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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCO ANTONIO MARTINEZ-  
GARCIA,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 09-72751

Agency No. A078-683-488

MEMORANDUM\*

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

Submitted June 14, 2016\*\*

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Marco Antonio Martinez-Garcia, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying adjustment of status. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law.

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\* 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).

*Garfias-Rodriguez v. Holder*, 702 F.3d 504, 512 n.6 (9th Cir. 2012) (en banc). We deny in part and grant in part the petition for review, and remand.

In his opening brief, Martinez-Garcia does not raise, and therefore has waived, any challenge to the agency's dispositive determination that he failed to demonstrate the 10-years of continuous physical presence required for cancellation of removal. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (a petitioner waives an issue by failing to raise it in the opening brief).

This case is remanded to the BIA for further proceedings regarding adjustment of status in light of *Correo-Ruiz v. Lynch*, 809 F.3d 543 (9th Cir. 2015). The BIA shall grant Martinez-Garcia an opportunity to supplement the record.

Each party shall bear its own costs on appeal.

**PETITION FOR REVIEW DENIED in part; GRANTED in part;  
REMANDED.**