

MAR 29 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JUAN CARLOS SANCHEZ GONZALES; NOELIA IBARRA FREGOSO,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 09-70701

Agency Nos. A079-289-729  
A079-289-730

MEMORANDUM\*

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

Submitted March 8, 2011\*\*

Before: FARRIS, O’SANNLAIN, and BYBEE, Circuit Judges.

Juan Carlos Sanchez Gonzales and Noelia Ibarra Fregoso, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ order affirming an immigration judge’s denial of Ibarra Fregoso’s application for

---

\* 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).

cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency's continuous physical presence determination, *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the agency's conclusion that Ibarra Fregoso did not meet her burden of establishing continuous physical presence, *see* 8 U.S.C. § 1229b(b)(1)(A), because her testimony regarding the length of her absences from the United States was materially inconsistent with her own and her witness' testimony, *see* 8 U.S.C. § 1229b(d)(2) (departure in excess of 90 days or for any periods in the aggregate exceeding 180 days breaks continuous physical presence), and she failed to provide sufficient supporting documentation attesting to her presence, *cf. Vera-Villegas v. INS*, 330 F.3d 1222, 1231-34 (9th Cir. 2003) (inadequate documentary evidence does not bar application for relief where oral and written testimony are otherwise sufficient).

In light of this disposition, petitioners' request to remand this petition is denied.

**PETITION FOR REVIEW DENIED.**