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8-13-2020

Amilcar Francisco-Lopez v. Attorney General USA

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"Amilcar Francisco-Lopez v. Attorney General USA" (2020). *2020 Decisions*. 760.
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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2700

AMILCAR ANTONIO FRANCISCO-LOPEZ,

Petitioner

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA,

Respondent

On Petition for Review of an Order of the
Board of Immigration Appeals
(Agency No.: A041-811-480)
Immigration Judge: Honorable Nelson Vargas Padilla

Before: SHWARTZ, SCIRICA, and RENDELL, Circuit Judges

ORDER AMENDING OPINION

IT IS SO ORDERED, that the published Opinion in the above case, filed on
May 15, 2020, be amended as follows:

On page 9, footnote 5, delete the following:

⁵ At the time the BIA rendered its decision in Francisco's case, the BIA's decision in *Obeya* had been reversed by the Second Circuit. Retroactivity aside, we could not affirm the BIA's decision on "the grounds upon which the agency acted," *SEC v. Chenery*

Corp., 318 U.S. 80, 95 (1943), because the BIA relied on precedent that was no longer good law. *See Henriquez Dimas v. Sessions*, 751 F. App'x 368, 370 (4th Cir. 2018) (remanding to the BIA when the BIA opinion relied on a prior precedential BIA opinion interpreting the definition of a CIMT that had since been reversed by the court of appeals).

The amendment does not change the date of filing, May 15, 2020. An amended opinion will be filed.

By the Court,

s/MARJORIE O. RENDELL
Circuit Judge

Dated: August 13, 2020
cc: All Counsel of Record