

Cancellation of Removal:

Jodi Goodwin: Continuous presence: (15-20 minutes)

LPR Cancellation of Removal/42A:

5/7 year rule/discussion about legal admissions: To be eligible for COR, the LPR must show that they have been an LPR for at least 5 years. The LPR must show that they have some form of legal status for at least 7 years without committing certain offenses or being placed in removal proceedings.

The seven years of continuous residence commences after any lawful admission and normally tolls upon the commission of a crime, except if the petty offense exception applies or the service of an NTA, whichever period of time is shorter. If the crime that was committed is a deportable offense, such deportable offense does not toll the period.

The five years of lawful permanent resident status does not toll until the entry of a final administrative decision.

When admitted and waive throughs: the initial admission must be lawful. A “waive through” is deemed a lawful admission for LPR/COR purposes. *Tula Rubio v. Lynch*, 78 F.3d 288 (5th Cir. 2015).

Non-LPR Cancellation of Removal/42b: To be eligible the non-citizen must show 10 years continuous presence, regardless of whether the entry was lawful or not. “Continuous presence” is broken if the non-citizen has been outside the United States for more than 90-days.

Normally, the service of the NTA tolls the accrual of 10 years continuous presence. However, if the purported NTA fails to indicate the time and date of the initial master calendar the time is not tolled. *Pereira v. Sessions*.

Discussion regarding VD and voluntary return as per *Matter of Castrejón-Colino*, 25 I & N Dec. 667 (BIA 2015).

Discussion regarding re-accruing continuous presence as per *Matter of Cisneros-Gonzalez*, 23 I & N Dec. 668 (BIA 2004). Generally speaking, once the non-citizen has been served with the NTA time is stopped. In *Cisneros* the Board held that the stop time rule does not apply to non-citizens who were in deportation proceedings.

Anecdotal discussion of *Cisneros* in practice.

Ben: Criminal issues: (15-20 minutes)

Discussion of 42A aggravated felony bar.

Discussion of distinction between admitted as LPR and adjustment of status and eligibility with ag fel conviction.

Discussion about “commission of an offense” and touch upon petty offense exception vis-à-vis stop time rule.

Discussion regarding the distinction between inadmissible and deportable offenses with respect to stop time and eligibility.

Discussion regarding 42b criminal issues and *Matter of Almanza* issues.

Discussion on determining whether the offense is a CIMT/categorical approach

Alex: Discretion/Hardship/42b qualifying relatives/public danger issues: (15-20 minutes)

Discussion regarding Good Moral Character. The applicant must demonstrate GMC for ten years from the date of the IJ’s decision. GMC is premised on no disqualifying crimes and as defined in INA s. 101(f).

Discussion regarding GMC as a matter of discretion. For example, the underreporting of income on tax returns.

Discussion regarding qualifying relatives and exception and extremely unusual hardship. A QR is U.S. citizen or lawful permanent resident spouse, parent or child under the age of 21.

Discussion regarding hardship to non-QRs and how that hardship directly impacts the QR.

Discussion regarding what is sufficient hardship and *Matter of Recinas*.

Ray: Presenting a case: (10 minutes)