

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