

## 8.4 Other Errors

---

### 8.4 Other Errors

Other procedural defects or substantive violations that may form a basis for an MAR for noncitizen defendants include:

- The defendant's failure to understand the nature of the proceedings.
- The failure of the court to explain sufficiently the nature and right to a jury trial. (This requirement is particularly important for noncitizens who may have no previous experience with the U.S. legal system and may be unfamiliar with jury trials and other aspects of criminal justice and procedure in the U.S.).
- Violations in the use or conduct of interpreters.
- Other due process violations.

There should not be a retroactivity problem for these types of errors; therefore, they may provide relief for clients who are unable to seek relief under *Padilla* because of the date of their convictions. For a list of other established claims for post-conviction relief, see *generally* NORTON TOOBY & J.J. ROLLIN, *POST-CONVICTION RELIEF FOR IMMIGRANTS* (2004).