* stating that, "Evidence irrefutably demonstrates that TdA has invaded the United States and continues to invade, attempt to invade, and threaten to invade the country; perpetrated irregular warfare within the country; and used drug trafficking as a weapon against our citizens" (the Proclamation) (https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua/). In the same Proclamation, President Trump announced that, pursuant to 50 U.S.C. § 21, "all Venezuelan citizens 14 years of age or older who are members of TdA, are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies."

6. Members of TdA pose an extraordinary threat to the American public. TdA members are involved in illicit activity to invoke fear and supremacy in neighborhoods and with the general population. This has been evident from investigations throughout the nation where TdA members coalesce to conduct their criminal acts. For example, TdA's takeover of Denver apartment buildings stoked fear in the tenants when TdA committed burglaries, narcotics, and weapons violations. Other inquiries into the actions of member of TdA have resulted in criminal investigations and prosecution of cases of human trafficking, to include trafficking of women

from Venezuela; bank fraud; federal narcotics violations; extortion of human smuggling victims; and homicide, to name a few. This, along with the myriad state violations and investigations of groups of TdA members committing crimes throughout the nation are evidence of their criminal enterprise.

7. TdA is a violent transnational criminal organization (TCO) which originated in the mid-to-late 2000's as a prison gang founded by inmates of the Tocorón prison in the Venezuelan state of Aragua. TdA has since evolved from Venezuela's most powerful homegrown prison gang into a TCO which by 2018, had expanded throughout South America and grew to have an estimated 3,000 to 5,000 members. As TdA continues its expansion throughout South America it is currently proliferating into North America.

8. Much like MS-13, as TdA's influence and power expanded to other prisons throughout Venezuela and then across the southern hemisphere, the global leadership of the organization exploited the prison system to develop a base of operations for the gang to coordinate logistics, revenue streams, and recruitment. TdA was also able to grow its numbers from the steady prison population and build its criminal enterprise through the extortion of inmates. The founding members, senior leaders, and a vast number of TdA members escaped the Tocorón prison in September 2023. The subsequent destruction of the prison resulted in the displacement of the senior leaders and the decentralization of the global command-and-control structure for the organization.

9. Over the course of the past three years, TdA has expanded throughout North America and are now known to be present and committing criminal activity in at least 40 states in the continental United States and Canada. TdA has proven to leverage many of the same expansion tactics and strategies in the United States that they previously employed throughout

South America. Due to the migration patterns of the Venezuelan diaspora and the vast expansion of the organization throughout the United States, TdA has become a loosely affiliated collection of independent cells committing disorganized and opportunistic crimes of violence against the Venezuelan population and rival gangs, terrorizing local communities. Detention of TdA leaders and members would potentially result in the unintended consequence of consolidating and centralizing their command-and-control structure and thereby providing an opportunity for TdA to organize and prolong the violent activities of their criminal enterprise within the United States.

10. Historically, TdA has been found to be either, or both, strategic and opportunistic in their evolution and expansion. Within the Venezuelan penitentiary system, TdA methodically pursued geographic expansion by taking control of selected prisons in Aragua and surrounding states. Throughout the gang's expansion across international borders, the establishment and disbursement became more random and responsive to the environment and driven by profitability. As TdA continues its geographical expansion it has shown to operate as a loosely organized criminal syndicate serving as an umbrella organization for franchise networks under the TdA banner.

11. TdA establishes their presence in a three-phase expansion methodology through force and dominance in an urban population within a geographical region. This pattern of behavior has been documented in TdA's expansion throughout South America, including into Colombia, Perú, and Chile. The three known phases of expansion are the Exploration, Penetration, and Consolidation phase.

12. Exploration - In this step, TdA has been known to infiltrate and control groups of Venezuelan refugees traveling along migratory routes. By mixing with these migrants TdA

members can keep a low profile and pass into new regions. They have been known to exploit these migrants for the gang's profit through extortion and sexual exploitation.

13. Penetration - In this step, TdA members begin to establish themselves within their new territory. This is often accompanied by a corresponding increase in crime and violence as they begin to set up their criminal activities and confront existing gangs previously established in the area. In general, TdA has historically targeted opportunistic areas with a relatively low volume of rival organizations present and with elevated profitability. During this phase TdA will typically engage in extortion, low-level drug distribution, human trafficking and sexual exploitation, kidnapping, and other violent crimes of intimidation.

14. Consolidation - Once TdA members have firmly established themselves within an area and overcome and/or absorbed competing gangs through domination they move to consolidate their power and position within the territory into an enterprise.

15. Reporting reveals TdA is attempting to expand its presence and criminal activity throughout the Western Hemisphere by exploiting the record mass migration resulting from Venezuela's recent political, economic, and humanitarian crises. According to key assessments, if left unchecked, TdA is likely to establish increasingly sophisticated human smuggling and sex trafficking networks into the United States leading to an increase in criminal activity and likely adding further strain to law enforcement resources as seen in Chicago, New York, Denver, and along our southern border.

16. As of September 2024, ICE HSI reporting indicates that TdA members have been identified in at least 40 states across the United States. ICE HSI has opened approximately 472 investigations targeting members and/or TdA criminal networks across domestic and international offices. The violations in these investigations include, but are not limited to,

murder, robbery, human smuggling, human trafficking, sex trafficking, hostage taking, narcotics trafficking, and firearms violations.

17. In January 2024, the New York Police Department ("NYPD") recorded a surge in moped robberies that are attributed by police as likely orchestrated by TdA recruits. NYPD CompStat reporting indicates that moped-based armed robbery patterns during this period were 158% higher than the same period the previous year. NYPD attributes this surge to be a result of TdA recruitment of Venezuelans in New York City migrant centers. Accused leaders have admitted to a complex network connected to Florida and Texas with profits shipped back to South America. Associated crews of this TdA network are allegedly involved in extortion and ransom schemes connected to human smuggling and human trafficking networks.

18. In June 2024, multiple suspected TdA members participated in a nationally publicized series of robberies including the armed robbery of $2 million in merchandise from a high-end jewelry store in Denver, Colorado. In total, 13 subjects were apprehended by ICE HSI in a multi-agency, coordinated enforcement operation as the group attempted to flee to Venezuela.

19. In January 2025, as a result of a joint ICE HSI investigation, nine TdA members were criminally charged in Colorado state court for their participation in the December 17, 2024, armed home invasion, kidnapping, and torture of two Venezuelan nationals at the Edge of Lowry Apartments in Aurora, Colorado. In total, 12 subjects were charged, with three Venezuelan nationals remaining at large. The court granted the City of Aurora an emergency order to temporarily close the Edge of Lowery Complex due to "an imminent threat to public safety and welfare."

20. In February 2025, a joint multi-jurisdictional ICE HSI investigation with the Federal Bureau of Investigation and Tennessee Bureau of Investigation, dismantled a transnational commercial sex trafficking enterprise charging eight subjects with ties to TdA. The defendants operated an illegal commercial sex and sex trafficking enterprise out of Nashville motels from July 2022 through March 2024. The defendants facilitated the victims' arrival into the United States and used online commercial sex websites to post advertisements and internet or cellular communications to conduct illicit criminal activities.

21. It is critical to use all available law enforcement tools to disrupt TdA activities quickly. These individuals are designated as foreign terrorists. Within Venezuela, TdA was able to grow its numbers from the steady prison population and build its criminal enterprise through the extortion of inmates. Keeping them in ICE custody where they could potentially continue to recruit new TdA members poses a grave risk to ICE personnel; other, nonviolent detainees; and the United States as a whole.

22. Though many TdA members subject to the AEA do not have criminal records in the United States, due to their origin as a prison gang, it is safe to assume these subjects have criminal histories in their home countries, which U.S, law enforcement cannot verify due to the lack of diplomatic relations that currently exist with the country of Venezuela. The lack of a criminal record in the United States does not indicate they pose a limited threat. In fact, based upon their association with TdA, the lack of specific information about each individual actually highlights the risk they pose. It demonstrates that they are potential terrorists for whom we lack a complete profile.

23. However, even though many of these TdA members have been in the United States only a short time, some have still managed to commit extremely serious crimes. A review

of ICE databases reveals that numerous individuals subject to the AEA have arrests and convictions in the United States for dangerous offenses.

24. Additionally, a review of ICE databases reveals that numerous individuals removed have arrests, pending charges, and convictions outside of the United States, including an individual who is under investigation by Venezuelan authorities for the crimes of aggravated homicide, qualified kidnapping, and illegal carrying of weapons of war and short arms with ammunition for organized gang in concealment and trafficking; an individual who is the subject of an active INTERPOL Blue Notice issued on or about January 2, 2025, and a Red Notice issued February 5, 2025, for the crime of kidnapping and rape in Chile; an individual who is the subject of an INTERPOL Red Notice issued by Chile for kidnapping for ransom and criminal conspiracy involving TdA; an individual who admitted he sold marijuana and crystal methamphetamine for the Colombian gang Las Paisas, assaulted someone with a knife for a cellphone while living in Venezuela, and has twice robbed people for money while living in Colombia; an individual who is the subject of an INTERPOL Red Notice for child abduction; an individual identified as a "high-ranking" member of the TdA by the Mobile Tactical Interdiction Unit in Guatemala City, Guatemala; an individual who is the subject of an INTERPOL Red Notice based on obstruction of justice, criminal conspiracy, and aggravated corruption based on the individual's role as a police officer in modifying evidence to cover up a murder; an individual who, according to Peruvian Newspapers, is associated with high-ranking TdA members and who fled Peru while under investigation for illegal possession of firearm and distributing narcotics; and an individual who is the subject of an INTERPOL Blue Notice stating that he is under investigation in Venezuela for murder with aggravating circumstances against a victim whose corpse was found inside a suitcase on a dirt road.

25. According to a review of ICE databases, numerous individuals removed were arrested together as part of federal gang operations, including two individuals who were in a vehicle during a Federal Bureau of Investigations gun bust with known TdA members; four individuals who were arrested during the execution of an HSI New York City operation; and four individuals who were encountered during the execution of an arrest warrant targeting a TdA gang member, all of whom were in a residence with a firearm and attempted to flee out the back of the residence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of April 2025.

SELWYN J SMITH

Digitally signed by SELWYN J SMITH
Date: 2025.04.01 21:51:03 -04'00'

Selwyn Smith
Deputy Assistant Director
Homeland Security Investigations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J.G.G., *et al.*,

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

No. 1:25-cv-766 (JEB)

Declaration Of Acting Assistant Director Marcos D. Charles

DECLARATION OF MARCOS D. CHARLES

I, Marcos D. Charles, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an Acting Assistant Director for Field Operations at Enforcement and Removal Operations ("ERO") at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS").

2. As the (A) Assistant Director, I am responsible for providing guidance and counsel to the twenty-five ERO Field Office Directors, ensuring all field operations are working to efficiently execute the agency mission. I began my career with the U.S. Government as a border patrol agent for the former Immigration and Naturalization Service in Hebbronville, TX. Over time I was promoted to Senior Border Patrol Agent, Supervisory Border Patrol Agent, and Field Operations Supervisor. I joined ICE in 2008 as the Assistant Officer in Charge. Overtime I was promoted to Supervisory Detention and Deportation Officer, Assistant Field Office Director,

Chief of Staff, Deputy Field Office Director, and Field Office Director before becoming the Acting Assistant Director.

3. I am aware that the instant lawsuit has been filed regarding the removal of Venezuelan members of Tren de Aragua ("TdA") pursuant to the Alien Enemies Act ("AEA").

4. I provide this declaration based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business.

5. On March 15, 2025, President Trump announced the Proclamation *Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua* stating that, "Evidence irrefutably demonstrates that TdA has invaded the United States and continues to invade, attempt to invade, and threaten to invade the country; perpetrated irregular warfare within the country; and used drug trafficking as a weapon against our citizens" (the Proclamation) (https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua/). In the same Proclamation, President Trump announced that, pursuant to 50 U.S.C. § 21, "all Venezuelan citizens 14 years of age or older who are members of TdA, are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies."

6. Gangs remain one of the more formidable issues that corrections officials face in the management of prisons and civil detention facilities. Gangs are responsible for a disproportionate amount of prison misconduct and violence. Their continued presence challenges ongoing efforts to maintain control, order, and safety in the facilities. While all gangs disrupt the

orderly administration of detention facilities, TdA represents a heightened challenge beyond what prisons in the United States face, given TdA's formation and history in penal institutions.

7. TdA is not just a normal gang. Open-source information documents the gang's history and growth over the last decade. As reported in National Public Radio's article titled, *Tren de Aragua, a criminal organization with roots in Venezuela, has roots in Venezuela, has rapidly expanded across Latin America*, TdA was founded in 2014 in the Tocorón prison, in the central Venezuelan state of Aragua, led by Héctor Rusthenford Guerrero Flores, alias "Niño Guerrero." The gang largely controlled the Tocorón prison and eventually branched out overseas. The gang's leaders fled the prison in 2023 when it was taken over by security forces. While leadership splintered after fleeing the prison, TdA recruited new gang members from among the eight million Venezuelans who had fled the country's economic crisis. Initially, it established criminal cells in neighboring Colombia, Peru, and Chile, where it smuggled drugs and people and operated extortion rackets and prostitution rings. TdA's most notorious alleged crime was the 2024 killing of Ronald Ojeda, a former Venezuelan army officer who conspired against Nicolás Maduro, the country's authoritarian leader, then fled to Chile. Suspected gang members dressed as Chilean police officers abducted Ojeda from his apartment. Days later, his body was found stuffed in a suitcase and buried in cement. The history reflects over a decade of savage criminal activity, vicious disregard for authority, and violent crimes which threaten the stability of order. TdA poses the same terrorizations in the United States as the origin countries from which they started – Venezuela, and now also to include Colombia, Peru and Chile.

8. While in confinement in Venezuela, TdA was able to grow its numbers exponentially. Multiple examples of their savagery can be found in open-source news articles highlighting the numerous abhorrent activities they have conducted while in the United States

including but not limited to murder, rape, kidnapping, sex trafficking, drug trafficking, robbery, and assault. Further, TdA has been designated a Foreign Terrorist Organization. Their continued presence in ICE custody poses significant risks such as the ability to recruit new TdA members. Detention of hundreds of members of a designated Foreign Terrorist Organization, among other populations of aliens is an unnecessary danger to other detainees and facility staff.

9. The designation of TdA as a terrorist organization has introduced new budgetary challenges for ICE/ERO. This classification necessitates a shift in resource allocation, directing limited funds and human capital towards the identification, arrest, detention, and removal of individuals within this newly prioritized organization. ICE is bound by statutory requirements to not release certain aliens from immigration detention based on criminal or threat designations. This shift in priorities hampers ICE's ability to properly detain those aliens who are not statutorily eligible for release or for whom an ICE officer determines is a public safety or flight risk during the custody determination process. Detaining this dangerous population of aliens detracts from our already limited bedspace capacities and diminishes our resources and obstructs ICE's ability to detain other criminal aliens, and make difficult decisions on which aliens are the most egregious, dangerous and/or removable all while also being bound by statutory requirements in the Immigration and Nationality Act (INA), which imposes limitations on release, such as aliens subject to expedited removal, or for whom there is a prohibition of release under the mandatory detention provision of INA § 236(c). ICE currently has roughly 41,500 beds available for detention. These beds cost the American public roughly $152 a bed daily. Because members of TdA pose a significant threat of danger at ICE detention facilities, their swift removal from the United States after entering ICE custody ensures the preservation of security and order for both detainees and facility personnel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of April, 2025.

MARCOS D CHARLES Digitally signed by MARCOS D CHARLES Date: 2025.04.01 22:48:40 -04'00'

Marcos D. Charles
Acting Assistant Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Exhibit C

DECLARATION OF MICHAEL G. KOZAK

Pursuant to 28 U.S.C. § 1746, I, Michael G. Kozak, declare and state as follows:

1. I, Michael G. Kozak, am the Senior Bureau Official within the Bureau of Western Hemisphere Affairs (WHA) of the United States Department of State, a position I have held since January 2025. In that capacity, I lead and oversee WHA, including the country offices handling affairs regarding Central and South America and other countries in the Hemisphere. I am a career member of the Senior Executive Service, and have served in a variety of senior positions in the Department of State, including previously as the Acting Assistant Secretary of WHA, in other positions within WHA, and leading other bureaus and offices of the Department of State. WHA is responsible for diplomatic relations between the United States and countries in the Western Hemisphere, including El Salvador and Venezuela. I make the following statements based upon my personal knowledge, including from my extensive experience since 1971 engaging in diplomatic and other work of the Department with respect to El Salvador, Venezuela, and other countries in the region and around the world, as well as upon information made available to me in the performance of my official duties.
2. U.S. government officials from the White House and the Department of State, including special Presidential envoy Richard Grenell, Secretary of State Marco Rubio, and Special Envoy for Latin America Mauricio Claver-Carone, have negotiated at the highest levels with the Government of El Salvador and with Nicolas Maduro and his representatives in Venezuela in recent weeks for those countries to consent to the removal to Venezuela and El Salvador of some number of Venezuelan nationals detained in the United States who are associated with Tren de Aragua (TdA), a designated foreign terrorist organization.

3. Arrangements were recently reached to this effect with these foreign interlocutors to accept the removal of some number of Venezuelan members of TdA. These arrangements were the result of intensive and delicate negotiations between the United States and El Salvador, and between the United States and representatives of the Maduro regime.
4. The foreign policy of the United States would suffer harm if the removal of individuals associated with TdA were prevented, taking into account the significant time and energy expended over several weeks by high-level U.S. government officials and the possibility that foreign interlocutors might change their minds regarding their willingness to accept certain individuals associated with TdA removed or might otherwise seek to leverage this as an ongoing issue. These harms could arise even in the short term, as future conversations with foreign interlocutors seeking to resolve foreign policy matters would

Exhibit D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

G.F.F., *et al.*, *Petitioners*, *v.* DONALD J. TRUMP, *et al.*, *Respondents*.	No. 25-cv-02886 (AKH) Declaration of Deputy Assistant Director Matthew L. Elliston

DECLARATION OF MATTHEW L. ELLISTON

I, Matthew L. Elliston, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am the Deputy Assistant Director for Field Operations, Eastern Division, for Enforcement and Removal Operations (ERO), within U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS). In this position, I am the first-line supervisor for twelve ERO Field Office Directors.

2. I began my law enforcement career in 2008 as an Immigration Enforcement Agent in the ERO Los Angeles Field Office and have served as a Deportation Officer, Detention and Deportation Officer, Acting Supervisory Detention and Deportation Officer, Section Chief, Deputy Chief of Staff to the ICE Deputy Director and Deputy Chief of Staff of ERO. In particular, I have served as Section Chief of the National Fugitive Operations Program (NFOP), where I managed the daily at-large operations and Special Response Team deployments throughout the nation. Most recently I served as Deputy Field Office Director and Field Office Director of Baltimore.

3. I provide this declaration based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, other DHS ICE employees, and information portals maintained and relied upon by DHS ICE in in the regular course of business.

4. I am aware of the above-captioned petition for habeas corpus.

5. On March 15, 2025, President Trump announced the Proclamation *Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua*, (the Proclamation), which states that "[e]vidence irrefutably demonstrates that [Tren De Aragua (TdA)] has invaded the United States and continues to invade, attempt to invade, and threaten to invade the country; perpetrated irregular warfare within the country; and used drug trafficking as a weapon against our citizens." 90 Fed. Reg. 13,033, 13,033 (Mar. 20, 2025). In the same Proclamation, President Trump announced that, pursuant to 50 U.S.C. § 21, "all Venezuelan citizens 14 years of age or older who are members of TdA, are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies." 90 Fed. Reg. at 13,034.

6. I am aware that , in the case of *Trump, et al. v. J.G.G., et al.*, --- S.Ct. ----, 2025 WL 1024097 (U.S. Apr. 7, 2025), the Supreme Court of the United States stated that "detainees [held for removal under the Alien Enemies Act (AEA)] are entitled to notice and opportunity to be heard 'appropriate to the nature of the case.'"

7. The government has adopted procedures for aliens subject to the Proclamation.

8. These procedures require that each such alien be provided individual notice, in a language the alien understands, of the government's determination that the alien is subject to

removal as an alien enemy under the Proclamation. The notice will allow the alien a reasonable time to file a petition for a writ of habeas corpus.

I declare, under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief, as of the time of signature.

Executed this 15th day of April 2025.

MATTHEW L ELLISTON

Digitally signed by MATTHEW L ELLISTON
DN: cn=MATTHEW L ELLISTON, o=U.S. Government, ou=People, email=Matthew.Elliston@ice.dhs.gov, c=US
Date: 2025-04-15T22:02:17-0400

Matthew L. Elliston
Deputy Assistant Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Exhibit E

NOTICE AND WARRANT OF APPREHENSION AND REMOVAL UNDER THE ALIEN ENEMIES ACT

A-File No: A# [redacted] Date: 04/21/2025

In the Matter of: Sanchez Garcia , Luddis Norelia

Date of Birth: [redacted] Sex: Male Female XXX

Warrant of Apprehension and Removal

To any authorized law enforcement officer:

The President has found that Tren de Aragua is perpetrating, attempting, or threatening an invasion or predatory incursion against the territory of the United States, and that Tren de Aragua members are thus Alien Enemies removable under Title 50, United States Code, Section 21.

Sanchez Garcia , Luddis Norelia has been determined to be: (1) at least fourteen years of age; (2) not a citizen or lawful permanent resident of the United States; (3) a citizen of Venezuela; and (4) a member of Tren de Aragua. Accordingly, he or she has been determined to be an Alien Enemy and, under Title 50, United States Code, Section 21, he or she shall be apprehended, restrained, and removed from the United States pursuant to this Warrant of Apprehension and Removal.

(Full Name of Alien Enemy)

Signature of Supervisory Officer: [signature]

Title of Officer: Field Office Director **Date:** 04/21/2025

Notice to Alien Enemy

I am a law enforcement officer authorized to apprehend, restrain, and remove Alien Enemies. You have been determined to be at least fourteen years of age; not a citizen or lawful permanent resident of the United States; a citizen of Venezuela; and a member of Tren de Aragua. Accordingly, under the Alien Enemies Act, you have been determined to be an Alien Enemy subject to apprehension, restraint, and removal from the United States. Until you are removed from the United States, you will be detained under Title 50, United States Code, Section 21. Any statement you make now or while you are in custody may be used against you in any administrative or criminal proceeding. This is not a removal under the Immigration and Nationality Act. If you desire to make a phone call, you will be permitted to do so.

After being removed from the United States, you must request and obtain permission from the Secretary of Homeland Security to enter or attempt to enter the United States at any time. Should you enter or attempt to enter the United States without receiving such permission, you will be subject to immediate removal and may be subject to criminal prosecution and imprisonment.

Signature of alien: Refused to Sign Date: 4/21/25

CERTIFICATE OF SERVICE

I personally served a copy of this Notice and Warrant upon the above-named person on 4/21/25 (Date) and ensured it was read to this person in a language he or she understands.

J. ARMENDAREZ, SDDO
Name of officer/agent

Signature of officer/agent

Form AEA-21B

Language Line Bridge #8927

NOTICE AND WARRANT OF APPREHENSION AND REMOVAL UNDER THE ALIEN ENEMIES ACT

A-File No: A# [redacted] Date: 04/21/2025

In the Matter of: Sanchez Puentes, Julio Cesar

Date of Birth: [redacted] Sex: Male XXX Female

Warrant of Apprehension and Removal

To any authorized law enforcement officer:

The President has found that Tren de Aragua is perpetrating, attempting, or threatening an invasion or predatory incursion against the territory of the United States, and that Tren de Aragua members are thus Alien Enemies removable under Title 50, United States Code, Section 21.

Sanchez Puentes, Julio Cesar has been determined to be: (1) at least fourteen years of age; (2) not a citizen or lawful permanent resident of the United States; (3) a citizen of Venezuela; and (4) a member of Tren de Aragua. Accordingly, he or she has been determined to be an Alien Enemy and, under Title 50, United States Code, Section 21, he or she shall be apprehended, restrained, and removed from the United States pursuant to this Warrant of Apprehension and Removal.

(Full Name of Alien Enemy)

Signature of Supervisory Officer: [signature]

Title of Officer: Field Office Director **Date:** 04/21/2025

Notice to Alien Enemy

I am a law enforcement officer authorized to apprehend, restrain, and remove Alien Enemies. You have been determined to be at least fourteen years of age; not a citizen or lawful permanent resident of the United States; a citizen of Venezuela; and a member of Tren de Aragua. Accordingly, under the Alien Enemies Act, you have been determined to be an Alien Enemy subject to apprehension, restraint, and removal from the United States. Until you are removed from the United States, you will be detained under Title 50, United States Code, Section 21. Any statement you make now or while you are in custody may be used against you in any administrative or criminal proceeding. This is not a removal under the Immigration and Nationality Act. If you desire to make a phone call, you will be permitted to do so.

After being removed from the United States, you must request and obtain permission from the Secretary of Homeland Security to enter or attempt to enter the United States at any time. Should you enter or attempt to enter the United States without receiving such permission, you will be subject to immediate removal and may be subject to criminal prosecution and imprisonment.

Signature of alien: Refused to Sign Date: 4-21-2025

CERTIFICATE OF SERVICE

I personally served a copy of this Notice and Warrant upon the above-named person on 4-21-25 (Date) and ensured it was read to this person in a language he or she understands.

R. Hernandez, SDDO
Name of officer/agent

Signature of officer/agent

Form AEA-21B

Lion Ridge Interpreting Service ID.#2517
Ref: 37828203

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Julio Cesar Sanchez Puentes, and Luddis Norelia Sanchez Garcia,

Petitioners,

v.

Mary De-Anda-Ybarra, in her official capacity as Field Office Director of the U.S. Immigration and Customs, Enforcement and Removal Operations in El Paso Field Office, *et al*, Respondents.

No. 25-cv-00127-DB

DECLARATION OF ALFONSO RAMIREZ

I, Alfonso Ramirez, hereby make the following declaration with respect to the above-captioned matter:

1. I am an Assistant Field Office Director (AFOD) with the El Paso Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS). I have been employed with ICE, ERO since November 2008. I have been in my current position since June 2024, and my duties include overseeing the Supervisory Detention & Deportation Officers (SDDO) and the Deportation Officers (DO) who manage the criminal apprehension program, ERO criminal prosecutions and fugitive operations. These duties include, but are not limited to, overseeing the officers' review of

aliens arrested by local jurisdictions, reviewing alien files for legal sufficiency to place aliens into immigration proceedings, presenting criminal complaints to the U.S. Attorney's Office for criminal prosecution, and executing administrative and criminal arrests of at-large illegal criminal aliens.

2. The subject matter of this declaration involves my official law enforcement duties and is based on experience and personal knowledge, my review of pertinent government databases, and information made known to me for enforcement and removal operations through various intelligence and investigative channels.

3. On March 15, 2025, President Trump announced Proclamation 10903, *Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua* stating that, "Evidence irrefutably demonstrates that Tren De Aragua (TdA) has invaded the United States and continues to invade, attempt to invade, and threaten to invade the country; perpetrated irregular warfare within the country; and used drug trafficking as a weapon against our citizens, " 90 Fed. Reg. 13033, 13033 (the Proclamation).

4. In the same Proclamation, President Trump announced that, pursuant to the Alien Enemies Act, 50 U.S.C. § 21 (AEA), "all Venezuelan citizens 14 years of age or older who are members of TdA, are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies." *Id.* at 13034.

5. ICE has adopted processes for individuals detained under the AEA for removal. DHS component agencies regularly gather information about terrorist organizations, which includes the TdA, through investigative channels, custodial interviews, open-source documents, and other investigative techniques. Persons suspected of TdA membership would be cross-referenced with

the information gathered by DHS to confirm identity and determine whether the person should be designated an Alien Enemy due to TdA membership.

6. I am aware that these Petitioners filed this habeas petition on April 16, 2025, following their arrest at the airport in El Paso, Texas. Both Petitioners are currently in ICE custody at the El Paso Processing Center in El Paso, Texas.

7. DHS records indicate that on or about April 16, 2025, ICE ERO El Paso coordinated with U.S. Border Patrol (USBP) in El Paso to confirm the identity of the female Petitioner in this case and take her into immigration custody. ICE initiated this operation because DHS had received information that the female Petitioner would be in El Paso and that she had been determined to be a TdA member. ICE also arrested the male Petitioner based on indicia of TdA membership due to his marriage to a TdA member.

8. Once in ICE custody and on the same day of the apprehension, ICE ERO served each Petitioner with written notice that they had been determined to be an Alien Enemy under 50 U.S.C. § 21. This written notice further specified that Petitioners were determined to be at least 14 years old, citizens of Venezuela, not United States citizens or lawful permanent residents of the United States, and members of TdA.

9. On April 21, 2025, ICE ERO served Petitioners with amended versions of the AEA notices (Form AEA-21B). ERO used the Lionbridge Interpreter Service to translate the English-language documents into Spanish while serving Petitioners. Lionbridge translator ID# 2517 assisted Julio Sanchez Puentes and Lionbridge translator ID# 8927 assisted Luddis Sanchez Garcia. Petitioners verbally relayed that they understood and refused to sign the documents.

10. ICE ERO continues to detain these Petitioners under the Alien Enemies Act and not under the Immigration and Nationality Act. The basis for this designation is summarized below

for each Petitioner.

Luddis Norelia Sanchez Garcia

11. Luddis Sanchez Garcia (Sanchez Garcia) is a 33-year-old native and citizen of Venezuela who entered the United States without inspection at or near El Paso, Texas, on October 13, 2022. USBP encountered her within the United States and paroled her into the United States for the duration of her immigration proceedings. U.S. Citizenship and Immigration Services (USCIS) granted Temporary Protected Status (TPS) to Sanchez Garcia on June 19, 2024. Sanchez Garcia received a Notice to Appear (NTA) on March 25, 2025. USCIS withdrew her TPS status on April 2, 2025, and notified her of the same.

12. Based on information and documentation obtained, compiled, and reviewed by various law enforcement officials in the regular course of their duties, the United States has determined that Sanchez Garcia is an active TdA member. The documentation and intelligence on which this determination is based is protected from public disclosure due to its law enforcement sensitive nature and is summarized here.

13. In a law enforcement sensitive DHS document dated May 15, 2024, DHS identifies and compiles intelligence gathered through routine gang investigations that identifies Sanchez Garcia as a TdA member. The report indicates that the sourced information is both highly reliable and verified. The report contains the full name and moniker (La Licenciada) of Sanchez Garcia and confirms that both the Venezuelan National Police and the Colombian government have previously identified her as a TdA member. The report indicates that Sanchez Garcia is associated to narcotics trafficking for the Wilmer Guayabal faction of the TdA. It confirms she was encountered in El Paso, Texas on October 13, 2022, with her husband, Sanchez Puentes, and that she remains in the United States with Sanchez Puentes. Two photos of Sanchez Garcia are included

in the report, along with her date of birth, her Venezuelan "cedula," and her alien number.

14. In a law enforcement sensitive document dated August 21, 2024, government records show that intelligence gathered during a custodial interview with a protected source identified Sanchez Garica as a TdA member. The source previously worked for the Venezuelan national police and was assigned to a special team that targeted TdA. The information in report is marked generally reliable and highly probable. Sanchez Garcia, along with over 50 other TdA members, is identified by her name, biometrics, and photo as a TdA member. Her possible role is noted as a money receiver and lookout.

15. In addition to the intelligence gathered in DHS's records, Sanchez Garcia has conceded her TdA affiliation to various law enforcement officials or other governmental entities. On March 10, 2025, USBP arrested Sanchez Garcia on a criminal warrant for violations of 8 U.S.C. § 1325. After being advised of her right to remain silent and right to consult with an attorney, Sanchez Garcia agreed to speak with USBP and stated that she is associated with the TdA. She stated that she was previously married to Arrevala Rivera and identified him as a member of TdA. She stated that she is from the municipality of Aragua, Venezuela, where TdA is based, and knows members of TdA. She identified her nickname as "La Licenciada." She stated that she separated from her ex-husband approximately ten years ago and that her ex-husband was killed by the Venezuelan government due to his affiliation with TdA. She stated that she met her current spouse, Julio Cesar Sanchez Puentes (Sanchez Puentes), after separating from her ex-husband and moved to Caracas, Venezuela, with him. She stated that Sanchez Puentes was a military guard for the Venezuelan government.

Julio Cesar Sanchez Puentes

16. Sanchez Puentes is a 27-year-old native and citizen of Venezuela who entered the

United States without inspection at or near El Paso, Texas, on October 13, 2022, with his wife, Sanchez Garcia. USBP paroled him into the United States with his wife for the duration of his immigration proceedings, on October 14, 2022.

17. USCIS granted Sanchez Puentes TPS on June 19, 2024.

18. On March 26, 2025, DHS filed an NTA, initiating immigration court proceedings against Sanchez Puentes under 8 U.S.C. § 1229a, before the Executive Office for Immigration Review (EOIR). The NTA charges Sanchez Puentes with being inadmissible to the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Secretary of Homeland Security).

19. USCIS withdrew Sanchez Puentes' TPS on April 1, 2025.

20. Unlike Sanchez Garcia, ICE has not received intelligence confirming that Sanchez Puentes is himself a member of TdA. Because the evidence shows that he is married to, resides with, has children with, and entered the United States unlawfully with Sanchez Garcia, a known TdA member, there is sufficient indicia to have determined that Sanchez Puente is a TdA member.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22nd day of April, 2025,

Alfonso Ramirez
Assistant Field Office Director

ALFONSO J RAMIREZ JR

Digitally signed by ALFONSO J RAMIREZ JR
Date: 2025.04.22 20:09:11 -06'00'