

Feds Hit With \$161K In Fees Over Venezuelan's Deportation

By Britain Eakin

Law360 (September 8, 2026, 9:06 PM EDT) -- A Maryland federal judge awarded a class of asylum-seekers roughly \$161,000 in attorney fees on Tuesday, finding that the Trump administration lacked substantial justification for deporting a Venezuelan to El Salvador despite a class settlement governing his asylum claim.

U.S. District Judge Stephanie A. Gallagher said the government's conduct included unsubstantiated assertions that the man, identified as Cristian in **the order**, belonged to Tren de Aragua, a designation given to him under President Donald Trump's March 2025 proclamation invoking the Alien Enemies Act to deport alleged gang members to El Salvador.

The government had argued that its litigation position was reasonable because the settlement agreement in the class action contained no terms about using the Alien Enemies Act to deport class members. But Judge Gallagher called it "unreasonable to infer" that Cristian's designation as a member of Tren de Aragua took away his status as a class member. The government's decision to deport him without warning after his attorneys informed the U.S. Department of Homeland Security of his membership in the class "was unjustified and not reasonable," Judge Gallagher said.

"The government's proposed construction here would have rendered the settlement agreement's promises illusory by permitting unilateral decisions to remove class members with no process at all," Judge Gallagher said.

The judge also dinged the government for saying during the litigation that it intended to deny Cristian's asylum application before any "good faith proceeding" and for failing to tell the court before he was sent back to Venezuela in July 2025 as part of a prisoner swap between the U.S. and El Salvador.

All that warranted a fee award under the Equal Access to Justice Act, which allows prevailing parties against the government to recoup attorney fees and costs, Judge Gallagher said.

"A reasonable person could not find that the government's overall litigation position had reasonable basis in law and in fact," Judge Gallagher wrote.

The judge also awarded nearly \$4,000 in costs.

Judge Gallagher held DHS and U.S. Immigration and Customs Enforcement in **civil contempt** in August for wrongfully deporting more than 50 unaccompanied minor class members, despite a blanket court order barring their removal.

The settlement agreement in the case bars DHS from deporting class members before their asylum applications are fully adjudicated. The 2024 settlement rescinded a 2019 policy that required asylum officers to redetermine whether an applicant still qualified as an unaccompanied minor, potentially stripping individuals of protections they had when they originally filed.

The settlement also blocked ICE from removing people who had previously been designated as unaccompanied children whose asylum applications were still pending when they turned 18.

Tuesday's order applies only to Cristian, who was among the Venezuelans the Trump administration

deported on March 15, 2025, under the Alien Enemies Act. Cristian was sent to El Salvador, where he was imprisoned at the maximum security prison CECOT, also known as the Terrorism Confinement Center, before he was sent back to Venezuela that July, the country he fled, as part of a prisoner swap.

In April, Judge Gallagher ruled that the Trump administration had violated the settlement agreement and ordered the government to facilitate Cristian's return to the U.S. while he was still in El Salvador.

Counsel for the class and DHS did not immediately respond to requests for comment.

The asylum seekers are represented by Brian T. Burgess, Elaine Herrmann Blais and Kevin J. DeJong of Goodwin Procter LLP, Wendy Wylegala of Kids in Need of Defense, Michelle N. Mendez and Rebecca Scholtz of National Immigration Project, Kristen Jackson of Public Counsel, and Mary Tanagho Ross of Bet Tzedek Legal Services.

The government is represented by Brett A. Shumate, Anthony Nicastro, Catherine M. Reno, Ruth Ann Mueller, Jaime A. Scott, Evan P. Schultz, Jeffrey Alderette and Larissa K. Johnson of the U.S. Department of Justice's Civil Division.

The case is J.O.P. et al. v. U.S. Department of Homeland Security et al., case number 8:19-cv-01944, in the U.S. District Court for the District of Maryland.

--Additional reporting by Jared Foretek. Editing by Nick Siwek.