

Niz-Chavez v. Garland: Turning Square Corners and The
Evolving Riddle of Proper Immigration Notice

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UT Law School CLE

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The Illegal Immigration Reform and Immigrant Responsibility Act
(IRAIRA)

Singed into law on September 30, 1996

Took effect April 1, 1997

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IRAIRA

1. eliminated exclusion and deportation proceedings
2. Eliminated the charging document called “Order to Show Cause and Notice of Hearing” Form I-221 (deportation proceedings)
3. Eliminated the the charging document called “Notice to Applicant for Admission” Form I-122 (exclusion proceedings)

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Instead IRAIRA created a new charging document called

“Notice to Appear”

Consolidating exclusion and deportation into one streamlined Proceeding called “Removal Proceeding”

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The old law re initiating deportation proceedings:

8 U.S.C. 1252b(a)(2)(A) (“In deportation proceedings ... written notice shall be given in person to the alien . . . in the order to show cause **or otherwise**, of the time and place at which the proceedings will be held....”) (emphasis added)

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Concerns of Congress Regarding failure to appear as it considered IIRAIRA

Congress was “particularly concerned with two problems regarding lack of accurate information on aliens’ addresses”: (1) their tendency not to leave forwarding addresses, meaning the government could not give them notice of removal proceedings, and (2) challenge of proving alien was properly provided notice

H.R. Rep. 104-469(I) (1996), 1996 W.L. 168955 at *159 (providing that the new law would “simplify procedures for initiating removal proceedings” by providing “a single form of notice....”).

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First appeared as part of the conference materials for the
45th Annual Conference on Immigration and Nationality Law session
"Anatomy of a *Niz-Chavez*"