

DEC 08 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LIZANDRO JOSE CASTRESANA-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-75033

Agency No. A039-314-641

MEMORANDUM*

On Petition for Review of an Order of the Board of Immigration Appeals

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Lizandro Jose Castresana-Rodriguez, a native and citizen of Peru, petitions for review of the Board of Immigration Appeals' order affirming an immigration judge's decision denying his applications for cancellation of removal and relief

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

under former § 212(c) of the Immigration and Nationality Act. Our jurisdiction is governed by 8 U.S.C. § 1252, and we grant the petition for review.

In concluding that Castresana-Rodriguez was statutorily ineligible for cancellation of removal under 8 U.S.C. § 1229b(a)(2), the agency did not have the benefit of our decision in *Sinotes-Cruz v. Gonzales*, 468 F.3d 1190, 1201-03 (9th Cir. 2006), in which we held that “part B of the stop-time rule of [8 U.S.C.] § 1229b(d)(1) does not apply retroactively to the seven-year continuous residence requirement of § 1229b(a)(2) for an alien who pled guilty before the enactment of [the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”)] and was eligible for discretionary relief at the time IIRIRA became effective.” *Cf. Valencia-Alvarez v. Gonzales*, 569 F.3d 1319 (9th Cir. 2006). We therefore remand for the agency to reconsider Castresana-Rodriguez’s eligibility for cancellation of removal.

In light of our disposition, we need not address Castresana-Rodriguez’s remaining contentions.

Each party shall bear its own costs for this petition for review.

PETITION FOR REVIEW GRANTED; REMANDED.