

TODD BLANCHE TAKES STEPHEN MILLER'S HAM SANDWICH TO THE FIFTH CIRCUIT

Remember how I predicted that the inclusion, based on very thin allegations including Tren de Aragua's leader, Hector Rusthenenford Guerrero Flores, in Nicolás Maduro's superseding indictment, that Stephen Miller would use the probable cause finding to renew his bid for Alien Enemies Act deportations?

The Tren de Aragua is likewise thin. In the 2020 indictment, two FARC leaders were included as co-conspirators, but that reflected a sustained relationship with Maduro as laid out in the overt acts. The TdA inclusion here relies on a similar move, including its leader, Hector Ruthsenford Guerrero Flores as a co-conspirator. But *his* inclusion relies on two overt acts that don't involve Maduro: Guerrero's actual trafficking with someone not alleged to be part of *this* conspiracy, and comments made in a Venezuelan prison in 2019. (These may be the comments that US intelligence services have deemed to be unreliable.)

f. Between approximately 2006 and 2008, HECTOR RUSTHENFORD GUERRERO FLORES, a/k/a "Nifio Guerrero," the defendant, worked with one of the largest drug traffickers in Venezuela, Walid Makled. Members of the Venezuelan regime helped protect Makled's cocaine shipments that were transported from San Fernando de Apure, Venezuela, to Valencia, Venezuela, and were then sent by plane from the Valencia international airport

to Mexico and other locations in Central America for eventual distribution to the United States. Between in or about 2008 and in or about 2009, GUERRERO FLORES also provided another major Venezuelan drug trafficker with protection for cocaine shipments moving through Venezuela, including by providing armed men who carried, among other automatic weapons, AK47s, MP5s, and AR-15s, as well as grenades. At times, GUERRERO FLORES personally accompanied large cocaine loads as they were guarded by the teams of armed men, en route to airports or airstrips for transport north and eventual distribution to the United States. GUERRERO FLORES was paid a fee per kilogram of cocaine transported or received and he sometimes received an interest in portions of these massive cocaine shipments in lieu of payment. The traffickers that GUERRERO FLORES worked with moved thousands of kilograms per shipment, multiple times per month, resulting in the distribution of hundreds of tons of cocaine to the United States. In or about 2009, Makled was charged with narcotics offenses in this District and is a fugitive.

[snip]

o. In or about 2019, TdA's leader, GUERRERO FLORES, discussed drug trafficking with an individual he understood to be working with the Venezuelan regime. Over multiple calls, GUERRERO FLORES offered to

provide escort services for drug loads, explaining that GUERRERO FLORES and TdA had control of the coastlines of Venezuela's Aragua State. GUERRERO FLORES, speaking from TdA's base of operations in Tocor6n Prison, explained that TdA could handle the logistics of every aspect of the drug trade, including the use of storage compartments that GUERRERO FLORES called "cradles" located on a beach in Aragua State. In doing so, GUERRERO FLORES confirmed TdA's ability to protect over one ton of cocaine.

That is, neither is TdA necessary to substantiate the narco-trafficking charges, which are well-substantiated based on protection of FARC, nor is the substance of TdA's inclusion all that convincing.

At all.

But no doubt Stephen Miller will use this – a grand jury finding probable cause tying TdA to Maduro – to attempt to renew his Alien Enemies Act deportations.

They're so fucking predictable. (This is the appeal of one of the AEA cases to the Fifth Circuit.)

Appellees respectfully submit this letter pursuant to Federal Rule of Appellate Procedure 28(j) to advise the Court of an indictment against co-conspirators Nicholas Maduro, the leader of Tren De Aragua ("TdA") Hector Rusthenford Guerrero Flores, and several of Maduro's family members and high-ranking officials. Ex. A. Among other

charges, Maduro and his high-ranking officials are alleged to have “worked directly with” several “narco-terrorist organizations” to funnel deadly drugs into the United States, including “TdA, which controls a criminal network able to assist with the transportation of cocaine within Venezuela and on the Venezuelan coast.” Id. ¶¶ 20, 24.

The indictment reinforces the Proclamation’s findings that the Maduro Regime and TdA have formed a “hybrid criminal state” directed by the Regime. This significant development further refutes Petitioners’ argument that the Government no longer treats TdA as entwined with the Maduro Regime. Indeed, in announcing the apprehension and indictment of Maduro, the President made clear that Maduro has “waged a ceaseless campaign of violence, terror, and subversion against the United States of America, threatening not only our people, but the stability of the entire region.” Ex. B at 8:07-8:27. In particular, “Maduro sent savage and murderous gangs, including the bloodthirsty prison gang, Tren de Aragua, to terrorize American communities nationwide” through murder and taking “over apartment complexes.” Id. at 8:27-9:24. The President emphasized that “Tren de Aragua... [was] sent by Maduro to terrorize our people,” providing examples of Americans victimized by their terror campaign. Id. at 11:41-12:51. These new developments underscore the Maduro Regime’s control over TdA and TdA’s violent invasion or predatory incursion on American soil. As a result, it is even clearer that the President’s invocation of the Alien Enemies Act was part of a high-level national security mission that exists outside the realm of judicial interference.

Mind you, ACLU's Lee Gelernt makes mincemeat of this ploy in response.

The government's January 5 letter contends that Maduro's indictment shows that he and TdA were intertwined. But the indictment's allegations cannot erase the administration's own repeated assertions that the United States was in a *non-international* armed conflict with TdA to justify its boat strikes—not a conflict with a “foreign nation or government” as required by the AEA. Pet'rs' En Banc Br. 8, 31–41. At a minimum, the conflicting assertions undermine the request for deference.

Moreover, the indictment confirms that, even in the government's view, Maduro's alleged actions were not *military*, but rather criminal offenses properly handled through the justice system. Indeed, the administration stated that the Venezuelan operation was a “law enforcement” operation. Appellees' 28(j) Letter, Ex. B at 38:58–39:57.

The government also fails to address why the Proclamation's assertions are not fatally undermined by Maduro's ouster given that the Proclamation specifically says that “Maduro” and the “Maduro regime”—not Venezuela as a “foreign nation”—direct TdA. While the Proclamation's assertions never justified the claim that Maduro directed TdA (a claim refuted by 17 of 18 national security agencies¹), there is now no longer anything to defer to given that Maduro is in a U.S. jail. Indeed, President Trump himself has declared that Maduro's capture means that “[t]here will no longer be threats” to Americans from Venezuela or TdA. Id. at 11:41– 12:24.

Finally, the indictment undercuts the Proclamation's factual assertion that

“Cártel de los Soles” is a “narcoterrorism enterprise” central to enlisting TdA to send drugs as a “weapon” against the United States. The indictment now describes Cártel de los Soles as simply a loose “patronage system” that is part of “a culture of corruption” for elites’ personal enrichment—not a cartel at all. Appellees’ 28(j) Letter, Ex. A at 8; see Charlie Savage, Justice Dept. Drops Claim That Venezuela’s ‘Cartel de los Soles’ Is an Actual Group, N.Y. Times, Jan. 6, 2026, <https://www.nytimes.com/2026/01/05/us/trump-venezueladrug-cartel-de-los-soles.html>.

And that was yesterday. That same day, the Senate passed Tim Kaine’s War Powers Resolution prohibiting Trump from invading further without approval from Congress, with Todd Young, Lisa Murkowski, Susan Collins, Rand Paul, and Josh Hawley’s support.



Donald J. Trump

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Republicans should be ashamed of the Senators that just voted with Democrats in attempting to take away our Powers to fight and defend the United States of America. Susan Collins, Lisa Murkowski, Rand Paul, Josh Hawley, and Todd Young should never be elected to office again. This Vote greatly hampers American Self Defense and National Security, impeding the President's Authority as Commander in Chief. In any event, and despite their “stupidity,” the WPR is a gross constitutional violation, violating Article II of the Constitution, as all Presidents, and their Departments of Justice, have determined before. Nevertheless, a more important Senate Vote will be taking place next week on this very subject.

While not yet binding (and as Trump noted in his squealed response, Lindsey Graham is going to try to reverse this, and the House would have to pass it too), the WPR will make it harder for even the Fifth Circuit to sustain Trump’s claims that this is an invasion.

Nevertheless, it didn’t stop Kristi Noem to use TdA as her excuse for the second DHS shooting this week, this of two people in Oregon.

It's all just lies on top of lies, and until Appellate judges start calling Trump's team on it, entire lives will be upended or ended based on the lies Stephen Miller invents in his feverish nightmares of power.