

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2019

FOR THE NINTH CIRCUIT

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

IVAN DIAZ-MELLADO, AKA Ivan Diaz,
AKA Ivan Mellado,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-72544

Agency No. A087-682-672

MEMORANDUM*

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

Submitted February 19, 2019**

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

Ivan Diaz-Mellado, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for

* 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.

The BIA denied cancellation of removal for failure to demonstrate 10 years of continuous physical presence prior to service of Diaz-Mellado's notice to appear ("NTA"). However, the BIA did not have the benefit of the Supreme Court's decision in *Pereira v. Sessions*, 138 S. Ct. 2105 (2018), which held that an NTA that fails to designate the time and place of an alien's removal proceedings does not trigger the stop-time rule ending the alien's accrual of continuous presence. Diaz-Mellado's NTA did not specify the time and place of his hearing. We thus grant the petition for review, and remand to the agency for further proceedings consistent with *Pereira*.

In light of our disposition, we do not reach Diaz-Mellado's contentions regarding administrative voluntary departure and equitable estoppel.

PETITION FOR REVIEW GRANTED; REMANDED.