

From the Desk of Humphrey Humberto Pachecker

April 12, 2025

U. S. Department of Justice

Attn.: Pamela Jo Bondi

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

Honorable Attorney General of the United States Pam Bondi:

Respected Madam Bondi:

As a brief introduction, my name is Humphrey Humberto Pachecker. I have been a resident of the State of Florida since June 1968. I came to the United States alone at the age of 14, requesting asylum at the U.S. Embassy in Madrid, Spain. I am a U.S. citizen, born in Cuba. I am a U.S. Army veteran who voluntarily enlisted in 1973. I enlisted under my birth name, Humberto Pacheco Cárdenas. Later, in 1984, upon becoming a U.S. citizen, I changed my full name to Humphrey Humber Pachecker, something more to my liking as a citizen of this great nation, the United States.

In my youth in Florida, I held various jobs, first as a dishwasher in a work release program at attending school in my first school in Florida 1969, Henry Filer Jr. H.S., in Hialeah, Florida. I then worked as a cook and later as an executive chef.

While working as a chef at a private club in Miami, in 1983 I first began studying an online course, earning an associate's degree in judicial legal research.

Then, until 1991, I studied law, graduating with a Bachelor of Laws from a South American University. I continued studying law until 1994, first at Ward Stone College, Florida, earning an Associate with later a bachelor's in paralegal science in 1992. Finally, I continued my studies at the University of Miami School of Law, earning a Master of Laws in Comparative Law with a concentration in Federal Immigration Law and a minor in International Law.

I- finally applied to take the Florida Bar exam, but the Florida Board of Bar Examiners rejected my request, alleging that my degree, equivalent to a Juris Doctor, was obtained from a school not certified by the ABA, and that my LLM degree from an ABA-certified law school, the University of Miami, was insufficient credits to qualify for the Florida Bar exam in 1994.

Finally, I partnered with the firm of a New York attorney, George Chernoff Sr., and under this reciprocal partnership, the New York jurisdiction allowed me to practice law. We, my partner and

I, then opened an office in Florida under the precedent of Savitt v. Florida reciprocity rule, and we also opened an office in South America.

Attorney Chernoff Sr. and I became partners and worked together, providing services in federal matters of immigration law, social security law, Intellectual property law, and banking law primarily. All these services partnerships continued until 2007, when my partner Chernoff Sr. passed away in Florida. I also retired from international and federal practice in 2010, primarily due to personal health issues.

However, I did continue teaching CLE courses to other attorneys and offering homologation certifications for professionals who graduated from foreign schools. These services are offered through the National Association for Foreign Attorneys “(NAFA)”, <https://www.nafalaw.com/>. These services also include the certification reports of equivalence homologation from the university (UNPAM HOMOLOGATIONS).

Why all this extensive introduction? You may ask.

The answer is as follows. In 2004, along with my father and family members- in pro se I filed a federal lawsuit against Fidel Castro and his entire Communist Party. I filed this lawsuit in the U.S. District Court for the Southern District of Florida, a lawsuit filed in April 2004.

Service of process was affected by the national process server, serving the complaint with all its exhibits on Fidel Castro Ruz, et al., Office of the Cuban Interests Section, in the care of Liubia Harris, authorized agent designated at the Embassy of Switzerland, 2630 16th Street, N.W., Washington, D.C. 20009. Attached hereto please find a group of said Exhibits.

Defendants Fidel Castro Ruz, et al., failed to timely respond to my lawsuit officially served on them. Therefore, and in accordance with my civil procedural rights, in August 2004, I filed a Motion for Default with the same court, and on August 11, 2004, the Court Clerk issued a Default Order, notifying all parties. Then, on August 18, 2004, I filed a Plaintiff's Motion for Final Judgment after Default and an Order of Levy on the Defendants' Property, including an Affidavit of Damages and Costs in the amount of Two Billion Eleven Dollars with the petition for an Order of Levy.

To my surprise, almost six months later, at the end of January 2005, I received an Order Dismissing Case, signed by District Judge Kenneth A. Marra.

Kenneth A. Marra is a federal judge on senior status with the United States District Court for the Southern District of Florida. He joined the court in 2002 after being nominated by President George W. Bush. Prior to his appointment, Marra was a circuit court judge on the Fifteenth Judicial Circuit Court of Florida.

The most surprising thing to me are the arguments of Judge Marra who, in my interpretation of the reading of this Dismissing Case Order which consists of seven [7] pages, Judge Marra reminds me

of what I believe should be the arguments of a defense attorney for Fidel Castro Ruz and his Communist Party.

In this order dismissing, Judge Marra ruled that my complaint filed against Fidel Castro Ruz, “the head of state of the Republic of Cuba; by way of service, that I, Cardenas, served with ‘a copy of my Complaint, in English only,’” to the Office of the Cuban Interests Section, in the care of Liubia Harris, authorized agent designated at the Embassy of Switzerland, 2630 16th Street, N.W. Washington, D.C. 20009. And that the Clerk of the Court entered a Clerk’s Default on August 11, 2004.

According to Judge Marra, that on the same day, this Cuban Interests Section, in the care of Liubia Harris, authorized agent designated at the Embassy of Switzerland, defendants “returned everything” returning all documents of my complaint with Exhibits, “without any response, nor did it send any writing, nor any comment to the Clerk of Court—all sent by Federal Express.”

Judge Marra continues alleging in his Order to Dismiss, that, I quote... “clearly the Service of Process was not his own and personal jurisdiction over Castro does not exist.”

In reference to this allegation of Judge Marra, I say that it is universally known in our American procedural system, that- If a defendant receives a complaint and returns it to the court without any written response or comments, it implies they are not responding to the lawsuit and are essentially ignoring it. This failure to respond will lead to a default judgment in favor of the plaintiff. The court will assume the allegations in the complaint are true and grant the plaintiff our requested relief, such as money or other remedies.

That is. Failure to Respond: Returning a complaint without a written response means the defendant's failure to acknowledge the lawsuit or engage in the legal process.

Default Judgment: The plaintiff can then move for a default judgment, which the court will likely grant if the defendant fails to respond.

Waiver of Rights: By not responding, the defendant waives their right to present evidence, argue their case, or contest the plaintiff's claims.

Consequences: The defendant risks losing the case without hearing or the opportunity to defend themselves, potentially facing significant financial consequences or other remedies requested by the plaintiff.

My allegations in reference to the causes of action, in my lawsuit against Fidel Castro Ruz, I did cite federal laws and codes applicable to federal and to international law. These are also codes and laws which are part of precedents established in lawsuits against the Communist Party of Vietnam in California, and also one in Florida.

And I quote: (1)-. CJA filed Cabello v. Fernández Larios before the U.S. District Court for the Southern District of Florida in 1999.

The Alien Tort Statute (ATS) and the Torture Victim Protection Act (TVPA) allow non-U.S. citizens to bring civil lawsuits in U.S. courts for violations of international law, including human rights abuses. These laws can be used to pursue claims against individuals and, in some cases, corporations for actions committed abroad, even if those actions did not directly harm U.S. citizens.

Elaboration: Alien Tort Statute (ATS): This law, passed in 1789, provides U.S. courts with jurisdiction over civil actions by aliens (non-U.S. citizens) for torts committed in violation of the law of nations or a treaty of the United States. It's a cornerstone of international human rights litigation in U.S. courts.

Torture Victim Protection Act (TVPA): The TVPA, enacted in 1991, allows U.S. nationals and aliens to sue foreign state officials for torture or extrajudicial killing committed outside the United States, according to the Center for Justice and Accountability (CJA).

Vietnam and ATCA/TVPA: There have been instances where the ATCA and TVPA have been used in lawsuits against individuals or companies involved in actions during the Vietnam War, particularly regarding the use of herbicides like Agent Orange.

Example: Agent Orange: The Vietnam Association for Victims of Agent Orange and individuals filed a civil action against chemical companies under the ATCA, arguing that their manufacture and supply of herbicides caused death, injury, and environmental contamination in Vietnam.

Limitations and Challenges: The ATS and TVPA have faced challenges, including the Supreme Court's narrowing of their scope in cases like Kiobel v. Royal Dutch Petroleum, according to the Center for Justice and Accountability (CJA). Defendants often raise jurisdictional and other legal arguments to dismiss these cases, according to the International Crimes Database.

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CJA filed Cabello v. Fernández Larios before the U.S. District Court for the Southern District of Florida in 1999. The suit accused former Pinochet operative Armando Fernández Larios of complicity in the 1973 torture and murder of Winston Cabello, one of 13 innocent men murdered by the infamous death squad known as “Caravan of Death” at the Copiapó military prison in Chile. The charges – including crimes against humanity, extrajudicial killing, torture, and cruel, inhuman or degrading treatment – were brought under the Alien Tort Statute (ATS) and the Torture Victim Protection Act (TVPA), laws which allow for civil suits in U.S. courts to remedy a limited set of human rights violations.

The trial ended in victory, marking the first verdict handed down by a U.S. jury for crimes against humanity and the first time a U.S. court heard claims of atrocities committed by the Chilean military following the September 11, 1973, coup. The case provided the family of Winston Cabello, and other victims of the death squad, much-needed accountability against the former

Chilean commander, whose continued presence in the United States was, in part, an attempt to escape justice for his crimes in Chile.

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A lawsuit brought against a Vietnamese government official under the Alien Tort Statute (ATS) and the Torture Victim Protection Act (TVPA) would likely be subject to legal challenges and potential dismissal. The ATS allows foreign citizens to sue individuals, including foreign officials, for violations of international law, while the TVPA allows for suits against individuals for torture or extrajudicial killing, according to the Center for Justice and Accountability. However, the ATS's extraterritorial reach and the applicability of the TVPA to foreign officials are often contested.

Key Issues and Considerations: Extraterritoriality of the ATS: The ATS's applicability to cases occurring outside U.S. territory is a complex issue. The Supreme Court's *Nestlé* decision established a "focus" test, requiring the injury to "focus" in the United States to justify jurisdiction.

State Action Requirement: The TVPA requires the tort or extrajudicial killing to have been committed by an individual acting under the color of law or in connection with a state-sponsored act of torture or extrajudicial killing. This means the individual must be acting on behalf of the government or with its complicity.

Sovereign Immunity: Foreign officials, including ministers of state, may claim immunity from a suit under the Foreign Sovereign Immunities Act (FSIA) if their actions were within the scope of their official duties.

Non-Justiciability: Some courts may argue that the case involves a political question, meaning it is better left to the executive or legislative branches to resolve.

Standing: The plaintiff must demonstrate that they have suffered an injury in fact that is fairly traceable to the defendant's conduct and likely to be redressed by a favorable court decision.

Applicability of International Law: The ATS requires that the alleged violation be a violation of public international law that is well-defined and universally recognized, according to Congress.gov.

Likely Outcomes: Motion to Dismiss: The defendant may file a motion to dismiss the case, arguing lack of jurisdiction, non-justiciability, or other legal grounds, according to International Crimes Database.

Remand or Dismissal: If the court finds that the case is non-justiciable or that the defendant is immune from a suit, the case may be remanded to another court or dismissed.

Limited Success: Even if the case is allowed to proceed, the plaintiff may face significant challenges in proving the elements of the ATS or TVPA claim, according to the Center for Justice and Accountability.

Settlement or Default Judgment: The case may be settled or a default judgment may be entered against the defendants if they fail to appear in court, according to the Center for Justice and Accountability.

Although the defendant, Fidel Castro Ruz, et al., had sufficient time, and in fact, the proof is that, through his office of the Cuban Interests Section, under the care of Liubia Harris, an authorized agent designated at the Swiss Embassy, he took care to return the Cuban Interests Section to Liubia Harris on the same day, sufficient time to take action. This is demonstrated by the fact that he returned the documents of my complaint without any response, and did not send any brief or comment to the Clerk of Court via Federal Express, the defendant, Fidel Castro Ruz, et al., did not file any brief opposing in any way, either to the service of process, or to any of the accusatory allegations detailed in my lawsuit.

Therefore, and for this reason, I consider that myself, my father, and my family suffered a flagrant violation of our constitutional rights, especially my rights to due process.

Although I filed an appeal, I, as pro se plaintiffs, affirm that our action arose in Cuba and not in Florida. Cuba is not, of course, a state of the Union; it is a foreign state. Plaintiffs cite authority to support our claim that federal statutes of limitations apply fully to our case and that the default judgment is fully supported by the default judgment.

I also presented arguments in favor of American law based on choice-of-law principles including my appeal.

I and plaintiffs pro se argue that Cuba's communist government has not established statutes of limitations for personal injuries because it does not recognize the right of US Citizens to bring tort claims.

Given this gap in Cuban law, I ask that conflicting state statutes of limitations, if any, not be considered and that the appellate court ignore the law of the forum state, Florida, in favor of a nonexistent and therefore unlimited foreign statute of limitations.

Likewise, I and the Pro Se plaintiffs also argue that since Cuba is a signatory to the 'Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity', adopted by the United Nations General Assembly on November 26, 1968, and since Article 1 of this Convention establishes the non-applicability of statutory limitations to war crimes or crimes against humanity, this court should apply the treaty and hold that there is no statute of limitations and no immunity.

Cuba is a signatory to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity. Cuba ratified the treaty on September 13, 1972. However, it also declared that it regards certain provisions of the Convention as discriminatory and contrary to the principle of equality of States.

The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted in 1968, establishes that war crimes and crimes against humanity are not subject to statutes of limitations. This means that perpetrators of these crimes can be prosecuted regardless of how much time has passed since the crimes were committed.

Cuba, along with many other nations, has ratified this convention, signifying their commitment to the principle of accountability for such grave crimes. However, Cuba has also registered a reservation to the convention, expressing concerns about certain provisions, specifically articles V and VII, which deal with the application of the convention to other countries. This reservation indicates that Cuba believes these provisions may be discriminatory or inconsistent with the principle of equality among nations.

Despite this reservation, Cuba's ratification of the convention demonstrates its commitment to the broader principle that perpetrators of war crimes and crimes against humanity should not be able to escape justice by relying on the passage of time.

To support my claims I cite well-known procedures, precedents, laws, and comments.

In Florida, due process violations can occur when the government deprives an individual of life, liberty, or property without following proper procedures, such as failing to provide notice or a fair opportunity to be heard. This can include situations where governmental actors fail to disclose evidence, have a biased judge, or use inadequate procedures to remedy deprivation. Substantive due process can be violated if a law infringes upon fundamental rights without sufficient justification.

Procedural Due Process: This ensures fairness in legal proceedings. It requires the government to provide notice of a proposed action, an opportunity to be heard, and a neutral decision-maker. For example, if a property is seized, the owner must be notified and have a chance to defend themselves.

Substantive Due Process: This protects fundamental rights from government interference. It requires that laws and government actions be justified by a legitimate government interest and not be arbitrary or discriminatory. For example, a law restricting personal freedoms like the right to marry might be deemed unconstitutional if it lacks a strong justification.

Examples of Violations:

Prosecutorial Misconduct: Failing to disclose evidence that suggests the defendant be guilty of default.

Judicial Bias: A judge showing prejudice against a party.

Inadequate Procedures: Using procedures that are unfair or inadequate to remedy a deprivation of property or liberty.

Arbitrary Laws: Laws that have no rational basis or violate fundamental rights.

Potential Violation: Lack of Reply answer to Notification by the parties.

Not being informed about a government action that could affect your rights or property. Denial of Opportunity to be Heard: Being denied a fair hearing or chance to present evidence. Biased Decision-Maker: A judge or other decision-maker showing prejudice.

Unjustified Government Action: A law or action that infringes upon your rights without a legitimate reason.

The judge made mistakes in pretrial rulings. Judge Marra is a professional, but in my personal opinion, this time, he did make a mistake that it could be a fundamental error in my case.

Due process violations. The required procedures were not followed; hence My due process rights have been violated, and I did file an appeal.

Due Process Violation. Under both the Fifth and Fourteenth Amendments to the U.S. Constitution, neither the federal government nor state governments may deprive any person “of life, liberty, or property without due process of law.” A similar due process provision was found in the Magna Charta, as well as early state constitutions.

Chief Justice William Howard Taft explained the purpose behind the clauses in Truax v. Corrigan (1921) as follows:

“The due process clause requires that every man shall have the protection of his day in court, and the benefit of the general law, a law which hears before it condemns, which proceeds not arbitrarily or capriciously, but upon inquiry, and renders judgment only after trial, so that every citizen shall hold his life, liberty, property and immunities under the protection of the general rules which govern society. It, of course, tends to secure equality of law in the sense that it makes a required minimum of protection for every one’s right of life, liberty, and property, which the Congress or the Legislature may not withhold.”

Courts have interpreted the due process clauses as providing two distinct limitations on government. First, the clauses provide for procedural due process, which requires the government to follow certain procedures before it deprives a person of life, liberty, or property. Cases that address procedural due process usually focus on the type of notice that is required of the government or the type of hearing that must be held when the government takes a particular action. Second, the clauses establish substantive due process, under which courts determine whether the government has sufficient justification for its actions. Because courts use substantive due process to protect certain fundamental rights of U.S. citizens, issues related to substantive due process have been the subject of extensive debate.

Procedural due process focuses primarily on a person’s right to be heard, rather than a person’s right to prevail in a dispute. Courts usually consider two broad questions in cases involving procedural due process. First, courts consider whether the government’s action involves an interest

in life, liberty, or property. Second, courts consider whether the procedures that the government has employed assure that a person receives fair treatment.

The doctrine of substantive due process holds that the due process clause not only requires “due process,” that is basic procedural rights, but that it also protects basic substantive rights. “Substantive” rights are those general rights that reserve to the individual the power to do certain things, despite the government’s desire to the contrary. These are rights like freedom of speech and religion.

In some instances, the government may have deprived a person of life, liberty, or property without following any form of procedure. Other instances, where a governmental unit has followed some sort of a procedure, present more difficult questions for courts, which must consider whether the procedures were adequate for the protection of the rights involved. In this context, due process is concerned only that the governmental actor followed a fair decision-making process and not that the government reached a fair result.

Due process basically requires that a person who is deprived of a recognized right must be given some sort of notice and an opportunity for hearing on the government’s action. Where individual rights are affected by legislation, the publication of a statute is sufficient to provide notice to all individuals. On the other hand, an action by an agency or a court requires notice that will ensure that interested parties will, in fact, become aware of the proposed action.

At a minimum, a person who will be deprived of a right is entitled to a fair decision-making process by an impartial decision-maker. However, rather than establish a single rule that all governmental bodies must follow in terms of the specific procedures that are employed during a hearing, courts instead balance various interests when determining what procedures a governmental entity must use. The Supreme Court in Mathews v. Eldridge (1976) explained these factors as follows:

“First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.”

The Supreme Court has continued to adhere to the balancing test announced in Mathews, although this test does not require the government to provide a formal adversarial proceeding when it deprives a person of a right. In Wilkinson v. Austin (2005), the U.S. Supreme Court reviewed a case where prisoners were transferred from a state penitentiary to a so called “supermax” facility, which was reserved for the most dangerous criminals. The state adopted an informal, no adversarial procedure for determining which inmates would be transferred. Inmates received notice of their transfer as well as the factual basis for their transfer. Moreover, inmates had an opportunity to rebut accusations, and multiple levels of review were available for an appeal. After stating that

the Mathews test still constituted good law, the Court determined that these procedures were adequate to provide due process.

There are two basic types of due process: (1) procedural due process and (2) substantive due process. Procedural due process refers to procedure, the idea that before the government can take away or deprive an individual of a “life, liberty, or property” interest, the government must provide the person with procedural safeguards — often notice and some opportunity in a hearing to contest the governmental action. If a public-school principal suspends a student without giving that student a chance to tell her side of the story or later contest the matter in a hearing, the principal has violated the letter and spirit of procedural due process. Justice Felix Frankfurter beautifully captured the essence of procedural due process and its importance, writing: “The history of American freedom is, in no small measure, the history of procedure.”

Substantive due process is very different. It refers to the idea that the underlying substance of the law must not be too arbitrary or unreasonable. Laws that are too vague, too broad, or too unfair can violate substantive due process.

One of the more egregious violations of substantive due process in modern times arose from attempts to ban interracial marriages. The Supreme Court famously ruled in Loving v. Virginia (1967) that Virginia’s law violated due process, because the law unfairly deprived individuals of their right to marry the person of their choosing.

“The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men,” wrote Chief Justice Earl Warren. “To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State’s citizens of liberty without due process of law.”

The Supreme Court and due process on campus.

Due process freedoms are designed to ensure that before public college and university officials — or public-school officials at the K-12 level — suspend or expel a student, thus depriving them of their property right to an education, the officials must provide procedural due process protections. Depending on the charges, school officials might also negatively impact a student’s liberty interests. This means that they must provide the students with adequate notice of the charges, give them access to information and evidence in the case, and provide them with fair hearing where they can meaningfully defend themselves.

Consider the case of Gross v. Lopez (1975). It involved the suspension of nine different students from different high schools and middle schools in the Columbus Public School System. One of those students was Dwight Lopez, who attended Central High School. A disturbance arose in the lunchroom that led to fights and property damage. Lopez contended that he was merely an innocent bystander and did not participate in any fisticuffs or property damage.

Lopez and others sued, because they were suspended 10 days without hearing. The Supreme Court first explained that because Ohio law provided students with a free public education, the students had “legitimate claims of entitlement to a public education.” In other words, Lopez and the other students had a protected “property” interest that triggered the protections of Due Process.

Lopez and the other suspended students also had a “liberty” interest in being free from “arbitrary” intrusions upon their reputation. The suspensions accused the students of serious charges that impacted their reputation. “If sustained and recorded, those charges could seriously damage the students’ standing with their fellow pupils and their teachers as well as interfere with later opportunities for higher education and employment,” the Court wrote.

Thus, the Court held that the actions of the school officials triggered Due Process, because the students had a property right in their education and a liberty interest in their reputations. Then, the Court held that the public-school officials in Columbus failed to provide adequate procedural due process protection. “Among other things, the State is constrained to recognize a student’s legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause,” the Court explained.

School officials argued that the suspensions were temporary and did not permanently deprive the students of an education. But the Court responded that the 10-day suspensions were not “de minimis” and “may not be imposed in complete disregard of the Due Process Clause.”

The Court explained: We do not believe that school authorities must be totally free from notice and hearing requirements if their schools are to operate with acceptable efficiency. Students facing temporary suspension have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school.

The Court identified the minimum procedural safeguards as (1) oral or written notice of the charges, (2) explanation of the evidence against the student; and (3) an opportunity to present the student’s side of the story. The Court also explained that “as a general rule notice and hearing should precede removal of the student from school.”

The Court in *Goss* was careful, however, to note:

We should also make it clear that we have addressed ourselves solely to the short suspension, not exceeding 10 days. Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures. Nor do we put aside the possibility that, in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required.

Other courts have found due process violations when students are not given an opportunity to cross-examine their accusers, when students do not receive evidence that might exonerate the student, when students do not receive the presumption of innocence in disciplinary proceedings, and when students do not get the chance to put on a full defense.

FIRE has warned in its Spotlight on Due Process reports that many colleges and universities “fail to afford their students due process and fundamental fairness” in their disciplinary proceedings. In fact, some of the disciplinary systems at colleges and universities more closely resemble a “shadow justice system.”

Similar problems arise at the K-12 public school systems, where critics warn that due process protections are far from consistent. Zero tolerance and other harsh disciplinary processes place students in potentially perilous positions. But, as Derek W. Black writes in “Ending Zero Tolerance: The Crisis of Absolute School Discipline”, “constitutional protections are the only absolute checks on abuses in school discipline.”

Why is due process important. Due process ensures a level of fundamental fairness for the individual from governmental overreach. It ensures that the government does not act arbitrarily. It does this by ensuring that before the government can invade individual life, liberty, or property, they provide procedural safeguards. It also means that the substance of laws must not directly violate fundamental rights trigger life, liberty, and property interests. As FIRE explains in its Guide to Due Process and Campus Justice: “the notions of due process, fundamental fairness, and fair procedure are as vital and necessary to society as any area of the law.”

The Fifth Amendment Due Process Clause. The principle that the government should be limited in how it makes decisions that are detrimental to private people is very old in Anglo-American law. The Magna Carta, a statement of subjects’ rights issued by King John of England in 1215, became well known over the centuries. Chapter 39 provided that “[n]o free man shall be arrested or imprisoned . . . except by lawful judgment of his peers or by the law of the land.” This language and its subsequent refinements gave rise to the concept of “due process of law,” and influenced the drafters of the Due Process Clause of the Fifth Amendment to the United States Constitution.

Although the Fifth Amendment Due Process Clause is brief, important parts of the Supreme Court’s constitutional doctrine rest on it. At the most general level, the clause reiterates the principle of the rule of law: the government must act in accordance with legal rules and not contrary to them. A more specific application of the Clause is the doctrine today called “procedural due process,” which concerns the fairness and lawfulness of decision-making methods used by the courts and the executive. Governmental actors violate due process when they frustrate the fairness of proceedings, such as when a prosecutor fails to disclose evidence to a criminal defendant that suggests they may be innocent of the crime, or when a judge is biased against a criminal defendant or a party in a civil action. Likewise, fair notice and the opportunity to be heard are due process requirements in criminal, civil, and other proceedings. The Court also attributes to the Due Process Clause a notice requirement that applies to statutes rather than executive and judicial action. A

statute that is extremely unclear can be, in the Court's terms, void for vagueness. This is because it does not give people sufficient or fair notice of what the law requires.

Another, more controversial application of the Clause is the doctrine today called "substantive due process," which extends beyond the methods government institutions use to make decisions, and places substantive limits on governmental authority. There are long-standing debates regarding whether the text and history of the Fifth Amendment Due Process Clause support the concept of "substantive due process" that has been embraced by most of the current Supreme Court justices in varying degrees. These differences of opinion necessarily are informed by interpretations of the meaning and relevance of the historical evidence, the meaning of the words used by the Framers in the Clause and whose understanding of that meaning is relevant, and more fundamental views of whether the meaning of the Constitution was fixed when written or can change over time. Despite the lack of consensus over the scope of substantive due process, the meaning of the Fifth Amendment Due Process Clause in the procedural context is relatively settled as a matter of Supreme Court jurisprudence.

Although both the Fifth and Fourteenth Amendments have Due Process Clauses (the Fifth Amendment Due Process Clause constraining the authority of the federal government and the identical Due Process Clause of the Fourteenth Amendment constraining only state governments), there is only one Equal Protection Clause, and it applies only to the States. The Court has also found that the Due Process Clause of the Fifth Amendment imposes on the federal government restrictions that are almost identical to those imposed on the States by the Equal Protection Clause of the Fourteenth Amendment.

"The history of American freedom is, in no small measure, the history of procedure." — Justice Felix Frankfurter

Due process is one of the most important concepts in the U.S. Constitution and American jurisprudence. It refers to the idea of fundamental fairness that the government must treat an individual according to rules and procedures. Due process may be the single most important guarantee in the Constitution and the entire legal system to ensure that the government does not run roughshod over individual liberty.

Due Process is so important that it is mentioned twice in the Constitution — in the Fifth Amendment, which limits the federal government, and the Fourteenth Amendment, which limits state and local governments. Both the Fifth and Fourteenth Amendment Due Process clauses prohibit government officials from depriving an individual of "life, liberty, or property without due process of law." It also applies in both civil and criminal cases.

Attorney General, Honorable Pam Bondi. As a citizen and member of this community, I believe it is important to bring this matter to your attention.

I have exhausted all other options to understand this matter and believe the only recourse is to seek your assistance. In my appeal attempt, I decided not to pursue it further simply because in 2005 I

received two phone calls from unknown individuals, especially one in which I was informed not to pursue the appeal case, as this could interfere with a member of Congress's efforts to reestablish diplomatic relations with the Cuban government.

I urge you, Attorney General, to take swift and decisive action to address this matter, which for twenty years has puzzled me and confused me with Judge Marra's arguments. I believe that you, Attorney General Bondi is the right person to help resolve this matter.

I am at your disposal to provide any additional information or assistance you may need. Thank you for your attention to this matter, and I look forward to hearing from you soon.

April 12, 2025

Sincerely and respectfully yours.

Humphrey H. Pachecker- JD LLC

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