

A FALSE SENSE OF SECURITY: DUE PROCESS FAILURES IN REMOVAL PROCEEDINGS

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I. INTRODUCTION

This Article will examine the scope of due process rights afforded to aliens¹ facing criminal prosecution for unauthorized return to the United States after prior removal by immigration officials. Federal enforcement of the Immigration and Nationality Act (INA)² is generally handled in administrative court proceedings that are civil in nature.³ In addition to civil enforcement, immigration violators are often subject to criminal prosecution in federal court.⁴ This Article will specifically examine the

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1. The term "alien" is defined as "any person not a citizen or national of the United States." 8 U.S.C. § 1101(a)(3) (2012).

2. Immigration and Nationality Act, Pub. L. No. 82-414, 66 Stat. 163 (1952).

3. See *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010) ("We have long recognized that deportation is a particularly severe penalty, but it is not, in a strict sense, a criminal sanction. Although removal proceedings are civil in nature, deportation is nevertheless intimately related to the criminal process." (citations omitted) (internal quotation marks omitted)).

4. See *id.*