United States Court of Appeals For the First Circuit

No. 07-1091

KELMER DA SILVA NEVES,

Petitioner,

v.

ERIC H. HOLDER, JR., ATTORNEY GENERAL,

Respondent.

ERRATA SHEET

The opinion of this Court issued on July 21, 2010, is amended as follows:

On page 9, line 12, the following footnote 4 is added at the end of the sentence:

The Supreme Court in <u>Kucana</u> stated that it "express[es] no opinion on whether federal courts may review the Board's decision not to reopen removal proceedings <u>sua</u> <u>sponte</u>." <u>Kucana</u> v. <u>Holder</u>, 130 S. Ct. 827, 839 n.18 (2010). Because the Supreme Court declined to reach the issue, <u>Luis</u> is still controlling law. Further, we note that three circuits have concluded explicitly that <u>Kucana</u> does not change the prior rule on this point. <u>Gashi</u> v. <u>Holder</u>, No. 09-4200, 2010 WL 2563403, at *1 (2d Cir. June 22, 2010); <u>Ochoa</u> v. <u>Holder</u>, 604 F.3d 546, 549 & n.3 (8th Cir. 2010); <u>Jaimes-Aquirre</u> v. <u>U.S. Atty. Gen.</u>, 369 Fed. Appx. 101, 103 (11th Cir. 2010).