

SEP 27 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CESAR CUITLAHUAC GARCIA FUENTES,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-73204

Agency No. A079-523-428

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Cesar Cuitlahuac Garcia Fuentes, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C.

§ 1252. We review de novo questions of law and constitutional claims, *Khan v.*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Holder, 584 F.3d 773, 776 (9th Cir. 2009), and for substantial evidence the agency's factual determinations, *Gutierrez v. Mukasey*, 521 F.3d 1114, 1116 (9th Cir. 2008). We deny the petition for review.

We agree with the agency's determination that Garcia Fuentes failed to establish the requisite ten years of continuous physical presence for cancellation of removal, *see* 8 U.S.C. § 1229b(b)(1)(A), (d)(1)(B), where a certified copy of the state sentencing and probation order established the fact of Garcia Fuentes' convictions, *see* 8 U.S.C. § 1229a(c)(3)(B).

Garcia Fuentes' equal protection claim is not persuasive. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1247 (9th Cir. 2008).

Because the agency's continuous physical presence determination is dispositive, we do not reach his remaining contentions.

PETITION FOR REVIEW DENIED.