

From: (b)(6);
To: OPLA HO Personnel; OPLA Field Personnel
Subject: CORRECTED Broadcast Message: Implementing Matter of Castillo-Perez, 27 I&N Dec. 664 (A.G. 2019)
Date: Tuesday, December 31, 2019 3:26:42 PM

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Disseminated on behalf of Ken Padilla and Adam V. Loiacono . . .

On October 25, 2019, the Attorney General (AG) issued a published decision in *Matter of Castillo-Perez*, 27 I&N Dec. 664 (A.G. 2019), holding that an alien with multiple driving-under-the-influence (DUI) convictions presumptively lacks good moral character under section 101(f) of the Immigration and Nationality Act (INA) and, in turn, is ineligible for cancellation of removal for certain nonpermanent residents under INA § 240A(b). The AG reaffirmed existing and longstanding caselaw on good moral character, emphasizing that an alien must at least meet the generally accepted and average moral standards of society, and that an alien’s criminal record is “highly probative” but not dispositive in determining whether the alien lacks good moral character. *See* 27 I&N Dec. at 666-67. The AG’s opinion can be found [here](#).

The AG found that given the uniform rejection of drunk and impaired driving across the nation, multiple DUI convictions represent a repeated failure to meet the community’s moral standards, rather than a single lapse that would be less probative of moral character. *See id.* at 669-70. The AG also noted that multiple DUI convictions should prompt an immigration judge (IJ) to analyze whether the alien may lack good moral character as a habitual drunkard under INA § 101(f)(1). *See id.* at 670 n.2. Further, the AG opined that multiple DUI convictions would likely result in a denial of cancellation of removal in the exercise of discretion. *See id.* at 670-71.

In discussing the presumption that an alien with multiple DUI convictions lacks good moral character, the AG underscored that the good moral character requirement attaches to the entire 10-year period before the application for cancellation of removal is adjudicated, so that an alien cannot rebut the presumption simply by showing subsequent efforts to reform; the alien must, in fact, show that he had good moral character even during the period in which he or she committed the DUI offenses. *See id.* at 671. Otherwise, absent “substantial relevant and credible contrary evidence,” IJs must deny cancellation of removal to aliens with multiple DUI convictions in the relevant 10-year period. *See id.* The AG concluded by affirming the Board of Immigration Appeals (Board) denial of cancellation of removal, noting that the respondent’s criminal and immigration history established that he lacked good moral character for failing to adhere to society’s moral standards for the relevant decade, even with subsequent rehabilitative efforts. *See id.* at 672-73.

In light of the AG’s opinion, OPLA attorneys should consider the practice pointers below. These practice pointers, as well as the above summary, can be found [here](#).

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From: (b)(6); (b)(7)(C)

Sent: Tuesday, December 31, 2019 1:05 PM

To: OPLA HQ Personnel (b)(7)(E)@ice.dhs.gov>; OPLA Field Personnel (b)(7)(E)@ice.dhs.gov>

Subject: Broadcast Message: Implementing Matter of Castillo-Perez, 27 I&N Dec. 664 (A.G. 2019)

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