

Case Summary: Immigration Law Advisor

U.S. Department of Justice, Executive Office for Immigration Review

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Ruiz-Del-Cid v. Holder, No. 13-3663, 2014 WL 4251606 (6th Cir. Aug. 29, 2014): The Sixth Circuit granted a petition for review of the Board's and Immigration Judge's denial of cancellation of removal under section 240A(b) of the Act. The petitioner had filed an application for asylum in 1993, which included a false statement that he had been threatened by guerillas in his native Guatemala. At his asylum interview in 2007, the petitioner repeated the false statement to the asylum officer. The petitioner subsequently applied for cancellation of removal before an Immigration Judge. At his 2011 removal hearing, the petitioner admitted to his prior false statement on direct examination. As a result, the Immigration Judge found that the petitioner could not establish that he was a person of good moral character during the 10 year period preceding the adjudication of his application for cancellation of removal. The application was denied and the Board affirmed. The majority of the three-judge circuit panel disagreed. Citing the Board's decisions in *Matter of Namio*, 14 I&N Dec. 412, 414 (BIA 1973), and *Matter of M-*, 9 I&N Dec. 118, 119 (BIA 1960), the court concluded that the petitioner's admission fell under the "doctrine of retraction" exception. The court observed that the Board has considered the amount of time between the false statement and the retraction to be relevant in some decisions. However, the court held that the dispositive factors under the Board's standard were whether the retraction was voluntary and occurred prior to the exposure, or threat of imminent exposure, of the falsehood. The court found the length of time between the statement and retraction to provide little useful information regarding such determination, "particularly in light of the longer timeframes attendant to immigration enforcement." The court therefore disagreed with the Board's ruling that the petitioner's retraction was untimely because it came 4 years after his false statement. The court concluded that such a retraction was in fact timely because it occurred at the first opportunity the petitioner had to testify after his false statement and the falsehood had not been exposed, nor was about to be. The court remanded the record for consideration of whether the petitioner satisfied the remaining requirements for cancellation eligibility. The decision contained a dissenting opinion.