

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

January 28, 2005

No. 03-4398
Sergey Zayets,
Petitioner

v.

John Ashcroft, Attorney General United States
(BIA No. A73-054-920)

Present: **Ambro, Van Antwerpen, Circuit Judges** and **Shadur, District Judge**

- 1) Motion by Petitioner to Amend or Revise the Court's Opinion of December 30, 2004.

/s/ Shannon L. Craven

Judgement and Opinion filed 12/30/04.

Case Manager 267-299-4959

ORDER

The foregoing Motion to Amend or Revise the Court's Opinion of December 30, 2004 is hereby granted. The second sentence in the sixth paragraph of the opinion will be revised to read, as follows: "In that motion, Petitioner alleged that he had not learned until "early 2002" that his appeal to the BIA from the IJ's original decision had been dismissed." The fourth sentence in footnote 1 of the opinion will be revised to read, as follows: "Even if it were, and even if § 240(c)(6)(A) were subject to equitable tolling, it is likely that Petitioner could have enjoyed such tolling only through "early 2002," when he learned of his dismissed appeal and one would presume that he should have learned of the related alleged misconduct of his attorney."

By the Court,

/s/ Franklin S. Van Antwerpen
Circuit Judge

Dated: January 31, 2005