

FILED

SEP 19 2018

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OSCAR LOPEZ-MELARA,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 16-72565

Agency No. A208-362-516

MEMORANDUM*

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

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Oscar Lopez-Melara, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo constitutional claims and

* 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).

1 questions of law, and we review for substantial evidence the agency’s factual
2 determinations. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We
3 deny the petition for review.

4 Lopez-Melara has not established that the agency violated due process by
5 ignoring or misrepresenting his testimony. *See Gutierrez v. Holder*, 662 F.3d 1083,
6 1091 (9th Cir. 2011) (“A court will grant a petition on due process grounds only if
7 the proceeding was so fundamentally unfair that the alien was prevented from
8 reasonably presenting his case.” (citations and quotation marks omitted)).

9 Substantial evidence supports the agency’s finding that Lopez-Melara engaged in
10 an affirmative act in support of alien smuggling, where he testified that he
11 provided money for his brother’s trip to the United States and that his brother did
12 not have permission to enter the United States. *See Urzua Covarrubias v.*
13 *Gonzales*, 487 F.3d 742, 749 (9th Cir. 2007) (alien smuggling finding supported by
14 substantial evidence where there is “an affirmative act of help, assistance, or
15 encouragement” (citations omitted)); *Villavicencio v. Sessions*, 879 F.3d 941, 945
16 (9th Cir. 2018) (“The BIA’s factual findings are conclusive unless any reasonable
17 adjudicator would be compelled to conclude to the contrary.” (citation omitted)).

18 **PETITION FOR REVIEW DENIED.**