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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO JAVIER ALVARADO-RODRIGUEZ, Petitioner, v. WILLIAM P. BARR, Attorney General, Respondent.	No. 16-71399 Agency No. A077-139-436 MEMORANDUM[*]

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

Submitted March 5, 2019[**]
Phoenix, Arizona

Before: IKUTA and FRIEDLAND, Circuit Judges, and BLOCK,[***] District Judge.

Francisco Javier Alvarado-Rodriguez petitions for review of an order of the Board of Immigration Appeals (BIA) affirming the decision of an Immigration

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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).

[***] The Honorable Frederic Block, United States District Judge for the Eastern District of New York, sitting by designation.

Judge (IJ) denying his claim for cancellation of removal under 8 U.S.C. § 1229b(a). We have jurisdiction under 8 U.S.C. § 1252.[1]

The IJ properly "weigh[ed] the credible testimony along with other evidence of record," 8 U.S.C. § 1229a(c)(4)(B), to determine that Alvarado-Rodriguez failed to carry his burden of demonstrating that he had entered the United States with inspection in 1992. Substantial evidence supports the BIA's conclusion that the IJ did not clearly err by giving Alvarado-Rodriguez's testimony less weight (because he had a motive to misrepresent his method of entry) and giving Alvarado-Rodriguez's prior applications for immigration benefits greater weight (because the applications were made with the assistance of counsel and signed by Alvarado-Rodriguez's father under penalty of perjury). Substantial evidence also supports the BIA's conclusion that the IJ did not clearly err in giving less weight to the unsworn statement of Alvarado-Rodriguez's aunt, because the aunt did not appear for cross-examination and because her statement lacked sufficient detail. Finally, substantial evidence supports the BIA's conclusion that the IJ did not clearly err by

[1] Because the IJ denied Alvarado-Rodriguez's relief based on his failure to demonstrate the seven years of continuous residence required under 8 U.S.C. § 1229b(a)(2), rather than in reliance on his criminal convictions, we reject the government's argument that we lack jurisdiction under 8 U.S.C. § 1252(a)(2)(C) to review Alvarado-Rodriguez's final order of removal. *See Pechenkov v. Holder*, 705 F.3d 444, 448 (9th Cir. 2012).

giving less weight to the testimony of Alvarado-Rodriguez’s mother, because she did not accompany Alvarado-Rodriguez in the car at the time of entry and because she had not corrected Alvarado-Rodriguez’s applications for immigration benefits, although she had been involved in their preparation.

Because the IJ’s conclusion that Alvarado-Rodriguez failed to carry his burden of demonstrating that he had entered the United States with inspection in 1992 is supported by substantial evidence, Alvarado-Rodriguez has not shown that he resided “continuously for 7 years after having been admitted in any status,” 8 U.S.C. § 1229b(a)(2), and therefore is not entitled to cancellation of removal.

PETITION DENIED.