

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 26 2017

FOR THE NINTH CIRCUIT

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

DAVID LOPEZ-GOMEZ,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 15-73182

Agency No. A200-248-498

MEMORANDUM\*

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

Submitted April 11, 2017\*\*

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

David Lopez-Gomez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency's factual findings, and we

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\* 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).

review de novo questions of law. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency's finding that Lopez-Gomez did not provide sufficient evidence to establish that he lawfully entered the United States. *See* 8 C.F.R. § 1240.8(c); *Murphy v. INS*, 54 F.3d 605, 608-09 (9th Cir. 1995) (alien bears burden of showing time, place, and manner of entry after the government has established alienage); *Carrillo-Gonzalez v. INS*, 353 F.3d 1077, 1079 (9th Cir. 2003) (statements by counsel are not evidence). The BIA did not err in referring to Lopez-Gomez's mother's declaration.

We lack jurisdiction to consider Lopez-Gomez's unexhausted contentions regarding the alleged ineffective assistance of counsel. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

We grant the motion to withdraw as counsel of record (Docket Entry No. 28) filed by Bethany C. Danks.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**