

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
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, 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 also 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.

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. While preparing this declaration, I have examined the official records available to me regarding the Alien Enemies Act (AEA) notice procedure. I submit this declaration to outline the notice procedure and to inform the court about why a description of the procedure should be kept under seal.

A. The Notice

6. Attached as an exhibit to this declaration is a copy of Form AEA-21B, which ICE officers serve on aliens whom the Agency intends to detain or remove pursuant to the AEA. Each alien is served individually, and the Form AEA-21B is read and explained to each alien in a language that the alien understands.

7. Consistent with a Notice to Appear in Title 8 proceedings, the Form AEA-21B is written in the English language. However, it is read and explained to each alien in a language that the alien understands. ICE officers are accustomed to working and effectively communicating with aliens who do not understand English.

8. Through an ICE-wide contract with a language assistance vendor (*i.e.* language lines), ICE uses professional oral interpretation and translation services that cover more than 200 languages, including rare and Indigenous languages. ERO serves as the Contracting Officer Representative for this ICE-wide language services contract. Centralizing oversight over the contract allows better coordination with the vendor and the establishment of processes for obtaining regular reports. Additionally, many ERO staff have sufficient proficiency in one or more languages other than English and communicate with Limited English Proficiency (LEP) persons in their primary language when appropriate.

9. Pursuant to ICE detention standards, oral interpretation or assistance is provided to any detained alien who is illiterate or who speaks a language in which written material has not been translated.

10. The various ICE Detention Standards under which detention facilities operate require that information be provided to LEP persons in a language or manner they can understand throughout the detention process to provide them with meaningful access to programs and services. This may be accomplished through use of bilingual staff or professional

interpretation and translation services. Depending on the type of facility and contract specifications, the contractor may have and use their own dedicated language line.

B. Habeas Components to the Process

11. The AEA process offers aliens a meaningful opportunity to assert their rights, particularly their rights to file petitions for habeas corpus.

12. As set out in Paragraph 7, an alien is served individually with a copy of the Notice, Form AEA 21-B. The notice is then read to the alien in a language that he or she understands. There is no requirement that more than one ICE officer be present for the service of Form AEA-21B. Responses to being served Form AEA-21B vary depending on the individual aliens' circumstances. Aliens are given the opportunity to sign Form AEA-21B when the ICE officer serves the Form and may ask questions of the ICE officers serving the Form. Detained aliens may also utilize established processes within their facility to contact ICE personnel with any follow-up questions. ICE officers serving the Form AEA-21B have been provided the opportunity to review the ICE "Alien Enemies Act: Frequently Asked Questions" document.

13. As part of the notice procedure, the alien is informed that he or she can make a telephone call to whomever he or she desires, including legal representatives. ICE ensures that telephones are made available for the aliens and that the aliens have access to the telephone lines. Detainees also have access to a list of legal service providers to contact if they do not already have counsel.

14. An alien is served with Form AEA 21-B, the alien is given a reasonable amount of time, and no less than 12 hours, including the ability to make a telephone call, to indicate or express an intent to file a habeas petition. If the alien does not express any such intention, then ICE may proceed with the removal, though such removal may not actually occur for many more hours or days, giving the alien additional time to express an intent. If the alien does express an intent to file a habeas petition, the alien is given a reasonable amount of time, and no less than 24 hours, to actually file that petition. If the alien does not file such a petition within 24 hours, then ICE may proceed with the removal, though such removal may not actually occur for many more hours or days, giving the alien additional time to file the petition.

15. Further, because aliens subject to the AEA are often detained for several days before removal, they frequently have much more time to express an intent to file a habeas petition or to actually file such a petition. Moreover, these timeframes are consistent with, if not

more generous than, the timeframes used for Expedited Removal procedures under Title 8, which are often accomplished within less than 24 hours.

16. ICE's AEA notice process is similar to the expedited removal process under section 235 of the Immigration and Nationality Act, 8 U.S.C. § 1226. If ICE determines that an alien is amenable to expedited removal, the alien is served with a Form I-860, Notice and Order of Expedited Removal, and detained pending removal. Further, because aliens subject to the AEA are often detained for several days before removal, they frequently have much more time to express an intent to file a habeas petition or to actually file such a petition. Moreover, these timeframes are consistent with, if not more generous than, the timeframes used for Expedited Removal procedures under Title 8, which are often accomplished within less than 24 hours. Similar to aliens within the expedited removal process, aliens served with a Form AEA-21B may file a habeas petition should they choose to contest the determination of DHS.

17. Overall, I am unaware of any alien potentially subject to, or subject to, the AEA who wished to file a habeas petition and was unable to do so prior to removal. In other words, I am unaware of any case in which ICE's notice procedures prevented an alien who genuinely wished to file a habeas petition from doing so.

18. In nearly every case in which an alien files a habeas petition based on detention related to the AEA, the alien also seeks a Temporary Restraining Order (TRO). The TRO request is typically adjudicated quickly, sometimes within hours of being filed. Although there may be fact-specific exceptional cases, in a general case, ICE will not remove under the AEA an alien who has filed a habeas petition while that petition is pending. However, ICE may reconsider that position in cases where a TRO has been denied, and the habeas proceedings have not concluded within a reasonable time.

19. Two aliens in the Western District of Texas were served with Forms AEA-21B on April 16, 2025. They filed a consolidated habeas petition and request for TRO on April 16, 2025. The court granted the habeas petition on April 25, 2025, and ordered that the aliens be released from ICE custody. ICE complied with the court's order and released the aliens.

20. An alien in Florida was served with Form AEA-21B on March 19, 2025. On March 31, 2025, the alien filed a habeas petition with the U.S. District Court in the Southern District of Florida. The alien is currently detained.

21. An alien in the Northern District of Texas was served with Form AEA-21B on April 18, 2025. On April 18, 2025, he filed his habeas petition. The alien is currently detained.

C. Justification for Sealing the Description of the Notice Procedure

22. The internal notice procedure outlined in this declaration should be filed and remain under seal because this process is law enforcement sensitive. In this circumstance, revealing our notice procedure would disclose to the public guidelines that are integral to conducting law enforcement investigations and could risk circumvention of the law.

Signed this 9th day of May 2025.



Digitally signed by
MATTHEW L ELLISTON
Date: 2025.05.09
10:49:17 -04'00'

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

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

A-File No: _____ Date: _____

In the Matter of: _____

Date of Birth: _____ Sex: Male 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.

_____ has been determined to be: (1) at least fourteen years of
(Full Name of Alien Enemy)
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.

Signature of Supervisory Officer: _____

Title of Officer: _____ **Date:** _____

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: _____ Date: _____

CERTIFICATE OF SERVICE

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

Name of officer/agent

Signature of officer/agent