

United States Senate

WASHINGTON, DC 20510

April 8, 2025

The Honorable Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
Martin Luther King Jr Ave SE
Washington, DC 20528

Mr. Tedd Lyons
Acting Director
U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, DC 20536

Dear Secretary Noem and Acting Director Lyons,

We write to express our concerns regarding the deportation of Kilmar Abrego Garcia to El Salvador, an action which the Administration admitted in a recent court filing was an “administrative error.” It is unacceptable that anyone would be deported without proper due process, especially where an immigration judge has granted the individual protected status that explicitly prohibits his return to El Salvador. We demand that the Administration bring Mr. Abrego Garcia home immediately.

According to court filings, on March 12, 2025, shortly after Mr. Abrego Garcia had picked up his son from the boy’s grandmother’s house, U.S. Immigration and Customs Enforcement (ICE) stopped Mr. Abrego Garcia, inaccurately telling him that his protected status had changed. After giving his wife a few minutes to arrive to take custody of his son, ICE arrested and detained him without any further explanation as to the reason for his arrest. ICE then transferred Mr. Abrego Garcia and other detainees to Texas, where on March 15, 2025, they were loaded onto planes and deported to El Salvador. Mr. Abrego Garcia was reportedly on the only plane that was not sent under the authority of the Alien Enemies Act but instead was transporting migrants with formal removal orders signed by a judge. This occurred despite the fact that ICE knew, as the Administration conceded in court, that his protected legal status specifically prohibited his removal to El Salvador.

Per court filings, Mr. Abrego Garcia came to the United States in 2011 as a teenager fleeing gang threats in his home country of El Salvador. In 2019, ICE arrested Mr. Abrego Garcia over an unfounded and anonymous allegation that he was involved with MS-13, which placed him in deportation proceedings. The U.S. immigration judge in the case ultimately found that it was in fact Mr. Abrego Garcia who was at risk of being the victim of gang violence. The judge found that Mr. Abrego Garcia and his relatives credibly testified that gang members had been trying to extort his family and recruit him and his brother to join the gang, forcing his family to move multiple times, ultimately compelling both him and his brother to flee to the United States out of fear.

The immigration judge agreed that Mr. Abrego Garcia would likely face persecution if deported back to El Salvador and thus granted him a form of legally mandated protection known as “withholding of removal.” Withholding of removal, which may only be granted by an immigration judge, provided Mr. Abrego Garcia the ability to stay and work in the United States despite being the subject of a deportation order. This ruling was made under the Trump

Administration in 2019 and was in fact required by law under section 241(b)(3) of the Immigration and Nationality Act once the immigration judge made the factual determination that Mr. Abrego Garcia faced a likelihood of torture in El Salvador. At the time, the Trump Administration made no effort to appeal the judge's ruling or pursue Mr. Abrego Garcia's deportation further. Court filings attest that Mr. Abrego Garcia has complied with regular ICE check-ins, has no criminal charges, and has had no contact with any other law-enforcement agency since his release in 2019.

Mr. Abrego Garcia is currently being held at CECOT, a maximum-security prison in El Salvador notorious for human rights abuses, after being deported in violation of the law to the very country where his return was impermissible.¹ Though the Administration has admitted in court that his deportation was a mistake, it alleges that there is nothing it can do to address this injustice, given that Mr. Abrego Garcia is now in the jurisdiction of the government of El Salvador as part of an agreement to imprison U.S. deportees in exchange for financial compensation.

Your unwillingness to immediately rectify this "administrative error" is unacceptable. Under multiple Democratic and Republican administrations, the Department of Homeland Security (DHS) and ICE followed the rule of law and worked to quickly return people who were wrongfully deported, in the rare instances where such "administrative errors" occurred. The Administration's mass deportation agenda does not transcend immigration law or the need for due process. And when the Administration makes a mistake as severe as sending an individual with protected status to a foreign prison, it cannot simply shrug off responsibility and allege that there is nothing it can do to reunite him with his wife and child, who are American citizens. On Friday, a U.S. District Court judge in the District of Maryland ordered the government to return Mr. Abrego Garcia to the United States, and on Monday the Fourth Circuit denied the government's motion to stay the order. The Administration should promptly comply with the district court's order.

To address our concerns about this matter and to provide clarity on the Department of Homeland Security and ICE's policy regarding the immigration enforcement actions against immigrants with protected status, we ask that your Administration answer the following questions by April 22, 2025:

1. The standard and legal course for the government to take to deport someone with protected status would be to reopen the case, introduce evidence that grounds for terminating the protected status exist, and then allow an immigration judge to make a determination as to their status. Why was that course of action not taken in this case?
2. In the past, DHS and ICE worked to quickly return people to the U.S. who were erroneously deported. Why is DHS and ICE no longer following these well-established procedures and practices?
3. Vice President J.D. Vance and Press Secretary Karoline Leavitt have both claimed that Mr. Abrego Garcia is an MS-13 gang member, but the government was unable or unwilling to provide any evidence to substantiate that claim to the court. Please provide any evidence of Mr. Abrego Garcia's membership in MS-13.

¹ 8 U.S.C. § 1231(b)(3)(A)

4. Given that the Administration is reportedly paying \$6 million to El Salvador to detain deported immigrants at CECOT, why does it believe that there is nothing it can do to return Mr. Abrego Garcia to his family in the United States? Please provide a copy of the agreement between the U.S. and El Salvador on the detention of people deported from the U.S. in CECOT.
5. Are there any other cases that the Administration is aware of in which an immigrant with protected status was illegally deported without due process? If so, identify those cases and explain what, if anything the government is doing to rectify those errors.
6. Will the Administration commit to reviewing all of the cases of its deportees to ensure that it has appropriately identified all of the errors?
7. What actions will the Administration take in the future to ensure that immigrants with protected status are afforded their appropriate due process?

We appreciate your prompt attention to this vital matter and look forward to reviewing your fulsome, timely response.

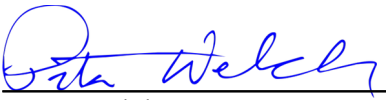
Sincerely,



Chris Van Hollen
United States Senator




Sheldon Whitehouse
United States Senator



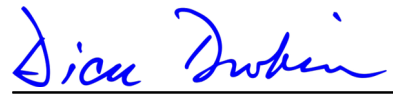
Peter Welch
United States Senator



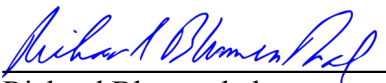
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Bernard Sanders
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United States Senator



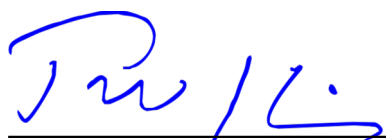
Alex Padilla
United States Senator



Jeanne Shaheen
United States Senator
Ranking Member, Senate
Foreign Relations Committee



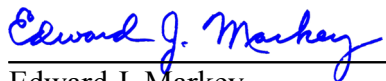
Tammy Duckworth
United States Senator



Tim Kaine
United States Senator



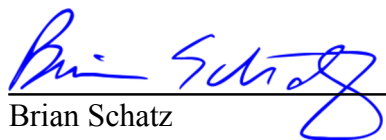
Christopher A. Coons
United States Senator



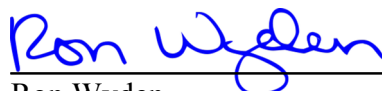
Edward J. Markey
United States Senator



Mark R. Warner
United States Senator



Brian Schatz
United States Senator



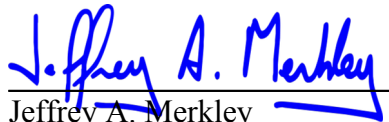
Ron Wyden
United States Senator





Martin Heinrich
United States Senator

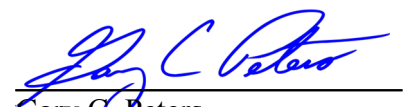



Mazie K. Hirono
United States Senator


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