

# Lawyer for wrongly deported Maryland man says it might take contempt order to get him back

Returning Kilmar Abrego Garcia is "up to El Salvador," AG Pam Bondi said.

By [Devin Dwyer](#) and [Laura Romero](#)

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**El Salvador's Bukele says he won't return migrant wrongfully deported** "I don't have the power to return him to the United States," El Salvador's President Nayib Bukele said.

A lawyer for Kilmar Abrego Garcia, the Maryland man and alleged gang member who was deported [in error](#) to El Salvador, said Monday that it might take a contempt order to prompt the U.S. government to return him from that country.

As ordered by a federal judge, U.S. officials over the weekend [confirmed](#) in a court filing that Abrego Garcia is being held in the CECOT mega-prison in El Salvador -- but ignored the judge's order to detail what steps the government is taking to facilitate his return.

"At some point, if somebody gets held in contempt, you might see quicker movement there," Benjamin Osorio, an attorney for Abrego Garcia, told ABC News' Start Here.

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**MORE: El Salvador's Bukele, meeting with Trump, says he won't return migrant  
wrongfully deported**

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The Supreme Court last week [unanimously ruled](#) that U.S. District Judge Paula Xinis "properly requires the Government to 'facilitate' Abrego Garcia's release from custody in El Salvador and to ensure that his case is handled as it would have been had he not been improperly sent to El Salvador."

The high court also said, "The Government should be prepared to share what it can concerning the steps it has taken and the prospect of further steps."

Top U.S. officials Monday indicated that they did not intend to take any steps to retrieve Abrego Garcia from El Salvador.

"That's up to El Salvador," said Attorney General Pam Bondi in an Oval Office meeting with President Trump and the visiting El Salvador President Nayib Bukele. "If El Salvador ... wanted to return him, we would facilitate it."



This undated photo provided by CASA, an immigrant advocacy organization, in April 2025, shows Kilmar Abrego Garcia.

CASA via AP

Asked by reporters about Abrego Garcia, President Bukele [responded](#), "I don't have the power to return him to the United States."

"How could I smuggle a terrorist into the United States?" he added, repeating the Trump administration's claim that Abrego García is a member of MS-13.

Judge Xinis on Friday ordered the Trump administration to provide [daily updates](#) on Abrego Garcia's status, after which another attorney for Abrego Garcia said that he would ask the judge to "take appropriate steps" if the administration doesn't make a good-faith effort to respond.



"Whether it's DOJ or DHS getting held in contempt and the judge taking some move there, we'll see how that plays out," Osorio said Monday. "I imagine if they they stall too much, that's what you're going to see."

The attorney said he was glad to hear from the administration that Abrego Garcia is "alive and well," because, he said, "to my knowledge, nobody, not his wife, not his attorneys, nobody's had contact with him."

In their latest status report to Judge Xinis, the Trump administration said Monday that DHS does not "have the authority to forcibly extract an alien from the domestic custody of a foreign sovereign nation."



Salvadoran prison guards escort alleged members of the Venezuelan gang Tren de Aragua and the MS-13 gang recently deported by the U.S. government at the CECOT prison, in Tecoluca, El Salvador April 12, 2025.

Secretaria de Prensa de la Presidencia via Reuters

"DHS has established processes for taking steps to remove domestic obstacles that would otherwise prevent an alien from lawfully entering the United States," wrote DHS Acting General Counsel Joseph Mazarra. "DHS does not have the authority to forcibly extract an alien from the domestic custody of a foreign sovereign nation."

Abrego Garcia, a native of El Salvador whose wife is a U.S. citizen and who has 5-year-old child, was issued a 2019 court order barring his deportation to El Salvador, where his attorneys say he escaped political violence in 2011. Despite the court order, he was deported in March to El Salvador's notorious [CECOT mega-prison](#) following what the government said was an "administrative error."

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The Trump administration claims Abrego Garcia is a member of the MS-13 gang, which his lawyers and his [wife deny](#), and have argued in legal filings that because Abrego Garcia is no longer in U.S. custody, the courts cannot order him to be returned to the U.S. nor can they order El Salvador to return him.

Friday's hearing came a day after the U.S. Supreme [affirmed](#) Judge Xinis' earlier ruling ordering the Trump administration to "facilitate" Abrego Garcia's return to the United States.

On Saturday, President Donald Trump, [speaking with reporters](#), said that he wasn't well-versed in the case, but that "if the Supreme Court said bring somebody back, I would do that. I respect the Supreme Court."

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On Sunday, however, an ICE official said in [court filings](#) that Abrego Garcia's "membership in MS-13" makes him ineligible to be removed from that country.

"I understand that he should not have been removed to El Salvador because the immigration judge had also granted Abrego Garcia withholding of removal," said ICE official Evan Katz. "However, I also understand that Abrego Garcia is no longer eligible of withholding of removal because of his membership in MS-13 which is now a designated foreign terrorist organization."