

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

November 6, 2012

Before

WILLIAM J. BAUER, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

JOHN DANIEL TINDER, *Circuit Judge*

No. 11-3851

JOSE DURON-ORTIZ,

Petitioner,

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

v.

No. A076 202 970

ERIC H. HOLDER, JR.,

Respondent.

ORDER

The government's motion to amend, filed on October 23, 2012, is GRANTED and the opinion of this court issued October 15, 2012, is amended as follows:

Replace this language at page 7 of the slip opinion:

Duron-Ortiz's appeal centers on his challenge to the Board's decision in *Ortega-Cabrera*, which found that the cancellation of removal statute—8 U.S.C. § 1229b(b)(1)—is ambiguous with regard to when the ten-year period for establishing continuous physical presence and good moral character terminates. The Board held that the period for establishing both terminates when the IJ or Board issues a final administrative decision. *See Ortega-Cabrera*, 23 I. & N. Dec. at 797-98.

with this language:

Duron-Ortiz's appeal centers on his challenge to the Board's decision in *Ortega-Cabrera*, which found that the cancellation of removal statute—8 U.S.C. § 1229b(b)(1)—is ambiguous with regard to when the ten-year period for establishing good moral character terminates. The Board held that the period for establishing good moral character terminates when the IJ or Board issues a final administrative decision. *See Ortega-Cabrera*, 23 I. & N. Dec. at 797-98.

Replace this language at page 8:

Under the stop-time provision, the moment an NTA is served upon an alien, the ten-year period to determine continuous physical presence (and thus good moral character) is cut off, regardless of when the alien ultimately files an application for cancellation of removal.

with this language:

Under the stop-time provision, the moment an NTA is served upon an alien, the ten-year period to determine continuous physical presence is cut off, regardless of when the alien ultimately files an application for cancellation of removal.

Finally, add the following footnote (footnote 2) to the end of the sentence, after the cite, on page 8 that reads, "The Board then concluded that 'the 10-year period during which good moral character must be establishing ends with the entry of a final administrative decision.' *Id.* at 798.":

²The Board's decision in *Ortega-Cabrera* affects only the time period to establish good moral character. The time period for establishing continuous physical presence terminates when an alien is served an NTA. *See, e.g., Ram v. INS*, 243 F.3d 510 (9th Cir. 2001); *Matter of Mendoza-Sandino*, 22 I. & N. Dec. 1236 (BIA 2000).