UNITED STATES DISTRICT COURT
FOR THE WESTHERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JUAN COVARRUBIAS-RODRIGUEZ ,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Civ. No. 5:26-CV-0594-JKP**
	)	
KRISTI LYNN NOEM,	)	
Secretary of Homeland Security;	)	
	)	
PAMELA JO BONDI,	)	
United States Attorney General;	)	
	)	
TODD LYONS,	)	
Acting Director of Immigration and Customs Enforcement	)	
	)	
MIGUEL VERGARA,	)	
Harlingen Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement; and,	)	
	)	
MARIO GARCIA,	)	
Warden, Webb County Detention Center;	)	
	)	
in their official capacities;	)	
	)	
Respondents.	)	
	)	

PETITIONER'S REPORT TO THE COURT

INTRODUCTION

On April 23, 2026, this Court issued an order granting Petitioner's writ of habeas corpus. The District Court ordered as follows:

"Unless Respondents have a written, detailed order from an immigration judge denying bond to Petitioner in a hearing conducted in compliance with due process as set forth in this case,

they shall release Petitioner Juan Covarrubias-Rodriguez from custody to a public location under appropriate conditions of release on or before April 25, 2026. Such release may include a notice to appear for a bond hearing to be scheduled no later than April 30, 2026. Any bond hearing shall take place before an Immigration Judge, at which the Government shall bear the burden of justifying Petitioner's continued detention by clear and convincing evidence that he is a danger or flight risk. If Respondents cannot schedule such a bond hearing within the week allotted, then Petitioner shall remain released under the aforementioned appropriate conditions of release. 2. If Respondents release Petitioner, they must NOTIFY Petitioner's counsel of the exact location and exact time of release as soon as practicable and no less than two hours before release. 3. Any possible or anticipated removal or transfer of Petitioner under this present detention." ECF No. 7.

On April 24, 2026, the Office of Principal Counsel emailed the undersigned counsel at 9:10 a.m. that a bond hearing had been scheduled for at 9:30 a.m. see Exh. A. ***Twenty minutes notice.*** Petitioner was not served with a notice of hearing as required in this Court's order.

Upon information and belief, early this morning Petitioner was taken from his cell to the immigration courtroom without any explanation. Once before the immigration judge, Petitioner advised the immigration court that he had no idea about that hearing, that he needed to be represented by counsel, and that he had had no time to contact his immigration attorney. The immigration judge continued pressing Petitioner.

It is well settled law that Congress provided that a non-citizen has a right to obtain counsel at his own expense. *See* 8 U.S.C. § 1362. The corresponding regulations provide that an immigration judge must advise an alien "of his or her right to representation, at no expense to the government," and to advise the alien "of the availability of pro bono legal services for the immigration court location at which the

hearing will take place, and ascertain that the [alien] has received a list of such pro bono legal service providers." 8 C.F.R. § 1240.10(a)(1), (2).

The immigration judge not only did not provide the advisal required under the statute and the regulations but also ignored Petitioner's requests. Notwithstanding that Petitioner had less than one hour notice before his hearing.

"Non-citizens are entitled to due process protections regardless of whether their presence in this country is lawful. *See Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."); *Plyler v. Doe*, 457 U.S. 202, 210, 102 S. Ct. 2382, 72 L. Ed. 2d 786 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as 'persons' guaranteed due process of law by the Fifth . . . Amendment[]."); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 97 L. Ed. 956 (1953) ("It is true that aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law."); *Japanese Immigrant Case*, 189 U.S. 86, 101, 23 S. Ct. 611, 47 L. Ed. 721 (1903) (holding that noncitizens "alleged to be illegally here" are still protected by due process of law). And the stakes for an individual subject to removal are no less severe than other legal proceedings. *See Niz-Chavez v. Garland*, 593 U.S. 155, 163-64, 141 S. Ct. 1474, 209 L. Ed. 2d 433 (2021) ("A notice to appear serves as the basis for commencing a grave

legal proceeding. . . . [I]t is 'like an indictment in a criminal case [or] a complaint in a civil case.'" (citation omitted))."

United States v. Rivera-Valdes, 157 F.4th 978 (9th Cir. 2025).

"First, due process requires the government to "give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden" before withdrawing a benefit. United States v. Richter, 796 F.3d 1173, 1188 (10th Cir. 2015) (internal quotation marks omitted). "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." FCC v. Fox Television Stations, Inc., 567 U.S. 239, 253, 132 S. Ct. 2307, 183 L. Ed. 2d 234 (2012). Due process requires fair notice for two reasons. First, regulated parties need to know what is required of them so they may act accordingly. Id. Second, it prevents officers or agencies who enforce the law from acting in an arbitrary or discriminatory manner. Id."

Blanca Tel. Co. v. FCC, 991 F.3d 1097, 1116 (10th Cir. 2021)

Here, Respondent's email did not comport with principles of fair notice and fundamental fairness. Rather, Respondent sought a way to not comply with the Court's order. This Court's order specifically provided that if on March 23, 2026, Respondents did not have a bond decision complying with due process, Petitioner shall be released. Respondents did not have such decision.

Respondents proceeded arbitrarily and capriciously ignoring fundamental notions of fair notice and fundamental fairness. This so because, they did not provide adequate notice to Petitioner, their email did not contain a location for the hearing, Respondent's did not notify Petitioner, and did not provide any time for petitioner to secure counsel.

Upon information and belief, Petitioner was in medical for a check up on a neck biopsy performed last week and was having breathing issues. Petitioner was not given a fair opportunity to meaningfully participate in his hearing.

Dated: April 24, 2026

Respectfully submitted,

/s/ Alfonso Otero

Alfonso Otero
Texas Bar No. 24009189

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ATTORNEY FOR PETITIONER

VERIFICATION OF COUNSEL

I, Javier N. Maldonado, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

/s/ Javier N. Maldonado
Javier N. Maldonado