

Article Urges U.S. 11th Circuit to Find Jurisdiction to Review Unexhausted Claims Considered by BIA

Larry R. Fleurantin examines how the majority of the federal circuit courts have found jurisdiction to review claims considered sua sponte by the Board and urges 11th Circuit to join the majority of circuits and to overrule Amaya-Artunduagua.

Oct. 28, 2011 - [PRLog](#) -- MIAMI, FLORIDA, October 31, 2011—Attorney Larry R. Fleurantin has been in the forefront of the debate regarding the jurisdiction of the federal appellate courts to review claims by aliens who failed to exhaust their administrative remedies. In an article entitled: Exhaustion of Administrative Remedies in Immigration Cases: Finding Jurisdiction to Review Unexhausted Claims the Board of Immigration Appeals Considers Sua Sponte on the Merits and published by the American Journal of Trial Advocacy of Cumberland Law School and released in October 2011, Fleurantin examines how the majority of the federal circuit courts have found jurisdiction to review claims considered sua sponte by the Board. However, the U.S. Eleventh Circuit seems to be the one outlier finding no jurisdiction, and the author believes the holding in *Amaya-Artunduaga v. United States Attorney General* to be incorrect and recommends it to be overruled.

The article is an original scholarship that raises timely, innovative immigration issues. The topic of exhaustion of administrative remedies has been treated by many scholars. However, a quick review of the literature suggests that no other scholars have devoted an article to the specific issue of exhaustion of administrative remedies in immigration cases.

“It is important that practitioners invoke the jurisdiction of the Eleventh Circuit to review their appeals if the Board decides the issue sua sponte on the merits,” stated attorney Ronald J. Antonin. The article outlines what practitioners need to do to get their unexhausted claims reviewed if the Board chooses to reach the merits rather than summarily dismiss them.

“Appellate immigration practitioners in Alabama, Florida, and Georgia are encouraged to consult and team up with Fleurantin to spot the issue and to persuade the Eleventh Circuit to overrule *Amaya-Artunduaga*,” said Richard Champagne, immediate past president of the Haitian Lawyer’s Association.

Fleurantin is best known for his article published in 2008 by the *Cardozo Journal of International and Comparative Law* that challenges the authority of the Attorney General and the DHS Secretary to withhold information from an alien’s FOIA request, to use that same withheld information to impeach the alien’s testimony during an individual hearing on the merits, and to use that as grounds to deny an applicant’s request for asylum.

The author is the managing member of Larry R. Fleurantin & Associates, which practices civil and appellate litigation. For more information about the firm’s practice areas or a copy of the article visit www.fleurantinlaw.com.

CONTACT:

Larry R. Fleurantin, Esq.
Larry R. Fleurantin & Associates, P.A.
2040 NE 163rd Street, Suite 209
North Miami Beach, Florida 33162
Ph: 305-944-7220/ Fax: 305-405-0379
Email: rfleurantin@msn.com

www.fleurantinlaw.com

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