

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 8, 2020

Lyle W. Cayce
Clerk

No. 19-60024
Summary Calendar

RENE ANTONIO ARTEAGA-RAMIREZ; LIGIA MERCEDES ORELLANA-
CASTRO; KATERINE MERCEDES ARTEAGA-ORELLANA,

Petitioners

v.

WILLIAM P. BARR, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

PER CURIAM:

Rene Antonio Arteaga-Ramirez, Ligia Mercedes Orellana-Castro, and Katerine Mercedes Arteaga-Orellana petition this court for review of an order of the Board of Immigration Appeals dismissing their appeal from an order of the Immigration Judge (IJ) denying their application for relief under, *inter alia*, the Convention Against Torture (CAT). They argue that their due process rights were infringed when the IJ failed to develop the record with respect to their CAT claim and argue that this warrants remand for further consideration.

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Due process claims are reviewed de novo. *De Zavala v. Ashcroft*, 385 F.3d 879, 883 (5th Cir. 2004). The Fifth Amendment’s Due Process Clause applies to individuals in removal proceedings. *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018). To prevail on a due process claim, an alien must make an initial showing of substantial prejudice by making “a prima facie showing that the alleged violation affected the outcome of the proceeding.” *Id.*

“As a general rule, due process requires that an alien be provided notice of the charges against him, a hearing before an executive or administrative tribunal, and a fair opportunity to be heard.” *Id.* Particularly where an alien appears pro se, the IJ should “facilitate the development of testimony.” *Lopez-Rodriguez v. INS*, No. 93-5242, 1994 WL 122108, 6 (5th Cir. 1994); *see also Solis Romero v. Barr*, 769 F. App’x 126, 127 (5th Cir. 2019); *In re J-F-F-*, 23 I. & N. Dec. 912, 922 (A.G. 2006). However, the IJ does not have a duty to act as an advocate for the alien. *Solis Romero*, 769 F. App’x at 127; *Lopez-Rodriguez*, 1994 WL 122108, 6.

Assuming without deciding that a due process violation occurred, the petitioners have failed to show that the outcome of the proceedings would have been different if the IJ had developed the record further. *See Okpala*, 908 F.3d at 971; *Anwar v. INS*, 116 F.3d 140, 145 (5th Cir. 1997). Therefore, their petition for review is DENIED.