

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Widmer Josneyder Agelviz-Sanguino,
et al.,

Plaintiffs,

V.

Kristi Noem,
Secretary, U.S. Department of
Homeland Security, et. al.

Defendants.

Cause No. 4:25-cv-02116

PLAINTIFFS' EMERGENCY MOTION TO SET
PRETRIAL HEARING

COME NOW Plaintiffs, by and through the undersigned counsel, and respectfully file this Emergency Motion to Set Pretrial Hearing. In support thereof, Plaintiffs state as follows:

I. Introduction

Plaintiffs seek an order from this Court to set a pretrial hearing at the earliest possible date. This request is time-sensitive as the Plaintiff Widmer Josneyder Agelviz-Sanguino is believed to be in imminent and continued

harm. Lead Plaintiff Widmer Josneyder Agelviz-Sanguino is currently believed to be detained in El Salvador's CECOT prison without due process. Plaintiff has been detained in El Salvador since March 15, 2025, without formal charge or legal justification.¹ Further, neither his family nor legal counsel has had any communication with him since his unlawful removal on March 15, 2025. Plaintiffs therefore respectfully request that the Court set a emergency pretrial hearing at the earliest available date.

II. Background

This civil action was filed on May 9, 2015, asserting claims arising from an unlawful deportation from the United States pursuant to the Alien Enemies Act (AEA) in violation of the Plaintiff Widmer Josneyder Agelviz-Sanguino's due process rights and U.S. immigration law. The need for an emergency pretrial hearing is based on the ongoing harm to Plaintiff Widmer Josneyder Agelviz-Sanguino on account of his continued detention in El Salvador. In general, the Court has broad discretion to adjust its calendar to accommodate urgent matters. *See Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936).

Plaintiffs submit that good cause exists to set an emergency pretrial hearing because of the imminent harm to the lead Plaintiff. Namely, the

¹ <https://www.cbsnews.com/news/venezuelans-deported-el-salvador-names/>

Salvadoran federal prison system is notorious for torture and flagrant human rights violations.² CECOT, where Plaintiff Widmer Josneyder Agelviz-Sanguino is allegedly being held, is the most infamous of such prisons. Since 2022, the human rights organization Cristosal has reported that 261 people have died in El Salvador's prisons since President Nayib Bukele began his state of emergency crack down on suspected gang members.³ Lawyer Zaire Navas who authored the report stated, "People have died in El Salvador's prisons and jails because of torture, a lack of food, unhealthy conditions, an inhuman lack of attention and cruel, inhuman and degrading treatment," *Id.*

Importantly, the United States District Court for the Southern District of Texas— Brownsville Division issued an injunction on May 1, 2025, finding the Presidential proclamation designating certain Respondents as Alein Enemies and the removal of such Respondents as unlawful. *See J.A.V v. Trump*, 1:25-cv-00072 (S.D. Tex. 2025) dkt 58. Further, on May 16, 2025, the Supreme Court weighed in on the Administration's use of the Alien Enemies Act. *See A.A.R.P., et al. v. Trump, et al*, 605 U.S. ____ (2025). In a significant 7-2 decision, they found that the notice provided to individuals by the administration in invoking removals under the Alien Enemies Act was insufficient and violated the non-citizens' due process rights. *Id at 4.*

² <https://www.pbs.org/newshour/show/the-conditions-inside-the-infamous-el-salvador-prison-where-deported-migrants-are-held?utm;> *See also* https://elfaro.net/en/202306/el_salvador/26881?utm

³ <https://apnews.com/article/bukele-el-salvador-gang-crackdown-prison-deaths-9d14cbb1ea35175d75d007f6faade61f>

III. Defendants Position

The Defendants have expressed their opposition to an expedited hearing. Plaintiffs believe no undue prejudice to the Defendants in granting an expedited hearing considering current circumstances.

IV. Relief Request

Plaintiffs respectfully request that the Court:

1. Order an emergency pretrial hearing at its earliest available date;
2. Order the Defendants to confirm the whereabouts of Plaintiff; and
3. Order the Defendants to establish and facilitate a manner of communication with Plaintiff.

Respectfully submitted,

/s/Javier Rivera
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CERTIFICATE OF CONFERENCE

I certify that on May 14, 2025, I conferred with opposing counsel regarding the setting of an expedited hearing. Opposing counsel expressed the Defendant's opposition to the requested relief.

/s/Javier Rivera

Javier Rivera

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Javier Rivera, hereby certify that a true and correct copy of the foregoing "Plaintiffs Emergency Motion to Set Pretrial Hearing, was served upon all parties in accordance with the Federal Rules of Civil Procedure via ECF online filing system.

On this the 18th day of May 2025.

Respectfully submitted,

/s/Javier Rivera

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