NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

TOMAS PLATA SALGADO, Petitioner, v. WILLIAM P. BARR, Attorney General, Respondent.	No. 16-73970 Agency No. A088-720-144 MEMORANDUM*

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

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Tomas Plata Salgado, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") decision dismissing his appeal from an immigration judge's ("IJ") order denying cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law 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).

review for abuse of discretion the denial of a continuance. *Ahmed v. Holder*, 569 F.3d 1009, 1012 (9th Cir. 2009).

The agency did not err in determining that Plata Salgado is ineligible for cancellation of removal because his 2009 expedited removal orders broke continuous physical presence. *See* 8 U.S.C. § 1229b(b)(1)(A); *Juarez-Ramos v. Gonzales*, 485 F.3d 509, 511 (9th Cir. 2007). Plata Salgado has not shown that the requirement that the record show evidence that an alien was informed of and accepted the terms of voluntary departure in order for it to break continuous physical presence should also apply to expedited removals. *Cf. Ibarra-Flores v. Gonzales*, 439 F.3d 614, 619 (9th Cir. 2006); *Matter of Avilez-Nava*, 23 I. & N. Dec. 799, 805 (BIA 2005) ("before it may be found that a presence-breaking voluntary departure occurred, the record must contain some evidence that the alien was informed of and accepted its terms" (citation omitted)).

Plata Salgado's contention that he was prima facie eligible for cancellation of removal at the time of his first expedited removal order in June 2009 is unavailing, where continuous physical presence is required during the 10-year period immediately preceding the application for relief. *See* 8 U.S.C. § 1229b(b)(1)(A). His contention that the agency ignored his arguments is not supported.

The agency did not abuse its discretion in denying a continuance for failure

to show good cause, where Plata Salgado has not explained the factual basis for his challenge to the expedited removal orders or what evidence he would have presented in support of that challenge. *See* 8 C.F.R. § 1003.29; *Ahmed*, 569 F.3d at 1012 (listing factors to consider when reviewing the agency's denial of a continuance, including the nature of any evidence excluded). Plata Salgado's contention that the BIA applied the incorrect standard in upholding the IJ's denial of a continuance is not supported. *See Mendez-Castro v. Mukasey*, 552 F.3d 975, 980 (9th Cir. 2009) (the agency applies the correct legal standard where it expressly cites and applies relevant case law).

PETITION FOR REVIEW DENIED.