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2003 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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9-15-2003

## Montenegro v. Atty Gen USA

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 02-1904

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WERNER MONTENEGRO;  
ALEIDA PEREZ,  
Petitioners

v.

JOHN ASHCROFT,  
Attorney General of the United States,  
Respondent

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On Petition for Review of an Order of the  
Board of Immigration Appeals  
(BIA Nos. A73 033 367 & A73 033 366)

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Argued January 13, 2003  
Before: SCIRICA, *Chief Judge\**, BARRY and SMITH, *Circuit Judges*

(Filed: May 16, 2003)

**ORDER AMENDING OPINION**

IT IS HEREBY ORDERED that the not precedential opinion in the above case, filed May 16, 2003, be amended as follows:

Page 2, footnote 1, which read:

“This application also includes, derivatively, the application of Montenegro’s wife, Aleida Perez, and their son, Jose Montenegro.”

shall read:

“This application also includes, derivatively, the application of Montenegro’s wife, Aleida Perez.

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\*Judge Scirica began his term as Chief Judge on May 4, 2003.

Page 14, footnote 6, which read:

“Based on the testimony of Werner Montenegro and his son, Jose, and the corroborating evidence in the record, we find substantial evidence that Jose was exposed, both directly and indirectly, to the persecution noted here. We therefore direct the BIA to direct the IJ to grant Jose Montenegro’s application for asylum.”

shall read:

“During the course of these proceedings, Jose Montenegro has bypassed his 21st birthday and thus can no longer be considered derivatively to his father’s application for asylum. Still, we urge the Attorney General to exercise his discretion to grant Jose Montenegro’s separate application for asylum given the circumstances surrounding the application before us.”

BY THE COURT,

/s/ Anthony J. Scirica  
*Chief Judge*

DATED: September 15, 2003

