Matter of Jose Israel CHAMORRO CASTILLO, Respondent

Decided October 22, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

When mail sent to the only address in the record provided for a respondent is returned as undeliverable, there are no additional reasonably available or practicable steps the Board or an Immigration Court can take to effect notice.

FOR THE RESPONDENT: Pro se

FOR THE DEPARTMENT OF HOMELAND SECURITY: Rachel Sibler, Senior Counsel

BEFORE: Board Panel: MALPHRUS, Chief Appellate Immigration Judge, CREPPY and CHABAN, Appellate Immigration Judges.

MALPHRUS, Chief Appellate Immigration Judge:

This case is before the Board pursuant to an order of the United States Court of Appeals for the Ninth Circuit granting the respondent's petition for review of our October 21, 2020, decision dismissing his appeal. *Chamorro-Castillo v. Bondi*, No. 20-73402, 2026 WL 92279 (9th Cir. Jan. 13, 2026). In its order, the Ninth Circuit remanded these proceedings for us to apply its intervening decision in *United States v. Rivera-Valdes*, 157 F.4th 978 (9th Cir. 2025), *cert. denied*, 146 S. Ct. 2696 (2026), and determine "whether, after it learned that notice was ineffective, the agency had reasonable steps available to it to effectuate service of the Notice of Hearing to" the respondent. *Chamorro-Castillo*, 2026 WL 92279, at *2. We will again dismiss the respondent's appeal.

I. FACTUAL AND PROCEDURAL HISTORY

The respondent was placed in removal proceedings on February 22, 2019, when the Department of Homeland Security ("DHS") filed the notice to appear with the Immigration Court. On February 26, 2019, DHS filed ICE Form I-830, Notice to EOIR: Alien Address, informing the Immigration Court that the respondent was released from immigration detention, and that the respondent reported his address to DHS as 300 Abert Ave., Richland, WA 99352-4408. The Form I-830 also listed a phone number for the respondent. On September 9, 2019, the Immigration Court mailed a notice of hearing to the respondent at the address listed on the Form I-830. The

notice of hearing was returned to the Immigration Court in an envelope labeled, "RETURN TO SENDER NOT DELIVERABLE AS ADDRESSED UNABLE TO FORWARD." The respondent did not appear for the noticed hearing on January 8, 2020, so the Immigration Judge ordered him removed in absentia.[1]

On March 24, 2020, the respondent filed a motion to reopen with the Immigration Court alleging that he never received the hearing notice. The documents filed with the motion to reopen confirmed that the "300 Abert Ave." address previously provided on the Form I-830 was the respondent's correct address. The respondent also filed a reply brief in support of his motion with a letter from a postal employee stating that the respondent's mailbox had become full, his mail was brought back to the post office, held there for 10 days, and was returned to sender as unclaimed.

In an order dated April 7, 2020, the Immigration Judge denied the respondent's motion to reopen because he had constructive notice of the hearing. We affirmed the Immigration Judge's decision in an order dated October 21, 2020. The Ninth Circuit remanded these proceedings for us to determine whether the notice of hearing mailed to the respondent was reasonably calculated to reach him under *Rivera-Valdes*. On remand from the Ninth Circuit, we requested supplemental briefing from the parties on the applicability of *Rivera-Valdes*. DHS filed a supplemental brief, but the respondent never responded to our briefing request.

II. DISCUSSION

The Ninth Circuit held in *Rivera-Valdes* "that the notice afforded to noncitizens subject to removal is governed by the due process standards articulated in" *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), and *Jones v. Flowers*, 547 U.S. 220 (2006). 157 F.4th at 988. Consistent with *Mullane* and *Jones*, "[n]otice by the Government must be reasonably calculated to apprise noncitizens of the pendency of removal proceedings and to afford them the opportunity to be present and to participate." *Id.* "Where the Government learns that its notice efforts have not succeeded, that knowledge triggers an obligation on the Government's part to take additional reasonable steps to effect notice, if it is practicable to do so." *Id.* at 989. "Notice is not 'reasonably calculated' under the circumstances when the Government knows its method of service was

[1] Under section 240(b)(5)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(b)(5)(A) (2024), an Immigration Judge must "issue an in absentia order against an alien who does not appear for his or her removal hearing if the statutory requirements are met." *Matter of Orozco Becerra*, 29 I&N Dec. 600, 601 (BIA 2026).

ineffective and takes no additional steps to effect notice that are reasonably available to it." *Id.*

We first address DHS' arguments that *Rivera-Valdes* does not apply to these proceedings. DHS argues that the Ninth Circuit's holding is limited to criminal unlawful reentry proceedings and does not apply to civil removal proceedings, presumably because *Rivera-Valdes* was a criminal unlawful reentry case. DHS is incorrect. The Ninth Circuit has recently applied *Rivera-Valdes* to civil removal proceedings. *See Meza Medina v. Blanche*, Nos. 20-70017, 24-5144, 2026 WL 2795426, at *5–7 (9th Cir. Sep. 18, 2026).[2]

DHS also argues that *Rivera-Valdes* does not apply where, as here, the respondent received constructive notice of his hearing when the Immigration Court complied with its statutory obligations under sections 239(a)(2) and (c) of the INA, 8 U.S.C. § 1229(a)(2), (c) (2024), by mailing the hearing notice to the last address provided by the respondent. The Ninth Circuit, however, has rejected the argument "that notice was sufficient because it complied with statutory requirements under the INA" and explained that compliance with the notice regulations "would not necessarily foreclose [a respondent's] due process argument." *Meza Medina*, 2026 WL 2795426, at *6; *see also Rivera-Valdes*, 157 F.4th at 989 ("[C]ompliance with statutory notice requirements does not resolve whether notice is reasonably calculated under the 'practicalities and peculiarities of [an individual] case.'" (second alteration in original) (quoting *Jones*, 547 U.S. at 230–31)). Thus, we conclude that *Rivera-Valdes* applies to these proceedings.

Applying *Rivera-Valdes*, we conclude that the notice of hearing mailed to the respondent was reasonably calculated to reach him and that there were no additional reasonably available or practicable steps the Immigration Court could have taken to effect notice. It is important to note at the outset that the role of the Government in immigration proceedings is split between DHS and the Executive Office for Immigration Review ("EOIR"), which serve

[2] In opposing the Government's petition for writ of certiorari to the Supreme Court of the United States, the defendant in *Rivera-Valdes* argued that the Ninth Circuit's constitutional notice rule would have a limited application and impact because it would only apply to deportation proceedings governed by notice provisions in a prior version of the INA, not removal proceedings conducted under the current INA's notice provisions. Brief in Opposition to Petition for Writ of Certiorari at 18–19, *United States v. Rivera-Valdes*, 146 S. Ct. 2696 (2026) (No. 25-972), available at https://www.supremecourt.gov/DocketPDF/25/25-972/404835/20260420130333874_260413a%20BIO%20for%20efiling.pdf. *Meza Medina* makes clear that the Rivera-Valdes's argument to the Supreme Court lacked merit.

two very different functions. *See Thangaraja v. Gonzales*, 428 F.3d 870, 874 (9th Cir. 2005) (recognizing that "responsibilities are divided within the executive branch" between DHS and EOIR). "Removal proceedings are adversarial in nature," *Matter of B-N-K-*, 29 I&N Dec. 96, 99 (BIA 2025), and DHS "prosecutes removal proceedings" in Immigration Court. *Romero v. Barr*, 937 F.3d 282, 293 (4th Cir. 2019).

Immigration Judges and Appellate Immigration Judges within EOIR function as neutral quasi-judicial officers who exercise their independent judgment and discretion "to adjudicate whether an alien is removable and eligible for relief from removal in cases brought by DHS." *Matter of B-N-K-*, 29 I&N Dec. at 99; *see also Matter of R-T-P-*, 28 I&N Dec. 828, 832 n.4 (BIA 2024) ("The Board and the Immigration Courts are Federal administrative courts that perform quasi-judicial functions . . . ."). In this quasi-judicial role, an Immigration Judge "functions similarly to federal judges in other settings" and "handles certain proceedings involving litigants and attorneys, hears evidence and arguments, makes findings of fact, issues rulings on matters of law, and renders decisions which are appealable to the [Board] under relatively traditional standards of judicial review." *United States v. McLean*, 891 F.3d 1308, 1310 (11th Cir. 2018). This quasi-judicial adjudicatory authority is separate from DHS' authority over the enforcement of the immigration laws, which involves the prosecution of aliens in proceedings and, if the alien is ordered removed by an Immigration Judge or the Board, their removal from the United States. *See Matter of Ibarra-Vega*, 29 I&N Dec. 476, 482 (BIA 2026); *see also Matter of Herrera-Nunez*, 29 I&N Dec. 691, 692 (BIA 2026) (nothing that DHS "has exclusive authority . . . to execute a removal order entered by an Immigration Judge").

The Immigration Courts and the Board do not have the resources and are not equipped to independently investigate and ascertain the addresses of aliens in removal proceedings. *See Matter of Conceiro*, 14 I&N Dec. 278, 282 (BIA) (recognizing that the Board lacks "investigative facilities" and explaining that "as a quasi-judicial tribunal it is undesirable that we embark on such inquiries of an investigative nature"), *aff'd*, 360 F. Supp. 454 (S.D.N.Y. 1973). Immigration Judges and the Board are already "notoriously overburdened" with our adjudicatory duties. *Sessions v. Dimaya*, 584 U.S. 148, 166 (2018); *see also Malets v. Garland*, 66 F.4th 49, 59 (2d Cir. 2023) ("We have repeatedly recognized the extraordinary caseload burdens faced by [Immigration Judges]."). We lack the financial resources and trained personnel that would be required to conduct an investigation of a respondent's location. For example, we do not conduct

site visits to physically verify an address or engage in online research to attempt to establish personal contact with a respondent.

Given the agency's unsuitability for the role of locating respondents to ensure they appear for their removal proceedings, the regulations place the onus on the parties to keep the Immigration Court and the Board informed of a respondent's whereabouts. Respondents are required to inform the Immigration Court or the Board, as applicable, of any necessary corrections to the address listed on the notice to appear and any change of address through the filing of a Form EOIR-33. *See* 8 C.F.R. §§ 1003.15(d), 1003.38(e) (2026). DHS is required to inform the Immigration Court of any change in a respondent's custody location, and if released, the respondent's address, through the filing of an ICE Form I-830. *See* 8 C.F.R. § 1003.19(g) (2026). The agency relies on the address provided by the parties to serve the respondent. *See, e.g.*, INA § 239(c), 8 U.S.C. § 1229(c).

Moreover, if the Immigration Court or the Board were to undertake such an investigation, it could conflict with the agency's role as neutral arbiters between DHS and respondents. EOIR would effectively be assuming the investigative role of locating respondents subject to immigration enforcement action initiated by DHS, which could ultimately assist DHS in removal operations. This could give the appearance of collusion and a conflict of interest between EOIR and DHS. *Cf. Abulashvili v. Att'y Gen. of U.S.*, 663 F.3d 197, 207 (3d Cir. 2011) ("By stepping into the role of the attorney for the government, the IJ gave the strong impression that she was on the government's side."). If DHS were to use any information independently obtained by the Immigration Court or the Board for detention, removal, or other law enforcement action against a respondent, EOIR could be viewed as being in collusion with DHS to effectuate the respondent's detention and removal when the Immigration Courts and the Board do not have and have never had any role in whether a respondent is detained or removed.

Considering the quasi-judicial role of the Immigration Court, there was no appropriate or reasonably available method for it to effect notice on the respondent after the notice of hearing was returned to the Immigration Court as undeliverable. DHS properly filed a Form I-830 with the Immigration Court after it released the respondent, and the Immigration Court mailed the notice of hearing to the address provided on the form. It is undisputed that the Immigration Court mailed the hearing notice to the respondent's correct address, and there was no other address in

the record where the notice could have been mailed.[3] *See Jones*, 547 U.S. at 236 (holding that "the government was [not] required to" to conduct an "open-ended search for a new address"); *Meza Medina*, 2026 WL 2795426, at *7 ("Of course, where the government has no better alternative for reaching the noncitizen, it does not violate due process to attempt notice at an address it has in hand."). Indeed, the documents filed with the respondent's motion to reopen demonstrate that the hearing notice was mailed to the only available mailing address for the respondent.

The respondent argued before the Ninth Circuit that the Immigration Judge could have called the phone number listed on the Form I-830 for the respondent when he did not appear. Similarly, the Ninth Circuit suggested in *Meza Medina* that "[t]he government could also have called [the respondent] at the telephone number provided on his bond form." 2026 WL 2795426, at *7.

However, placing that burden on the Immigration Courts generally is not reasonable or practicable considering their overburdened dockets and quasi-judicial role. *Cf. Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988) (holding that a plaintiff's "suggestion that [the circuit court] impose upon the district court an affirmative obligation to call the jailhouse to inquire into his whereabouts prior to dismissing his lawsuit is unacceptable"). Attempting to call a respondent could also risk engaging in improper ex parte communications and, because of the difficulty of reliably verifying that the respondent is the person on the other end of the call, could risk violating the agency's obligation not to disclose confidential information regarding certain respondents. *See* 8 U.S.C. § 1367(a)(2) (2024) (prohibiting disclosure of information about certain aliens); 8 C.F.R. § 1208.6 (2026) (same).

Additionally, as explained above, if the Immigration Judge or the Board were involved in this manner in trying to locate respondents, we could effectively be placed in the position of helping DHS track down a respondent for detention, removal, or other law enforcement action. Thus, besides placing an unreasonable burden on the Immigration Judge or the Board, taking actions that would facilitate removal could compromise our neutral

[3] This fact distinguishes the present case from *Rivera-Valdes* and *Meza-Medina*. In *Rivera-Valdes*, the hearing notice was sent to an invalid address that omitted "Ave." 157 F.4th at 982. In *Meza Medina*, the hearing notice was sent to an address provided by a third party instead of the mailing address that the court determined the respondent provided to the Immigration Court. 2026 WL 2795426, at *6.

role between the parties.[4] *See Hussain v. Rosen*, 985 F.3d 634, 643 (9th Cir. 2021) (explaining that an Immigration Judge's role is "that of an impartial adjudicator" and not an advocate for either party).

III. CONLUSION

When mail sent to the only address in the record provided for a respondent is returned as undeliverable, there are no additional reasonably available or practicable steps the Board or an Immigration Court can take to effect notice. In this case, the Immigration Court provided notice that was reasonably calculated to apprise the respondent of the time and place of his removal hearing.[5] The respondent did not appear for the noticed hearing, so the Immigration Judge properly ordered him removed in absentia. Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. *See* INA § 274D, 8 U.S.C. § 1324d (2026); 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a) (2024).

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[4] The court in *Rivera-Valdes* also suggested that the address contained in the record of the removal proceedings could be compared with any other addresses contained in the A-file maintained by DHS. *See Rivera-Valdes*, 157 F.4th at 992 & n.7. It is appropriate for DHS to inform the Board and Immigration Courts when it becomes aware of an address for a respondent that differs from an address in the record of proceedings. However, neither the Board nor Immigration Judges have access to the A-file maintained by DHS. There is often information contained in the A-file that DHS does not share with us or the respondent. In any event, the court's suggestion is not relevant here because there is no dispute in this case that the notice of hearing was mailed to the respondent's correct address.

[5] We decline to address DHS' argument regarding the respondent's eligibility for relief because it is outside the scope of the Ninth Circuit's remand order.