

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 3 2017

FOR THE NINTH CIRCUIT

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

JOSE JAIME MARTINEZ-TORIBIO,
AKA Jose Martinez-Toribio,

Petitioner,

v.

DANA BOENTE, Acting Attorney General,

Respondent.

No. 15-72965

Agency No. A200-242-701

MEMORANDUM*

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

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

Jose Jaime Martinez-Toribio, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

for substantial evidence the agency's continuous physical presence determination. *Gutierrez v. Mukasey*, 521 F.3d 1114, 1116 (9th Cir. 2008). We deny the petition for review.

Substantial evidence supports the agency's determination that Martinez-Toribio failed to establish the requisite continuous physical presence for cancellation of removal, where he presented inconsistent testimony with no corroboration regarding the length of his departure from the United States in 2004. *See* 8 U.S.C. §§ 1229a(c)(4)(B)-(C), 1229b(b)(1)(A).

The record does not support Martinez-Toribio's contentions that the IJ failed to address or consider evidence, and that the IJ unfairly questioned his credibility.

PETITION FOR REVIEW DENIED.