

JUN 30 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANA BERTHA SANTIAGO- ALVARADO,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-74287

Agency No. A095-630-484

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Ana Bertha Santiago-Alvarado, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her application for cancellation of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and denying her motion to remand. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual determinations, including the determination of continuous physical presence. *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). We review for abuse of discretion the denial of a motion to remand. *Castillo-Perez v. INS*, 212 F.3d 518, 523 (9th Cir. 2000). We deny the petition for review.

Substantial evidence supports the agency's determination that Santiago-Alvarado failed to establish the requisite continuous physical presence for cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1)(A).

The BIA did not abuse its discretion in denying Santiago-Alvarado's motion to remand because the BIA considered the evidence she submitted and acted within its broad discretion in determining that the evidence was insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA abuses discretion if denial of motion is "arbitrary, irrational, or contrary to law").

Contrary to Santiago-Alvarado's contention, the proceedings were not "so fundamentally unfair that [she] was prevented from reasonably presenting [her] case." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (internal quotation marks and citation omitted).

PETITION FOR REVIEW DENIED.