

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2010

Lyle W. Cayce
Clerk

No. 09-60904

Summary Calendar

QUIRINO ESTRADA,

Petitioner

v.

ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A089 536 676

Before KING, SOUTHWICK, and HAYNES, Circuit Judges.

PER CURIAM:*

Quirino Estrada, a native and citizen of Mexico, has filed a petition for review of the order of the Board of Immigration Appeals (BIA) dismissing his appeal of the immigration judge's pretermission and denial of his application for cancellation of removal under INA §240A(b), 8 U.S.C. § 1229b(b)(1). Estrada's sole argument on appeal is that *In re Romalez-Alcaide*, 23 I. & N. Dec. 423, 424-29 (BIA 2002), was decided incorrectly, that this court's opinion in *Mireles-Valdez v. Ashcroft*, 349 F.3d 213, 217-19 (5th Cir. 2003), upholding that

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

decision should be reversed, and that his case should be remanded for consideration of his eligibility for cancellation of removal.

The Respondent argues correctly that a panel of this court may not reverse *Mireles-Valdez* absence circumstances that are not present, *see United States v. Ruff*, 984 F.2d 635, 640 (5th Cir. 1993), and moves for summary affirmance. Estrada's argument that his voluntary departure to Mexico did not break his continuous physical presence in the United States is foreclosed. *See Mireles-Valdez*, 349 F.3d at 218.

PETITION FOR REVIEW DENIED; MOTION FOR SUMMARY AFFIRMANCE GRANTED.