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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARTIN ROJAS-REFUJIO, AKA Martin Refugio, AKA Martin Rojas,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>LORETTA E. LYNCH, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 14-73034

Agency No. A095-804-643

MEMORANDUM*

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

Submitted October 25, 2016**

Before: LEAVY, SILVERMAN, and GRABER, Circuit Judges.

Martin Rojas-Refugio, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s denial of cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence the agency’s continuous

* 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).

physical presence determination. *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). We deny the petition for review.

Substantial evidence supports the agency's determination that Rojas-Refujio failed to establish the requisite continuous physical presence, where Rojas-Refujio testified that he remained outside the United States for a period of more than 180 days in the aggregate during the statutory period. *See* 8 U.S.C. § 1229b(b)(1)(A), (d)(2) (a departure in excess of 180 days in the aggregate breaks continuous physical presence).

PETITION FOR REVIEW DENIED.